

JOHNSON COUNTY WASTEWATER Developer Bond Options

DEVELOPER RESPONSIBILITIES: A three-year Bond Option is required from the site developer to ensure the repair of any Johnson County Wastewater (JCW) at-grade structures damaged by site improvements and/or development-related activities. The developer is required to repair damages to any at-grade structures (or damages to the main or service stub resulting from at-grade structure damage) or adjust at-grade structures to match finish grade during development of the project. Should the developer fail to correct damages within 30 days of notification from JCW, JCW will collect the entire amount of the funds secured by the Bond Option or, if applicable, contact the Bond Company, for the correction work.

COMPLETING THE BOND OPTION FORMS: The developer must provide the three-year Bond Option in one of the following formats:

1. Developer Agreement - secured by a cashier's check issued to JCW
2. Escrow Agreement - obtained through a financial institution
3. Irrevocable Letter of Credit - obtained through a financial institution
4. Developer Bond - obtained through a bonding company

The developer shall provide the Bond Option and it shall be accepted by JCW before JCW will accept the sewer main project.

Download the applicable JCW Developer Bond Option Form, with prefilled project information, from the www.MyGovernmentOnline.org portal. These forms may not be retyped. The following apply:

1. The selected Bond Option shall be executed by the parties noted on the form.
2. As applicable for the selected form, the developer, bank, or bonding agent's address, telephone number, fax numbers and email address must be included on the Bond Option document.
3. All signatures must include the typed or legibly printed name below the signature.
4. The Irrevocable Letter of Credit form must be copied on the issuing bank's letterhead.
5. For the Bond, the Bond Form and Power of Attorney shall include the legible bonding company's seal using an inked seal press or rubber stamp. The date of the Power of Attorney for the bond must match the execution date listed on the bond.

Contact the Permit Group, at 913-715-8520, for assistance in completing the selected form.

BOND OPTION AMOUNT: The Developer Bond Option amount is calculated at \$300 per manhole (minimum \$900.00 bond) in the area affected by the development. The number of manholes will be identified by JCW and reflected in the Bond Option document.

BOND OPTION EXPIRATION: The Developer Bond Option expires three years from the date the project was accepted by JCW. Upon bond period expiration, JCW returns the expired Bond Option to the developer named on the bond option, provided there are no development related damages to correct. If the developer changes during the three-year Bond Option period, a new Developer Bond Option from the new developer shall be provided. The original Bond Option shall be returned to the original provider. For funds secured under an Escrow Agreement, Letter of Credit or Bond, JCW will notify the financial institution or bonding company of release.

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STATUS: To review the status of JCW acceptance of the Developer Bond Option, access the project through the www.MyGovernmentOnline.org portal. Locate the "Developer Bond Option Accepted v2" requirement under the "Requirements" tab. The "Bond Requirement" will identify if it has been completed or not. If you do not have internet access, contact the Permit Group at 913-715-8520 for assistance.

PROJECT ACCEPTANCE: The selected Developer Bond Option document shall be provided to and accepted by JCW before JCW will accept the sewer main project.

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(Attachment 7)

Example - DEVELOPER AGREEMENT

This agreement made and entered into this _____ day of _____, 20____, by and between {prefilled} (hereinafter referred to as the "DEVELOPER"), and Johnson County Wastewater (hereinafter referred to as the "COUNTY"),

WITNESSETH:

WHEREAS, the DEVELOPER has completed, and the COUNTY has formally accepted construction of sanitary sewers upon certain property located within Sewer Sub-District {prefilled}, LSD {prefilled}, Section {prefilled}, project known as {prefilled} a subdivision in the City of {prefilled}, Johnson County, Kansas (hereinafter referred to as the "PROPERTY"); and

WHEREAS, the DEVELOPER wishes to proceed with additional development activities upon the PROPERTY; and

WHEREAS, the COUNTY requires assurance that funds are available to make repairs in the event the sanitary sewer facilities located on the PROPERTY are damaged by such additional development activities; and

WHEREAS, in order to provide such assurance that the DEVELOPER is willing to assume responsibility to repair such damages and to deposit the required security with the COUNTY.

NOW THEREFORE, in consideration of the covenants and terms of this AGREEMENT, the COUNTY and the DEVELOPER agree as follows:

1. The DEVELOPER agrees to deposit the sum of \$ {prefilled}, payable to the COUNTY, for the purpose of securing payment for any future repairs to the sewer facilities on the PROPERTY proximately caused by the DEVELOPER'S additional development activities thereon.

2. In the event the DEVELOPER fails to repair to the COUNTY'S satisfaction any damage to the sewer facilities located on the PROPERTY proximately caused by such additional development activities conducted by or on behalf the DEVELOPER within thirty (30) days from the provision of written notice of such damage by the COUNTY to the DEVELOPER, the COUNTY shall retain all such deposited funds and any interest accrued thereon and this AGREEMENT shall upon such occurrence be deemed terminated. Written notice of such damage shall be sent by the COUNTY to the DEVELOPER at the address(es) set forth below.

3. Provided no such damage to the sewer facilities occurs, or if it does occur and it is repaired to the COUNTY'S satisfaction within such thirty (30) day notice period, this AGREEMENT shall otherwise terminate upon the expiration of three (3) years from the date of JCW Construction Acceptance by the COUNTY of the DEVELOPER'S construction of the sanitary sewer main system on the PROPERTY, said date of JCW Construction Acceptance being _____.

Developer agrees and authorizes the County to insert the JCW Construction Acceptance date to this

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document following the determination of such date. Upon such expiration of this AGREEMENT, the COUNTY shall authorize payment to the DEVELOPER of the sum representing the principal amount of the funds originally placed on deposit less accrued interest.

4. Accrued interest shall be retained by the COUNTY to cover the expenses incurred in administration of this AGREEMENT.

DEVELOPER:

JOHNSON COUNTY WASTEWATER:

BY: Developer Signature
Signature

RECEIVED BY: _____

Legibly Print Name

Address

Phone and Fax

Email address

NOTARY

State of _____)
 SS
County of _____)

Subscribed and sworn to before me this _____ day of _____, 20__.

Notary Signature
Notary Public

My Commission Expires: _____

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(Attachment 8)

Example - ESCROW AGREEMENT

This agreement entered into this _____ day of _____, 20____, between Insert Bank, hereinafter referred to as the "Escrow Agent," and {prefilled}, hereinafter referred to as the "Developer," is entered into to comply with Johnson County Wastewater requirements for ensuring the repair of facilities damaged by development-related activities.

The Developer agrees to purchase and deliver to the Escrow Agent a certificate of deposit issued by a Kansas Bank or Savings and Loan Association in the amount of \$ {prefilled}, which amount the Developer warrants is the amount established by Johnson County Wastewater as the required bond. The Developer may not assign, pledge as security for any loan, or otherwise encumber the certificate during the period of this agreement.

In order for Johnson County Wastewater to accept the sanitary sewer project know as {prefilled} Sub-District {prefilled}, LSD {prefilled}, Section {prefilled}. The Developer hereby grants Johnson County Wastewater a security interest in the following described property: Certificate of Deposit number Insert No., in the amount of \$ {prefilled}, to be held in trust by the Escrow Agent for and made payable to Johnson County Wastewater to secure payment for repair of facilities damaged by development-related activities.

The Escrow Agent hereby acknowledges receipt of notification of Johnson County Wastewater's security interest in the above described property.

The Escrow Agent acknowledges receipt of the aforesaid certificate and will not return said certificate to the Depositor nor allow said certificate to be assigned, pledged, or otherwise encumbered during the period of this agreement except as provided below. The Escrow Agent shall remit interest on the certificate annually to the Developer.

In the event the Developer fails to repair damage to Johnson County Wastewater facilities after thirty (30) days written notice thereof, the Escrow Agent, upon written demand from Johnson County Wastewater, shall remit the entire proceeds of the Certificate of Deposit and any interest accrued to date of notification to Johnson County Wastewater or its authorized agent. Upon such remittance to Johnson County Wastewater, this agreement shall be deemed terminated.

This agreement shall expire three (3) years from the date of JCW Construction Acceptance of the sanitary sewer, said date being _____. Developer and Escrow Agent agree and authorize County to insert the JCW Construction Acceptance date following the determination of such date. Upon expiration of the agreement, the Escrow Agent is authorized to release the Certificate of Deposit to the Developer if no notice of damage to the facilities of Johnson County Wastewater has been sent to the Developer. A copy of any notice to the Developer shall also be sent to the Escrow Agent.

Nothing in this agreement shall be so construed to increase the liability of the Escrow Agent beyond the amount and provisions of this agreement.

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Dated at Insert Bank this _____ day of _____, 20____.

Bank Agent's Signature
Escrow Agent Signature

Legibly Print Name and Title

Address, Phone and Fax

Email address

Developer's Signature
Developer Signature

Legibly Print Name

Address, Phone and Fax

Email address

NOTARY
State of _____)
 SS
County of _____)

Subscribed and sworn to before me this _____ day of _____, 20____.

Notary Signature
Notary Public

My Commission Expires: _____

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(Attachment 9)

COPY ONTO ISSUING BANK'S LETTERHEAD

Example - IRREVOCABLE LETTER OF CREDIT

DATE: _____

LETTER OF CREDIT NO.: Insert No. _____

AMOUNT: \$ {prefilled}

TO: Johnson County Wastewater
11811 S. Sunset Drive, Suite 2500
Olathe, KS 66061-7061

The Insert Bank, hereinafter referred to as the "Bank", hereby establishes its Irrevocable Letter of Credit authorizing Johnson County Wastewater of Johnson County, Kansas, hereinafter referred to as the "County", to draw from the Bank for the account of {prefilled} _____, hereinafter referred to as the "Developer", by a single draft at sight for 100% of value noted above to be accompanied by the original Letter of Credit. The conditions of this obligation are such that the Developer is now proceeding with additional development activities upon the property and assumes liability for damage to sewage facilities, Sewer Sub-District {prefilled}, LSD {prefilled}, Section {prefilled}, proximately caused thereby when said damage is caused by or due to development-related construction activities within {prefilled} _____ a subdivision in the City of {prefilled}, Johnson County, Kansas.

In the event facilities damaged by development-related activities for the above mentioned project are found during the three (3)-year inspection, all funds under this Letter of Credit shall be made available, upon delivery of your sight draft, together with your written notice stating the nature of the discrepancy.

The draft must be dated and presented to the Bank for payment no later than the close of the Bank's regular business day on _____. Whereas, the Bank agrees and authorizes the County to insert the final date of draw from the account to this document following the determination of such date, being three (3) years from the date of JCW Construction Acceptance. The draft must be marked "Drawn under the Insert Bank _____ Kansas, Letter of Credit No. Insert No. _____".

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This credit is subject to Article V of the Uniform Commercial Code as enacted in the State of Kansas (and subject to the "Uniform Customs and Practice for Documentary Credits (2007 Revision), International Chamber of Commerce Publication No. 600").

The Bank agrees that this credit shall be duly honored on due presentation to the drawee by drawers, endorsers and bona fide holders hereof drafts in compliance with the terms stated herein.

Payment cannot be made unless the above document is furnished exactly as requested.

BY Bank Agent's Signature
Signature

Legibly Print Name and Title

Bank

Address

Phone and Fax

Email

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(Attachment 10)

Example - DEVELOPER BOND

KNOW ALL MEN BY THESE PRESENTS:

That we, {prefilled}, as Principal, hereinafter referred to as "Developer", and Insert Bonding Company, as Surety, are held and firmly bound unto Johnson County Wastewater, Johnson County, Kansas, in the full and just sum of \$ {prefilled}, for payment of which, well and truly to be made, we, and each of us, bind ourselves, our heirs, executors and assigns, themselves, and its successors and assigns, jointly and severally, firmly by these presents.

The conditions of this obligation are such, that whereas "Developer," upon completion of the installation of Sanitary Sewers, (and same has been certified by the Engineer and accepted by Johnson County Wastewater as having been built in accordance with the approved plans and specifications) is now proceeding with additional development activities upon the property; and whereas, the Developer assumes liability for damage to sewage facilities proximately caused thereby when said damage is caused by or due to development-related construction activities, for the period of three years beginning on the date of JCW Construction Acceptance for the project known as {prefilled}, Sub-District {prefilled}, LSD {prefilled}, Section {prefilled}. Developer agrees and authorizes the County to insert the JCW Construction Acceptance date (below) to this document following the determination of such date.

NOW, THEREFORE, if said Developer shall guarantee the above work for a period of three (3) years from date of JCW Construction Acceptance, then the obligation shall be null and void, otherwise to remain in full force and effect.

Signed, sealed and delivered this _____ day of _____, 20_____.

by: Developer Signature
Principal (Signature and Legibly Print Name)

by: Surety Signature
Surety Attorney-in-fact (Signature and Legibly Print Name)

Address

Phone and Fax

Power of Attorney attached.

Date of JCW Construction Acceptance: _____ (to be completed by the COUNTY)