

# Stormwater Erosion and Sediment Control Security Agreement

Date:

Developer/Owner Name:

Address:

Development:

This agreement is made by and between the above named developer (herein “Developer”) and Boone County, Missouri, a political subdivision of the State of Missouri, through its Resource Management Department, (herein “County”) and shall be effective on the above date when signed and approved by all persons listed below.

In consideration of the performance based by each party of their obligations described in this agreement, the parties agree to the following:

- 1. Background and Purpose of Agreement** – The Developer is the owner or authorized agent of the owner for the real estate contained within the development described above which is subject to the Boone County Stormwater Regulations. This agreement is made pursuant to Section 8.4 Performance and Guarantee, in the Stormwater Regulations of Boone County, Missouri in order to permit the Developer to disturb land on the development described above, and to assure County of the required erosion and sediment control and stormwater management. By entering into this agreement the developer is agreeing to comply with the erosion and sediment plan described below in accordance with the County Stormwater Regulations and specifications and provide to County financial security in the event the developer fails to comply with the plan, or complete the improvements within the time and manner provided for by this agreement.
- 2. Description of Improvements** – The Developer agrees to adhere to the Stormwater Pollution Prevention Plan (SWPPP) and Erosion and Sediment Control (ESC) Plans for Construction activities at **Development**. The SWPPP and ESC was prepared by **Consultant** on **Date**.
- 3. Time for Completion** – The Developer agrees to complete the land disturbance activities and stabilize the site as described in the SWPPP no later than the **XX day of Month, Year**, and all such improvements shall pass County inspection as of this date.
- 4. Security for Performance** – To secure the Developer’s performance of its obligations under this agreement, Developer hereby agrees to provide the County with security in the amount of **\$000,000.00**, which County may use and apply for Completion of the above described improvements in the event the Developer fails to complete the above described improvements within the time or within manner required by County under its regulations.

The Security shall be provided to County as a condition precedent to the effectiveness of this agreement in the following form:

- U Cash deposit with County Treasurer
  - U Irrevocable standby letter of credit, with form to be approved by County and issued to Treasurer of Boone County, Missouri
  - U Certificate of Deposit issued by FDIC insured bank for a term of XX months
  - U Corporate surety bond issued to Boone County
5. **Use of Security** – The Developer hereby authorizes County to use, redeem, or otherwise obtain payment as applicable, from the security described above for purposes of completing improvements required of the Developer under this agreement in the event that such improvements are not completed within the time provided for by this agreement, or any extension thereof granted by County in its discretion, or in the event such improvements are not completed in accordance with regulatory requirements or specifications imposed by County. Developer authorizes County to cash the corporate surety bond contemplated herein upon written instructions from the duly-elected and serving Treasurer of Boone County without further authorization or signature required by Developer. In the event Developer fulfills its obligations in the time and manner required by this agreement and obtains a satisfactory final inspection from the County prior to *Month, Day, Year (from 3 above)*, then County shall provide Developer with written proof that the requirements of this Security Agreement are satisfied and the corporate surety bond can be released to Developer. If no written proof has been provided to the financial institution issuing corporate surety bond that Developer has complied with the requirements of this Agreement, however, then the financial institution shall, on *Month, Day Year (from 3 above)*, or such extended period as mutually-agreed by the parties in writing, shall immediately transfer the balance of the corporate surety bond to the account then-designated by the Boone County Treasurer. If the total sum of the corporate surety bond is not used for completion of any necessary permit items, then the remaining balance shall be paid to Developer within thirty (30) days of completion and acceptance of any required work, along with an itemization of charges detailing the expenditures made by the County.
6. **Additional Sums Due** – In the event that the security provided herein is insufficient to complete the required improvements as determined by the County, Developer will, upon demand by the County accompanied by a detailed itemization of the requested additional sum, deposit with County such additional monies which, in the opinion of the County, will be required to complete the necessary improvements. In the event that Developer does not deposit the additional monies with the County within ten (10) days, the Developer shall be deemed in default of this Agreement.
7. **Remedies Cumulative** – Exercise or waiver by the County of any enforcement action under this Agreement does not waive or foreclose any other or subsequent enforcement action whatsoever. The County shall be entitled to its costs, including reasonable attorneys' fees, in enforcement of Developer's obligations under this Agreement.
8. **Authority of Representative Signatories** – Signatories to this agreement who execute this agreement in a representative capacity for a corporation, limited liability company or

partnership, or other business entity, hereby affirmatively represent that they have obtained all resolutions or orders needed to enter in this agreement and are duly authorized to enter into this agreement and bind the parties which they represent to all terms and conditions herein.

9. **Binding Effect** – This agreement shall be binding upon the parties hereto in their respective heirs, personal representative, administrators, successors, and interest in successors in assigned offices. The County and Developer hereby accept this Agreement as a lawful and satisfactory Security Agreement.

In Witness Whereof the Developer and the County have executed this agreement to be effective on the day and year first above written.

ACKNOWLEDGED AND AGREED TO:

**DEVELOPER/OWNER:**

By: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

**BOONE COUNTY, MISSOURI:**

Department of Resource Management

\_\_\_\_\_  
Stan Shawver, Director Resource Management

County Commission:

\_\_\_\_\_  
Daniel K. Atwill, Presiding Commissioner

Attest:

\_\_\_\_\_  
Taylor W. Burks, Boone County Clerk

County Treasurer

\_\_\_\_\_  
Tom Darrough, County Treasurer

Approved as to form:

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C.J. Dykhouse, County Counselor