

PROCEDURES FOR SUBMISSION OF PERFORMANCE GUARANTEES & AGREEMENTS

Separate Performance Guarantees and Agreements are required for *Sediment & Erosion Control* and for *Subdivision Improvements*. Performance Guarantees may be posted with the county by one of four different means: 1) Certified Check or Cashier's Check, 2) Letter of Credit, 3) Escrow Agreement, 4) Lender Agreement.

Sediment & Erosion Control Performance Guarantees & Agreements:

- Performance Guarantees and Agreements for sediment & erosion control shall be established and released in accordance with [Section 412.080](#) of the County Codes.
- The Sediment & Erosion Control Performance Guaranty amount must be established by a line-item cost estimate prepared by or on behalf of the applicant and approved by the Director of the Division of Development Review using current market value of the materials and labor for all erosion and sediment controls and other proposed construction items referenced in [Section 412.060.A.1.t, 2.c, 2.d, and/or 3.a](#) and it must cover costs for any measures (structural or otherwise) used to control sediment run off or prevent erosion due to land disturbance from the improvement of the site. The Performance Guaranty amount must include, but is not limited to, the following costs:
 - Sediment Control measures (wattles, straw bales, siltation fences, diversion swales/berms, rock, checks, etc.)
 - Sediment Traps/Basins
 - Construction Entrance
 - Stream Bank Protection
 - Temporary Drainage Systems
 - Revegetation (seed, mulch, fertilizer, sod, etc.)
 - Non-vegetative Soil Stabilization (commercial erosion control blankets, rip-rap, retaining walls, etc.)
 - Permanent infrastructure needed during interim grading
 - Permanent storm water detention/management facilities (commercial/industrial site plans only)
- Properly executed Performance Agreements & Guarantees for sediment & erosion control must be received prior to Land Disturbance Permit issuance.

Subdivision Improvements Performance Guarantees & Agreements:

- Performance Guarantees and Agreements for subdivision improvements will be established and released in accordance with [Section 410.180](#) of the County Codes.
- Subdivision Improvements Performance Guaranty amounts must be established separately for each plat in the subdivision by a line-item cost estimate prepared by or on behalf of the applicant and approved by the Director of the Division of Development Review using current market value of the materials and labor for the costs for all public improvements maintained by the County (public streets & storm sewers) and/or private improvements maintained by the homeowners

(private streets, private storm sewers, storm water detention/management facilities). The Performance Guaranty amount must include, but is not limited to, the following costs:

- Earthwork (grading, clearing, demolition, etc.)
 - Retaining Walls approved as part of site development earthwork
 - Permanent Erosion Control measures
 - Street and Miscellaneous Pavement
 - Sidewalks (adjacent to common ground) & Handicap Ramps
 - Storm Sewer infrastructure, Bridges, and Culverts
 - Stream Channel Improvements/Protection
 - Storm Water Detention and Storm Water Management Facilities
 - Required Signage, Pavement Marking, Guard Rail, and other ancillary items
- Properly executed Performance Agreements & Guarantees for subdivision improvements must be received prior to final subdivision plat approval and recording.

Performance Guarantees & Agreements:

- Letter of Credit (LOC):
 - The county has a standard LOC form for use. If the financial institution prefers to use an alternate form, it must contain the terms in Sections [410.180.C.2](#) or [412.080.A.2.b](#) and it will need to be reviewed by our Counselor's office, which will extend the amount of time to process.
 - Drafts must be available to be drawn at offices in St. Charles County, City of St. Louis, or any Missouri county contiguous to St. Charles County.
 - In addition to the LOC, two (2) original executed Performance Agreement forms (photocopies are not acceptable) must be submitted to the Division of Development Review. Performance Agreement forms consist of a two party agreement between the developer/owner (or the contractor if approved to post the Performance Guaranty) and the county.
 - All blank spaces on the form must be properly filled-in with indelible ink or typewritten. Provide the name(s) of the developer/owner/contractor or their organization, the name of the development as it will appear on the recorded plat, approved site plan, or the erosion sediment control plan, the **plat number** (for subdivision improvements if more than one exists or will exist), the land disturbance permit number (ESC PG only), the performance guarantee sum where requested on the first and second sheets, the LOC number, and the name of the financial institution issuing the LOC. The performance guarantee sum should be obtained from the engineer's cost estimate as approved by the Development Review Director.
 - The date of execution must be provided along with the developer/owner/contractor signature. Those signing for a business entity must be officials empowered to sign for that business organization. The name of the officer signing the Agreement, their office title, and their business address must also be printed on the spaces provided. If the party is signing for a corporation, then that party's signature must be signed by an officer

empowered to use the corporate seal or to sign for the corporation and, if a corporate seal exists, the corporate seal should be imprinted below the signature in the space provided.

- **The developer/owner/contractor signature must be legally notarized using the proper notary form.** Notary forms for individuals, partnerships, limited liability companies, corporations, and political subdivisions are included under a separate document entitled [notary.doc](#).
- A copy of the approved engineer's cost estimate should accompany the Agreement.
- Certified Check/Cashier's Check:
 - The check will be deposited in an account with the Finance Department.
 - In addition to the check, two (2) original executed Performance Agreement forms (photocopies are not acceptable) must be submitted to the Division of Development Review. Performance Agreement forms consist of a two party agreement between the developer/owner (or the contractor if approved to post the Performance Guaranty) and the county.
 - All blank spaces on the form must be properly filled-in with indelible ink or typewritten. Provide the name(s) of the developer/owner/contractor or their organization, the name of the development as it will appear on the recorded plat, approved site plan, or the erosion sediment control plan, the **plat number** (for subdivision improvements if more than one exists or will exist), the land disturbance permit number (ESC PG only), the performance guarantee sum where requested on the first and second sheets, the check number, and the name of the financial institution issuing the check. The performance guarantee sum should be obtained from the engineer's cost estimate as approved by the Development Review Director.
 - The date of execution must be provided along with the developer/owner/contractor signature. Those signing for a business entity must be officials empowered to sign for that business organization. The name of the officer signing the Agreement, their office title, and their business address must also be printed on the spaces provided. If the party is signing for a corporation, then that party's signature must be signed by an officer empowered to use the corporate seal or to sign for the corporation and, if a corporate seal exists, the corporate seal should be imprinted below the signature in the space provided.
 - **The developer/owner/contractor signature must be legally notarized using the proper notary form.** Notary forms for individuals, partnerships, limited liability companies, corporations, and political subdivisions are included under a separate document entitled [notary.doc](#).
 - A copy of the approved engineer's cost estimate should accompany the Agreement.
- Escrow/Lender Agreements:
 - Both forms consist of a three party agreement between the developer/owner (or the contractor if approved to post the Performance Guaranty), the lender or escrow holder (usually a bank or title company), and the county. The guarantee must be secured with lawful money of the United States using the Escrow Agreement or with a Deed of Trust using the Lender Agreement.
 - Funds must be held by the Escrow Holder or Lender in offices within St. Charles County, City of St. Louis, or any Missouri county contiguous to St. Charles County.

- Three (3) original executed Agreement forms (photocopies are not acceptable) must be submitted to the Division of Development Review.
- All blank spaces on the form must be properly filled-in with indelible ink or typewritten. Provide the name(s) of the developer/owner or their development organization (or the contractor if approved to post the Performance Guaranty), the escrow holder or lender, the name of the development as it will appear on the recorded plat, approved site plan, or the erosion sediment control plan, the **plat number** (if more than one exists or will exist), the land disturbance permit number (ESC PG only), and the performance guarantee sum where requested on the first and second sheets. The performance guarantee sum should be obtained from the engineer's cost estimate as approved by the Development Review Director.
- The dates of execution must be provided along with the developer/owner/contractor signature and the signature of the escrow holder or lender. Those signing for a business entity must be officials empowered to sign for that business organization. The names of the officers signing the Agreement, their office title, and their business addresses must also be printed on the spaces provided. If either party is signing for a corporation, then that party's signature must be signed by an officer empowered to use the corporate seal or to sign for the corporation and, if a corporate seal exists, the corporate seal should be imprinted below the signatures in the spaces provided.
- **All signatures must be legally notarized using the proper notary forms.** Notary forms for individuals, partnerships, limited liability companies, corporations, and political subdivisions are included under a separate document entitled [notary.doc](#).
- A copy of the approved engineer's cost estimate should accompany the Agreement.

Upon submittal to the Division of Development Review, all information requested in the Agreement will be reviewed and the remaining signatures required for execution will be provided by the Development Review Director and the County Registrar. One original executed Agreement will be sent to the developer/owner or contractor and, if applicable, one will be sent to the escrow holder or lender. Release of performance guarantee funds to the developer/owner or contractor shall be directed by the recommendation of the County Engineer and/or the Development Review Director.