



Hall County Government
COMMUNITY DEVELOPMENT AND INFRASTRUCTURE
ENGINEERING DIVISION

MEMORANDUM

POST OFFICE DRAWER 1435
GAINESVILLE, GA 30503

t: 770.531.6800 | f: 770.531.3945

DIRECTOR
Srikanth Yamala

PUBLIC WORKS AND
UTILITIES DIRECTOR
Bill Nash, P.E.

COUNTY ENGINEER
Frank Miller, P.E.

TO: Mr. William Linkous III, County Attorney

FROM: Tammie Croy, Senior Engineer *TC*

SUBJECT: Collection of Irrevocable Letter of Credit/Performance Agreement for Sidewalks in Deer Creek Crossing Subdivision

DATE: August 4, 2023

This office has submitted a request to the County Commission to authorize your office to collect the irrevocable letter of credit/performance agreement held in behalf of Hall County. Enclosed is a copy of the letters notifying the developer and financial institution of the new bond requirement and existing bond expiration, a copy of the bond, and a copy of the final plat information.

Please advise if any additional information is needed regarding this matter.

cc: Board of Commissioners
Zachary Propes



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FRANKLIN P. MILLER, P.E.
County Engineer

June 30, 2023

Deer Creek Crossing
William R. White
4674 Highland Road
Gainesville, GA 30506

RE: Bond # 5030424927P

To Mr. White,

Our records pertaining to **Deer Creek Crossing** indicate that all sidewalks have not been installed in this development and the bond associated with this development will expire on September 8, 2023. In order for the development to be in compliance with Hall County specifications it will be necessary to install all sidewalks by August 4, 2023.

All bonding mechanisms will need to be a minimum of 24 months.

Thank you for working in Hall County.

Should you have any questions, please do not hesitate to contact me at (770) 531-6800.

Sincerely,

Tammie Croy
Senior Civil Engineer

cc: Ralph Cavedo, Inspector
File



IRREVOCABLE LETTER OF CREDIT #5030424927P
FOR SIDEWALK CONSTRUCTION

Hall County Board of Commissioners
P.O. Drawer 1435
Gainesville, GA 30503

RE: Deer Creek Crossing Subdivision – William R. White
4674 Highland Road Gainesville, Ga 30506

Chairman :

The purpose of this Irrevocable Letter of Credit is to induce the Board of Commissioners of Hall County, Georgia to allow said owner/developer twenty-four (24) months to complete the sidewalk system as shown on the approved final plat, and to ensure completion of the sidewalk system as per the approved plans and regulations of Hall County, Georgia.

United Community Bank (Banking institution hereinafter referred to as "Issuer") hereby establishes its Irrevocable Letter of Credit No. 5030424927P in favor of Hall County, Georgia, for the account of William R. White, (Owner/developer) up to the aggregate amount of Fifty-Eight Thousand, Two Hundred Seventy-Six dollars* effective immediately and available by your draft(s) drawn at sight on the Issuer when accompanied by this Irrevocable Letter of Credit. This Irrevocable Letter of Credit is to cover the value of materials and work associated with the construction, repair, or maintenance of the sidewalk system at Deer Creek Crossing Subdivision.

The owner/developer responsibilities are as follows:

All construction of the sidewalk system of Deer Creek Crossing Subdivision will be completed within twenty-four (24) months of the date of the recorded final plat and in accordance with the terms and requirements shown on the recorded final plat and of the Subdivision Regulations in force in Hall County, Georgia. The sidewalks must be properly maintained and free from faults in design, materials, and workmanship as shown on the recorded final plat and as set out in the Subdivision Regulations in force in Hall County, Georgia. The Owner/developer must make all necessary repairs and complete all construction within forty-five (45) days from the date of written notice from the Hall County Engineer.

Hall County will pursue the collection of funds for deficiencies upon the elapsing of twenty-four (24) months from the date of recorded final plat and after the compliance date given in the 45-day written notice.

153 East Kytle Street
Cleveland, GA 30528
706.865.3151
Fax 706.865.6767

The condition of the obligation created hereunder is such that the Issuer hereby agrees that all drafts drawn under and in compliance with the terms of this Irrevocable Letter of Credit will be duly honored if drawn and presented for payment to the Issuer's office upon the failure of Owner/developer to meet the responsibilities as outlined in the preceding paragraph. Upon full compliance, this obligation shall be void; otherwise, it shall remain in force. Jurisdiction for any civil litigation necessary for collection of bond claims hereunder shall be in the Superior Court of Hall County, Georgia.

This Irrevocable Letter of Credit is hereby issued on September 8, 2021 and expires on September 8, 2023, and the Issuer will have no more liability after that date. When the indicated expiration date falls on Sunday or a legal holiday, or for any reason the Issuer is not open for business, the expiration date shall be extended to the next succeeding business day.

IN WITNESS WHEREOF the Issuer has set its hand and affixed its seal on this day of

September 8, 2021.

Dianne Pyles
Witness
Dianne Pyles
Notary Public

United Community Bank
Issuer
By: *Donna H. Clark*
Name and Title VP

My Commission Expires: 12/9/23

[Seal]



* The aggregate amount will be based on 100% of the cost of the sidewalks.



00000005030424927000009082021

SIGHT DRAFT

Principal	Loan Date	Maturity	Loan No	Call / Coll	Account	Officer	Initials
\$58,276.00	09-08-2021	09-08-2023	5030424927	99 / 3032	3104937	30124	

References in the boxes above are for Lender's use only and do not limit the applicability of this document to any particular loan or item.
Any item above containing "****" has been omitted due to text length limitations.

Borrower: WILLIAM R. WHITE (SSN: 414-68-2429)
4674 HIGHLAND ROAD
GAINESVILLE, GA 30506

Lender: UNITED COMMUNITY BANK
CLEVELAND - EAST KYTLE ST
153 E KYTLE ST
CLEVELAND, GA 30528

DATE _____

RE: United Community Bank Irrevocable Letter of Credit No. 5030424927P dated SEPTEMBER 8, 2021

On this date we present this Sight Draft against the Letter of Credit referenced above for immediate payment in good funds in the amount of FIFTY EIGHT THOUSAND TWO HUNDRED SEVENTY SIX AND NO/100 U.S. Dollars (\$58,276.00). This Sight Draft is submitted against Letter of Credit No. 5030424927P because:

HALL COUNTY BOARD OF COMMISSIONERS
Name of Beneficiary

By: _____

Title: _____



00000005030424927147009082021

IRREVOCABLE LETTER OF CREDIT

Borrower: WILLIAM R. WHITE (SSN: 414-68-2429)
4674 HIGHLAND ROAD
GAINESVILLE, GA 30506

Lender: UNITED COMMUNITY BANK
CLEVELAND - EAST KYTLE ST
153 E KYTLE ST
CLEVELAND, GA 30528

Beneficiary: HALL COUNTY BOARD OF COMMISSIONERS
PO BOX 1435
GAINESVILLE, GA 30506

NO.: 5030424927P

EXPIRATION DATE. This letter of credit shall expire upon the earlier of the close of business on 09-08-2023 and all drafts and accompanying statements or documents must be presented to Lender on or before that time, or the day that Lender honors a draw under which the full amount of this Letter of Credit has been drawn (the "Expiration Date").

AMOUNT OF CREDIT. Lender hereby establishes at the request and for the account of Borrower, an Irrevocable Letter of Credit in favor of Beneficiary for a sum of Fifty-eight Thousand Two Hundred Seventy-six & 00/100 Dollars (\$58,276.00) (the "Letter of Credit"). These funds shall be made available to Beneficiary upon Lender's receipt from Beneficiary of sight drafts drawn on Lender at Lender's address indicated above (or other such address that Lender may provide Beneficiary in writing) during regular business hours and accompanied by the signed written statements or documents indicated below.

WARNING TO BENEFICIARY: PLEASE EXAMINE THIS LETTER OF CREDIT AT ONCE. IF YOU FEEL UNABLE TO MEET ANY OF ITS REQUIREMENTS, EITHER SINGLY OR TOGETHER, YOU SHOULD CONTACT BORROWER IMMEDIATELY TO SEE IF THE LETTER OF CREDIT CAN BE AMENDED. OTHERWISE, YOU WILL RISK LOSING PAYMENT UNDER THIS LETTER OF CREDIT FOR FAILURE TO COMPLY STRICTLY WITH ITS TERMS AS WRITTEN.

DRAFT TERMS AND CONDITIONS. Lender shall honor drafts submitted by Beneficiary under the following terms and conditions: PRESENTATION OF A SINGLE SIGHT DRAFT DRAWN UPON US IN AN AMOUNT NOT EXCEEDING THE AMOUNT OF CREDIT INCLUDING THE FOLLOWING: (1) SIGNED STATEMENT BY AN OFFICER OF HALL COUNTY BOARD OF COMMISSIONERS STATING THE APPLICANT HAS NOT PERFORMED AS REQUIRED, AND (2) THE ORIGINAL LETTER OF CREDIT

Upon Lender's honor of such drafts, Lender shall be fully discharged of Lender's obligations under this Letter of Credit and shall not be obligated to make any further payments under this Letter of Credit once the full amount of credit available under this Letter of Credit has been drawn.

Beneficiary shall have no recourse against Lender for any amount paid under this Letter of Credit once Lender has honored any draft or other document which complies strictly with this Letter of Credit, and which on its face appears otherwise in order but which is signed, issued, or presented by a party or under the name of a party purporting to act for Beneficiary, purporting to claim through Beneficiary, or posing as Beneficiary without Beneficiary's authorization. By paying an amount demanded in accordance with this Letter of Credit, Lender makes no representation as to the correctness of the amount demanded and Lender shall not be liable to Beneficiary, or any other person, for any amount paid or disbursed for any reason whatsoever, including, without limitation, any nonapplication or misapplication by Beneficiary of the proceeds of such payment. By presenting upon Lender or a confirming bank, Beneficiary certifies that Beneficiary has not and will not present upon the other, unless and until Beneficiary meets with dishonor. Beneficiary promises to return to Lender any funds received by Beneficiary in excess of the Letter of Credit's maximum drawing amount.

USE RESTRICTIONS. All drafts must be marked "DRAWN UNDER UNITED COMMUNITY BANK IRREVOCABLE LETTER OF CREDIT NO. 5030424927P DATED 09-08-2021," and the amount of each draft shall be marked on the draft. Only Beneficiary may complete a draft and accompanying statements or documents required by this Letter of Credit and make a draw under this Letter of Credit. This original Letter of Credit must accompany any draft drawn hereunder.

Partial draws are not permitted under this Letter of Credit.

PERMITTED TRANSFEREES. The right to draw under this Letter of Credit shall be nontransferable, except for:

- A. A transfer (in its entirety, but not in part) by direct operation of law to the administrator, executor, bankruptcy trustee, receiver, liquidator, successor, or other representative at law of the original Beneficiary; and
- B. The first immediate transfer (in its entirety, but not in part) by such legal representative to a third party after express approval of a governmental body (judicial, administrative, or executive).

TRANSFEREES REQUIRED DOCUMENTS. When the presenter is a permitted transferee (i) by operation of law or (ii) a third party receiving transfer from a legal representative, as described above, the documents required for a draw shall include a certified copy of the one or more documents which show the presenter's authority to claim through or to act with authority for the original Beneficiary.

COMPLIANCE BURDEN. Lender is not responsible for any impossibility or other difficulty in achieving strict compliance with the requirements of this Letter of Credit precisely as written. Beneficiary understands and acknowledges: (i) that unless and until the present wording of this Letter of Credit is amended with Lender's prior written consent, the burden of complying strictly with such wording remains solely upon Beneficiary, and (ii) that Lender is relying upon the lack of such amendment as constituting Beneficiary's initial and continued approval of such wording.

NON-SEVERABILITY. If any aspect of this Letter of Credit is ever declared unenforceable for any reason by any court or governmental body having jurisdiction, Lender's entire engagement under this Letter of Credit shall be deemed null and void ab initio, and both Lender and Beneficiary shall be restored to the position each would have occupied with all rights available as though this Letter of Credit had never occurred. This non-severability provision shall override all other provisions in this Letter of Credit, no matter where such provision appears within this Letter of Credit.

GOVERNING LAW. This Agreement will be governed by federal law applicable to Lender and, to the extent not preempted by federal law, the laws of the State of Georgia without regard to its conflicts of law provisions, and except to the extent such laws are inconsistent with the 2007 Revision of the Uniform Customs and Practice for Documentary Credits of the International Chamber of Commerce, ICC Publication No. 600. This Agreement has been accepted by Lender in the State of Georgia.

EXPIRATION. Lender hereby agrees with Beneficiary that drafts drawn under and in compliance with the terms of this Letter of Credit will be duly honored if presented to Lender on or before the Expiration Date unless otherwise provided for above.

Dated: September 8, 2021