

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").

* * * * *

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 [redacted] and recorded with the Durham Register of Deeds at BK [redacted] and PG [redacted], 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.

[Execution by Principal when the Principal is a corporation]

By: _____
(Name of Principal)
Title of Officer: _____

(Affix Principal's corporate seal.)



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

By: _____
(Name of Principal)
Title of Officer: _____



[Execution by Principal when the Principal is a partnership]

By: _____
(Name of Principal)
Title of Officer: _____

[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 PRINCIPALS' EXECUTION OF STORMWATER FACILITY AGREEMENT BOND

[Acknowledgment when 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 Agreement Bond and the corporate seal was affixed to said instrument(s).

This the _____ day of _____, 20_____.

My commission expires: _____
Notary Public

[Acknowledgment when 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 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 when the Principal is a partnership]

By: _____
General Partner

State of _____
County of _____

I, a notary public in and for said county and state, certify that _____ personally (1) appeared before me this day, (2) stated that he or she is a general partner in _____, a partnership, (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