

STORMWATER FACILITY COMPLETION BOND ('Bond')

Development Name ("Project") and Site Plan Reference:

Date of Site Plan Approval: _____

Name of Principal (Name of Developer): _____

The Principal is organized and existing under the laws of the following State:

Name of Surety: _____

Name, address, and telephone number of Surety's N.C. Licensed Agent:

Amount of Bond (in words and figures):

(\$_____)

dollars

Bond number: _____

Date of SCMs Completion ("Completion Date"): _____

Date of Execution of this Bond: _____

Obligee: CITY OF DURHAM, a North Carolina municipal corporation

* * * * *

KNOW ALL PERSONS BY THESE PRESENTS, that we, the **PRINCIPAL AND SURETY** above named, are held and firmly bound unto the above named Obligee, hereinafter called the Obligee, in the penal sum of the amount stated above for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators, and successors, jointly and severally, by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH, that whereas the Principal has entered into a certain Stormwater Facility Agreement and Covenants ("Stormwater

Facility Agreement”) with Obligee dated _____ and recorded with the Durham Register of Deeds Office at BK _____ and PG _____, and Principal has agreed to complete all construction and/or repair of the City required stormwater facility/ies and related infrastructure, hereinafter referred to as Stormwater Control Measures (“SCMs”), in compliance with all applicable requirements of the Durham City Charter, the City of Durham Unified Development Ordinance, the Durham City Code of Ordinances, Durham’s Reference Guide for Development, approved site plans, plats, construction standards, development review standards, approved construction drawings and specifications, and other City requirements applicable to stormwater facilities constructed pursuant to this Stormwater Facility Agreement (collectively referred to herein as “City Requirements”); and whereas, the Obligee is willing to allow Principal to file a bond for the benefit of the Obligee to guarantee the completion of the SCMs.

NOW THEREFORE, if the Principal shall well and truly construct and complete the City required SCMs as described in the recorded Stormwater Facility Agreement, in accordance with “City Requirements”, including any and all duly authorized modifications, notice of such modifications to the Surety being hereby waived, then this obligation is void, otherwise it shall remain in full force and virtue. As used hereinabove, “modifications” shall include, without limitation, changes, and additions to or with respect to the site plan, construction drawings, and specifications.

The Surety agrees that this bond is fully binding on it whether or not the Principal executes this bond. The Surety agrees that any and all estimates or calculations prepared to establish the Amount of Bond (“penal sum”) is extrinsic to this bond and may not be used in any way to limit or reduce the obligations of the Principal or Surety under the bond. This bond shall be deemed made in Durham County, North Carolina. This bond shall be governed by and construed in accordance with the laws of the state of North Carolina. The exclusive forum and venue for all actions arising out of this bond shall be the North Carolina General Court of Justice, in Durham County. Such actions shall neither be commenced in nor removed to federal court. This paragraph shall not apply to subsequent actions to enforce a judgment entered in actions heard pursuant to this paragraph.

IN WITNESS WHEREOF, the above-bound parties have executed this instrument under their several seals on the date of execution indicated above, the name and corporate seal of each corporate party being hereto affixed and these presents duly signed by its undersigned representative, pursuant to authority of its governing body.

(Name of Principal)

[Execution by Principal when the Principal is a corporation]

By: _____
Title of officer: _____

(Affix Principal's corporate seal.)



[Execution by Principal when the Principal is a limited liability company]

By: _____
Manager of Principal

[Surety's execution]

(Name of Surety)

(signature of attorney in fact)
(Affix Surety's corporate seal.)

(Instructions to Surety and Principal: If you use a raised corporate seal, press hard enough to make it legible.)

ACKNOWLEDGMENT OF DEVELOPER'S EXECUTION OF COMPLETION BOND

[Acknowledgment when the Developer (the Principal) is a corporation]

State of _____
County of _____

I, a notary public in and for the aforesaid county and state, certify that _____ personally appeared before me this day and stated that he or she is

(~~strike through the inapplicable~~): chairperson/ president/ chief executive officer/ vice-president/ assistant vice-president/ treasurer/ chief financial officer of

_____,
a corporation, and that by authority duly given and as the act of the corporation, he or she signed the foregoing Stormwater Facility Completion Bond and the corporate seal was affixed to said instrument(s). This the ____ day of _____, 20____.

My commission expires: _____
Notary Public

[Acknowledgment when the Developer (the Principal) is a limited liability company]

State of _____
County of _____

I, _____, a notary public for said county and state, certify that _____ (1) appeared before me this day, (2) stated that he or she is a manager of

_____,
a limited liability company, (3) acknowledged that the foregoing Stormwater Facility Completion Bond carry on the company's business in the usual way, and (4) acknowledged the due execution of the Stormwater Facility Completion Bond on behalf of the company.

This the _____ day of _____, 20_____.

My commission expires: _____
Notary Public

ACKNOWLEDGMENT OF SURETY'S EXECUTION OF STORMWATER FACILITY
COMPLETION BOND

State of _____
County of _____

I, _____, a notary public in and for said county
and state, certify that _____ personally
appeared before me this day and acknowledged that he or she is Attorney in Fact for

_____,
the Surety named in the foregoing Stormwater Facility Completion Bond, in which bond
the Obligee is the City of Durham, and that he or she executed said bond, under the
seal of the Surety, on behalf of the Surety.

This the _____ day of _____, 20_____.

My commission expires: _____

Notary Public