



MIKE O'CONNELL
JEFFERSON COUNTY ATTORNEY

531 Court Place, Suite 900
Louisville, KY 40202

(502) 574-6333
Fax (502) 574-5573

Julie Lott Hardesty
First Assistant

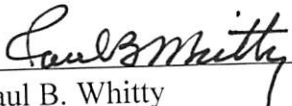
The Louisville/Jefferson County Metro Planning Commission
444 S. 5th Street, Suite 300
Louisville, KY 40202

RE: Cedar Creek Gardens Subdivision
Case No: 09-06-05
Bond No: BCR 1680935
Irrevocable Credit No. 99428

April 18, 2019

The Metropolitan Sewer District (MSD) has requested a forfeiture of the above referenced bond (copy attached) in order to remedy drainage deficiencies in the Cedar Creek Gardens subdivision. The developer's interest has been foreclosed by Citizen's Union Bank (CUB) and cannot perform his obligations under the bond. The Planning Commission is hereby requested to declare a default of the bond pursuant to LDC 7.2.85 to authorize MSD to collect the entire bond proceeds from the surety.

MIKE O'CONNELL
Jefferson County Attorney

By: 
Paul B. Whitty
Assistant Jefferson County Attorney

PBW/kes
Enclosure

cc w/enclosures
Bob Stauble MSD



700 West Liberty Street | Louisville, KY 40203-1911
Phone: 502.540.6000 | LouisvilleMSD.org

April 12, 2019

Jeff O'Brien
Deputy Director, Office of Planning
Louisville Forward
444 S. 5th Street, Suite 600
Louisville, Kentucky 40202

Subject: Cedar Creek Gardens – Bond Forfeiture Request

Dear Jeff:

MSD has become aware of rear yard flooding issues in the above referenced subdivision. Specifically, along the rear of 9810 through 9808 Cedar Garden Drive. There is a natural swale along the southern property line that is inadequate to effectively contain the nearly 75 acres of runoff from upstream.

MSD has contacted the original developer, Buddy Jaha to address the problem. Mr. Jaha indicated that he lost control of the company holding the bond, Jaha-Cox Properties, LLC, to CUB Bank. CUB Bank has indicated that the company has since been dissolved and suggested that MSD contact the surety company to secure funds to address the flooding issue.

MSD is requesting that Metro Public Works undergo the necessary administrative procedures to secure funds from the bonding company in order to construct a solution to this drainage problem. A copy of the instrument is attached.

Please be advised that MSD has made Councilman Engle aware of our intent to secure funding from this bond.

Very Truly Yours,

William J. Ashby
Development Review Manager

WJA/wja

cc: David Johnson
Bob Stauble
File

SUBDIVISION BOND

KNOW ALL MEN BY THESE PRESENTS, that we Jaha -Cox Properties, LLC.
of 8011 New Lagrange Road #3 Louisville, KY 40222, as
Principal and Hanover Insurance Company, having its principal office and place of business
in the City of Hamilton, OH, as Surety, are held and firmly bound unto Louisville Metro, as
Obligee, in the sum of One hundred eighteen thousand dollars and 00/100 (\$118,000.00)
DOLLARS, for which payment well and truly to be made, we bind ourselves, our heirs,
executors, administrators, successors, and assigns, jointly and severally, firmly by these presents.

WHEREAS, the above bounden Principal has been granted preliminary subdivision approval of
a subdivision known as Cedar Creek Gardens, said approval being conditioned upon the
installation of physical improvements in said subdivision, in accordance with construction plans
prepared by Gresham Smith & Partners, and approved by Louisville Metro Public
Works and the Metropolitan Sewer District, and for the installation of fire hydrants as required by
the National Fire Protection Association; and

WHEREAS, the Principal has entered into a written agreement with Obligee relating to the
above referenced physical improvements (the "Subdivider's Contract");

NOW THEREFORE, THE CONDITION OF THIS OBLIGATION IS such, that if the above
bounden Principal shall well and truly and in good, sufficient and workmanlike manner perform
or cause to be performed the installation of said physical improvements in accordance with the
terms and conditions of the Subdivider's Contract, then this obligation shall be null and void;
otherwise to remain in full force and effect until said physical improvements have been
completed and accepted by an authorized agent of the Louisville Metro Planning Commission or
Louisville Metro Public Works.

The parties hereto further agree to the following terms and conditions:

1. This Subdivision Bond is effective for the annual period from 2/1/07 to 2/1/08,
and shall be deemed automatically renewed annually thereafter by this Surety, unless this Surety
provides written notice of cancellation to the Obligee and the Principal at least seventy-five (75)
calendar days prior to the annual renewal date of the bond. Should this Surety provide said notice
of cancellation, then the Principal shall provide a Replacement Surety Bond to the Obligee on or
before the date of said cancellation. Upon the Principal providing said Replacement Surety Bond,
then this Surety shall be released and discharged from any liability, demand, or claim on this
Subdivision Bond. Should this Subdivision Bond not be renewed as required herein, then the
Obligee shall be entitled to forfeiture hereof, in the penal sum of this Subdivision Bond upon
written notice to the Surety. The Surety shall pay said forfeiture demand within thirty (30) days
after receipt of said written demand from the Obligee.
2. Any funds received by the Obligee from the Surety as a result of said forfeiture shall be held by
the Obligee in an interest bearing account for the performance of the Principal's obligations
herein in the event of default by the Principal of those obligations, and any unused funds shall be
returned to the Surety upon satisfaction of the Principal's obligation herein. Surety shall be
entitled to an accounting of all funds received and dispursed by the Obligee as a result of said
forfeiture.

3. The Surety herein shall retain a rating with AM Best's Company of A-/VIII or better. Should the Surety fail to maintain said rating by AM Best's Company, such failure shall be deemed a default hereunder by the Principal and Surety, and the Oblige shall be entitled to forfeiture of the penal sum of this Subdivision Bond. Said forfeiture being subject to the requirements set forth in Paragraphs No. 1 and 2 hereinabove.

4. Notice to the Oblige as required herein shall be made and delivered via Certified Mail to Metro Public Works, 444 South 5th Street, Suite 400, Louisville, KY 40202.

5. Notice to the Principal and the Surety as required herein shall be made and delivered via Certified Mail to the address listed below.

Signed and sealed this 1st day of February, 2007.

Principal: Jaha Cox Properties, LLC.
Name
8011 New Lagrange Road #3
Address
Louisville, KY 40222
City, State, Zip

By: _____
Signature

Please type name and Title

Surety: Hanover Insurance Company
Name
P O Box 24315
Address
Louisville, KY 40224
City, State, Zip

By: (Nikki Rutledge)
Attorney-In-Fact
~~Attorney-In-Fact~~ Nikki Rutledge.
Please type name

Certified Copy Void Without Hanover Watermark
This Power of Attorney may not be used to execute any bond with an inception date after December 1, 2009

**THE HANOVER INSURANCE COMPANY
MASSACHUSETTS BAY INSURANCE COMPANY
CITIZENS INSURANCE COMPANY OF AMERICA**

**POWERS OF ATTORNEY
CERTIFIED COPY**

KNOW ALL MEN BY THESE PRESENTS: That THE HANOVER INSURANCE COMPANY and MASSACHUSETTS BAY INSURANCE COMPANY, both being corporations organized and existing under the laws of the State of New Hampshire, and CITIZENS INSURANCE COMPANY OF AMERICA, a corporation organized and existing under the laws of the State of Michigan, do hereby constitute and appoint

John P. Lavelle, James Lavelle Jr., Stanley G. Logan Jr., Joyce B. Lavelle, Jayne M. Lavelle, Michelle LaMaster, Nikki Rutledge, Judy M. Logan and/or Lisa A. Vaughn

of Louisville, KY and each is a true and lawful Attorney(s)-in-fact to sign, execute, seal, acknowledge and deliver for, and on its behalf, and as its act and deed any place within the United States, or, if the following line be filled in, only within the area therein designated

any and all bonds, recognizances, undertakings, contracts of indemnity or other writings obligatory in the nature thereof, as follows:
Any such obligations in the United States, not to exceed Ten Million and No/100 (\$10,000,000) in any single instance

and said companies hereby ratify and confirm all and whatsoever said Attorney(s)-in-fact may lawfully do in the premises by virtue of these presents. These appointments are made under and by authority of the following Resolution passed by the Board of Directors of said Companies which resolutions are still in effect:

"RESOLVED, That the President or any Vice President, in conjunction with any Assistant Vice President, be and they are hereby authorized and empowered to appoint Attorneys-in-fact of the Company, in its name and as its acts, to execute and acknowledge for and on its behalf as Surety any and all bonds, recognizances, contracts of indemnity, waivers of citation and all other writings obligatory in the nature thereof, with power to attach thereto the seal of the Company. Any such writings so executed by such Attorneys-in-fact shall be as binding upon the Company as if they had been duly executed and acknowledged by the regularly elected officers of the Company in their own proper persons." (Adopted October 7, 1981 - The Hanover Insurance Company; Adopted April 14, 1982 - Massachusetts Bay Insurance Company; Adopted September 7, 2001 - Citizens Insurance Company of America)

IN WITNESS WHEREOF, THE HANOVER INSURANCE COMPANY, MASSACHUSETTS BAY INSURANCE COMPANY and CITIZENS INSURANCE COMPANY OF AMERICA have caused these presents to be sealed with their respective corporate seals, duly attested by a Vice President and an Assistant Vice President, this 14th day of December, 2006.



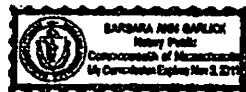
THE HANOVER INSURANCE COMPANY
MASSACHUSETTS BAY INSURANCE COMPANY
CITIZENS INSURANCE COMPANY OF AMERICA

Richard M. Van Stoenburgh
Richard M. Van Stoenburgh, Vice President

Paul F. Caruso
Paul F. Caruso, Assistant Vice President

THE COMMONWEALTH OF MASSACHUSETTS)
COUNTY OF WORCESTER) ss.

On this 14th day of December 2006, before me came the above named Vice President and Assistant Vice President of The Hanover Insurance Company, Massachusetts Bay Insurance Company and Citizens Insurance Company of America, to me personally known to be the individuals and officers described herein, and acknowledged that the seals affixed to the preceding instrument are the corporate seals of The Hanover Insurance Company, Massachusetts Bay Insurance Company and Citizens Insurance Company of America, respectively, and that the said corporate seals and their signatures as officers were duly affixed and subscribed to said instrument by the authority and direction of said Corporations.



Barbara A. Garlick
Notary Public

My commission expires on November 3, 2011

I, the undersigned Assistant Vice President of The Hanover Insurance Company, Massachusetts Bay Insurance Company and Citizens Insurance Company of America, hereby certify that the above and foregoing is a full, true and correct copy of the Original Power of Attorney issued by said Companies, and do hereby further certify that the said Powers of Attorney are still in force and effect.

This Certificate may be signed by facsimile under and by authority of the following resolution of the Board of Directors of The Hanover Insurance Company, Massachusetts Bay Insurance Company and Citizens Insurance Company of America.

"RESOLVED, That any and all Powers of Attorney and Certified Copies of such Powers of Attorney and certification in respect thereto, granted and executed by the President or any Vice President in conjunction with any Assistant Vice President of the Company, shall be binding on the Company to the same extent as if all signatures therein were manually affixed, even though one or more of any such signatures thereon may be facsimile." (Adopted October 7, 1981 - The Hanover Insurance Company; Adopted April 14, 1982 Massachusetts Bay Insurance Company; Adopted September 7, 2001 - Citizens Insurance Company of America)

GIVEN under my hand and the seals of said Companies, at Worcester, Massachusetts, this 1st day of February, 2007.

THE HANOVER INSURANCE COMPANY
MASSACHUSETTS BAY INSURANCE COMPANY
CITIZENS INSURANCE COMPANY OF AMERICA

Charles T. Wells
Charles T. Wells, Assistant Vice President

Certified Copy Void Without Hanover Watermark

Member FDIC
An Equal Housing Lender



P.O. Box 186
1854 Midland Trail
Shelbyville, KY 40066
Phone (502) 633-4454
Fax (502) 633-0032
Toll Free (866) 633-4454
www.cubbank.com

Louisville-Jefferson County Metro
Planning Commission
444 South 5th Street, Suite 300
Louisville, KY 40202

Date: February 8, 2007

Irrevocable Credit No. 99428

Gentlemen:

WE HEREBY OPEN OUR IRREVOCABLE LETTER OF CREDIT IN YOUR FAVOR FOR THE ACCOUNT OF JAHA-COX PROPERTIES, LLC FOR A TOTAL SUM OF THREE THOUSAND U.S. DOLLARS AVAILABLE BY YOUR DRAFT(S) ON US AT SIGHT WHEN ACCOMPANIED BY:

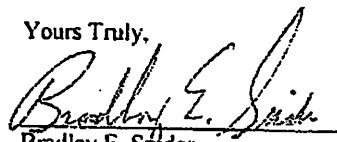
Your statement, signed by an authorized officer, worded to the effect that the requirement for escrow funds under Requirements of Section 2.45 of the Metropolitan Subdivision Regulations relating to CEDAR CREEK GARDENS SUBDIVISION has not been released by the Louisville-Jefferson County Metro Planning Commission.

This letter of Credit shall become valid on February 8, 2007. CITIZENS UNION BANK OF SHELBYVILLE HEREBY AGREES THAT THIS LETTER OF CREDIT SHALL AUTOMATICALLY RENEW ITSELF FOR SUCCESSIVE ONE-YEAR PERIODS UNLESS WE GIVE NOTICE TO YOU NO LATER THAN FORTY-FIVE (45) DAYS PRECEDING AN EXPIRATION DATE, THAT WE NO LONGER CHOOSE TO RENEW THE LETTER OF CREDIT, IN WHICH CASE, THE NOTICE SHALL BE SENT CERTIFIED MAIL TO THE DIRECTOR OF METRO PUBLIC WORKS AND LOUISVILLE-JEFFERSON COUNTY METRO PUBLIC WORKS SHALL BE ENTITLED TO DEMAND AND RECEIVE THE OUTSTANDING AMOUNT OF MONEY REPRESENTED BY THE LETTER OF CREDIT.

ALL DRAFTS UNDER THIS CREDIT SHALL STATE THAT THEY ARE "DRAWN" UNDER CITIZENS UNION BANK OF SHELBYVILLE LETTER OF CREDIT NO. 99428 DATED FEBRUARY 8, 2007. WE HEREBY AGREE WITH YOU THAT DRAFTS DRAWN UNDER AND IN COMPLIANCE WITH THE TERMS OF THIS CREDIT WILL BE DULY HONORED AS SPECIFIED IF PRESENTED AT THIS OFFICE 1854 MIDLAND TRAIL SHELBYVILLE, KY ON OR BEFORE THE EXPIRATION DATE.

EXCEPT AS OTHERWISE EXPRESSLY STATED HEREIN, THIS CREDIT IS SUBJECT TO THE UNIFORM CUSTOMS AND PRACTICE FOR DOCUMENTARY CREDITS (1993 REVISION), INTERNATIONAL CHAMBER OF COMMERCE BROCHURE NO. 500.

Yours Truly,


Bradley E. Spider

SERVING YOU SINCE