STORMWATER FACILITY AGREEMENT BOND ("Bond")

Development Name 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 Agent:
_______________________________________________________________________

Penal Sum (in words and figures): ________________________________

Bond number: _________________________________________________________

Date of Execution of this Bond: _________________________________________

Obligee: CITY OF DURHAM, a North Carolina municipal corporation ("City").

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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 Stormwater Facility Agreement and Covenants ("Stormwater Facility Agreement") with Obligee dated ________________ and recorded with the Durham Register of Deeds at BK ______ and PG ________, and Principal has agreed to fulfill all of the obligations required of the Permittee under the Stormwater Facility Agreement in compliance with all applicable requirements of the City Unified Development Ordinance, City Code, 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”). If not already completed, Principal is obligated to complete construction of the stormwater facilities governed by the Stormwater Facility Agreement in accordance with the City of Durham Letter to Industry dated April 17, 2012.

NOW THEREFORE, Principal shall well and truly perform its obligations as Permittee under the Stormwater Facility Agreement and Surety’s obligations under this Bond shall remain in full force and effect until the Principal secures a release from its obligations under the Stormwater Facility Agreement from the City or Principal has provided alternative security to the City in an amount satisfactory to the City.

The Surety agrees that this Bond is fully binding on it whether or not executed by the Principal. 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 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)

By: _____________________________
Title of officer: _____________________
[Surety’s execution]

___________________________________________
(Name of Surety)

___________________________________________

(Affix Surety’s corporate seal.)
ACKNOWLEDGMENT OF DEVELOPER’S EXECUTION OF STORMWATER FACILITY AGREEMENT BOND

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 ____________________________ of ____________________________, (3) acknowledged that the foregoing Stormwater Facility Agreement Bond carries on the company's business in the usual way, and (4) acknowledged the due execution of the Stormwater Facility Agreement Bond on behalf of the company.

This the ________ day of ________________________, 20__________.

My commission expires: ____________________________

______________________________
Notary Public

______________________________
ACKNOWLEDGMENT OF SURETY’S EXECUTION OF STORMWATER FACILITY AGREEMENT 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 Agreement 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