

**TO: ALL COUNTY PERSONNEL**

**FROM: VERDENIA C. BAKER  
COUNTY ADMINISTRATOR**

**PREPARED BY: OFFICE OF FINANCIAL MANAGEMENT AND BUDGET  
(OFMB)**

**SUBJECT: POLICY FOR ACCEPTING LETTERS OF CREDIT**

**PPM #: CW-F-055**

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**ISSUE DATE**  
April 26, 2021

**EFFECTIVE DATE**  
April 26, 2021

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**PURPOSE:**

To establish specific criteria and pre-requisites for accepting Letters of Credit by the County in conjunction with developer agreements, contracts and any other contractual obligation.

**UPDATES:**

Future updates to this PPM are the responsibility of the Director of Financial Management & Budget Department.

**AUTHORITY:**

- Palm Beach County Administrative Code, Section 307.00, as may be amended.

**POLICY:**

In conjunction with developer agreements, contracts and any other contractual obligations entered into by the County, when Surety requirements are contained in such instruments the County may elect to permit the developer/contractor the option of providing the County with a Letter of Credit, cash bond or other acceptable guaranty.

**PROCEDURES:**

1. The face of the letter of credit must be in a format similar to "Attachment A" and indicate the following:
  - A. The letter of credit is "clean" and "irrevocable".
  - B. An exact expiration date.

- C. Statement of the purpose or project for which the letter of credit is issued.
  - D. A specific amount of the letter of credit, in U.S. dollars.
  - E. The method of disbursement of draws against the letter of credit.
  - F. The street address where draws against the letter of credit may be made.
  - G. Venue in Palm Beach County.
2. At the time of issuance of the letter of credit, the financial institution must have a minimum "peer group" rating that meets or exceeds the threshold levels in at least two of the five approved rating services as listed below:
- A. Thomson Reuters Bank Insight Quaterly Ratings - 50.
  - B. IDC Bank Financial Quarterly Listing - 125.
  - C. Veribanc, Inc. Listing - 3 Star Green Rating.
  - D. Standard & Poor's Listing - Single A.
  - E. Moody's Listing - Single A.

The proposer of said ratings service must document to the County that the institution has met the established threshold rating for the most current rating period at the time of submission to the County. The proposer will have the responsibility of furnishing the County with revised quarterly ratings during the term of the letter of credit within 30 days of said revisions.

For any of the services utilized the most current rating will be used for the basis of acceptance.

The user department shall be responsible for verifying this information. Additionally, the user department shall provide all pertinent information pertaining to the letter of credit to Contract Development & Control/OFMB (CDC/OFMB) for review of current ratings. This should include the exact name of the institution, and the exact complete address of the institution.

3. Letters of credit from domestic financial institutions and/or international financial institutions from foreign nations that have received most favored nation status from the United States government which do not meet two of the minimum ratings indicated in Section 2 above must be confirmed by a financial institution with two of the minimum ratings indicated in Item 2 above.
4. Verification of the status or certification of any financial institution may be made with:
- Florida Office of Financial Regulation  
Division of Financial Institutions  
200 E. Gaines Street  
Tallahassee, Florida 32399  
Phone (850) 487-9687

**or**

OFMB/Contract Development & Control Division  
301 North Olive Avenue  
7<sup>th</sup> Floor  
West Palm Beach, Florida 33401  
Phone (561)355-4150

5. At any time during the life of the letter of credit, should the rating of the financial institution fall below any two of five of the minimum ratings as indicated in Section 2 above, or should the financial institution become insolvent, the contractor/developer must, within sixty (60) calendar days after notification by the County: **A.** replace the existing letter of credit with a replacement letter of credit from a financial institution with two of the minimum ratings as specified in Item 2 above, or **B.** have the existing letter of credit confirmed by a financial institution with two of the minimum ratings as specified in Item 2 above. At the County's option, the letter of credit may be replaced by a performance/payment bond or other surety acceptable to the County (ex., cash bond or escrow agreement) in accordance with the County's existing policies. Failure to comply with this provision may result in any or all of the following actions by the County: suspension of the contractor/developer's right to pull building permits and schedule inspections, a stop work order, and/or revocation of the Land Development Permit. These actions shall be in effect until a satisfactory replacement bond or letter of credit is accepted by the County. The contractor/developer agreement shall so provide for replacement or confirmation in accordance with this policy.
6. The County Attorney's Office shall review all letters of credit for legal sufficiency. Likewise, the County Attorney's office shall review all defaults or drawdowns on Letters of Credit for legal sufficiency. Original letters of credit shall be maintained in the user department's safe or locked file cabinet at all times and shall be clearly identified as to the project or contract for which it is issued. One copy of the letter of credit shall be placed in the department's contract file and one copy shall be sent to (CDC/OFMB) to be held in a separate file. (CDC/OFMB) will maintain a computerized listing of financial institutions from which letters of credit have been received, review the listing at least twice annually, and notify the user department(s) if any letters of credit require replacement in accordance with item 5 above.
7. All financial institutions which issue or confirm any Letter of Credit must be authorized by the Secretary of State to do business in the State of Florida; shall show proof of same upon request by County staff, and agree to venue in Palm Beach County.

8. In addition to the institutions meeting the aforementioned requirements, the Federal Home Loan Bank of Atlanta is authorized to issue and confirm letters of credit which are in accordance with the provision of Paragraph 1 of this policy, with the exception of I.G.



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**VERDENIA C. BAKER**  
**COUNTY ADMINISTRATOR**

**Supersession History:**

1. PPM #CW-F-055, effective 1/01/95
2. PPM #CW-F-055, effective 4/27/10
3. PPM #CW-F-055, effective 4/8/15

**CLEAN IRREVOCABLE LETTER OF CREDIT**

**DATE:** \_\_\_\_\_

**TO:** \_\_\_\_\_

**AMOUNT: USDLRS \$** \_\_\_\_\_ **EXPIRATION DATE:** \_\_\_\_\_

We hereby open our Clean Irrevocable Letter of Credit No. \_\_\_\_\_ in favor of the Palm Beach County Board of County Commissioners (County) for the amount of U.S. Dollars (\_\_\_\_\_) effective as of this date.

This Letter of Credit is issued pursuant to that certain contract No. \_\_\_\_\_ between \_\_\_\_\_ as Contractor, and Palm Beach County, Florida, dated \_\_\_\_\_ 20\_(the "Contract"), however, this Letter of Credit is independent of that contract and reference herein is for information only.

Funds under this Letter of Credit are available to the County hereunder not exceeding in aggregate the amount of this Credit against the County's demand for payment on us mentioning our Credit No. \_\_\_\_\_.

When we receive your demand for payment at \_\_\_\_\_ on or prior to the Expiration Date, we will promptly honor the same.  
(street address)

Kindly address all correspondence regarding this Letter of Credit to the attention of the Letter of Credit Department, mentioning specifically our Credit Number.

Venue for any and all legal action necessary to enforce the terms of this Letter of Credit shall be Palm Beach County, Florida.

Authorized Signature: \_\_\_\_\_  
(Name)

Notary Public:

(Typed) \_\_\_\_\_

Title: \_\_\_\_\_  
(Optional)

Except as is inconsistent with the express provisions hereof, this Letter of Credit is subject to the Uniform Customs and Practices For Documentary Credits (1983) Revisions), International Chamber of Commerce Publication No. 400.