Rev. 07/2011

DEVELOPMENT PUBLIC IMPROVEMENT PERFORMANCE AND MAINTENANCE SECURITY AGREEMENT

SEDIMENTATION AND EROSION CONTROL

Check No._____

_____

This Agreement made and concluded at Lebanon, Ohio, by and between _____ _____ (1) (hereinafter the "Developer") and the City of Lebanon, Ohio, (hereinafter the "City).

WITNESSETH:

WHEREAS, the Developer is required to install certain sedimentation and erosion control improvements in _____ (2) (hereinafter the "Development") situated in the City of Lebanon, Ohio, in accordance with the City of Lebanon Regulations and Standards (hereinafter called the "Improvements"); and,

WHEREAS, it is estimated that the total cost of the installation and maintenance of the sedimentation and erosion control Improvements are in the sum of _____ _____ ($_____); and,

WHEREAS, the City of Lebanon has determined to require all developers to post security in the sum of one hundred thirty percent (130%) of the estimated cost of installation and maintenance of the required sedimentation and erosion control Improvements to secure the performance of said Improvements in accordance with City of Lebanon Regulations and Standards.

NOW, THEREFORE, be it agreed:

1. The Developer will provide **performance security** to the City of Lebanon in the sum of _____ ($_____) to secure the performance of the construction and maintenance of the required sedimentation and erosion control Improvements in accordance with City of Lebanon Regulations and Standards (hereinafter the "Performance Obligation"). The performance security shall be in the form of a cashier's or certified check payable to the City of Lebanon.

2. The City of Lebanon will, upon approval of the City Engineer of all Improvements in the Development, tentatively accept all Improvements.

3. The Developer shall be in default of the Performance Obligation if the construction or installation of the Improvements in accordance with the City of Lebanon Regulations and Standards is not completed within the time established by the City Engineer or if the Improvements are not maintained in such condition as to comply with the City of Lebanon Regulations and Standards during the development of the Development.

4. The condition of the Performance Obligation shall be that whenever the Developer shall be declared by the City of Lebanon to be in default, the City of Lebanon may apply such funds from the performance security provided hereunder to the completion of the uncompleted or unapproved Improvements or to the maintenance of such previously completed and approved Improvements including any costs incurred by the City of Lebanon which are incidental to the completion of the construction or installation of the Improvements or the performance of maintenance thereon, including, but not limited to costs associated with publication of legal notices, preparation of additional plans, specification or drawings, as may, in the judgment of the City of Lebanon, be necessary, preparation of bid documents, etc. upon notification of default to the Developer. The City Engineer shall, on behalf of the City of Lebanon, provide written notice to the Developer of a finding of default. The Developer shall have two (2) weeks to respond in writing.

5. In the case of default pursuant to Items 3 and 4 hereof, Developer shall make available to the City of Lebanon all plans, specifications and drawings relating to the Improvements and hereby directs all third parties, including engineers and consultants, who may possess such plans, specifications and drawings, or copies thereof, to provide the same to the City of Lebanon upon request and presentation of this security agreement or a copy thereof and agrees to hold such third parties harmless from the provision of such plan specifications and drawings pursuant to this item. Developer does hereby consent to the use of such plans, specifications and drawings by the City of Lebanon to complete the construction of the uncompleted or unapproved Improvements or the performance of maintenance upon the same in the case of default pursuant to Items 3 and 4 or 8 hereof.

6. The City of Lebanon and the Developer mutually agree that the Performance Obligation created herein shall continue during the development of the Development.

7. In the case of conflict between the provisions of this Agreement and any other security agreement relating to the same Improvements the provisions of this Agreement shall take precedence.

8. Any notice, correspondence, inquiry or request for inspection permitted or required under this Security Agreement shall be given as follows:

A. To the City Engineer:

Office of the City Engineer
Attn. City Engineer
50 South Broadway
Lebanon, OH 45036
Ph. (513) 228-3130

B. To the Developer:

_____

_____

_____

_____

Ph. (_____) _____-_____

All notices and requests for inspection, unless otherwise specifically provided herein, shall be by certified mail, return receipt requested and shall be complete upon mailing. **All parties are obligated to give notice of any change of address.**

IN EXECUTION WHEREOF, the Developer has caused this security agreement to be executed on the date stated below.

DEVELOPER:

Pursuant to a resolution authorizing the
undersigned to execute this agreement.

SIGNATURE: _____

PRINTED NAME: _____

TITLE: _____

DATE: _____

[**THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK**]

IN EXECUTION WHEREOF, the City of Lebanon has caused this security agreement to be executed by the City Manager, on the date stated below.

CITY OF LEBANON
CITY MANAGER

SIGNATURE: _____

PRINTED NAME: _____

DATE: _____

RECOMMENDED BY:

By: _____
CITY ENGINEER

APPROVED AS TO FORM:

By: _____
CITY ATTORNEY

Key:

1. Name of Developer
2. Name of development or subdivision with section number and phase number where applicable