

INFRASTRUCTURE WARRANTY AND REPAIR BOND

Name of Development (the "Project"):

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Name of Approved Construction Drawings ("Required Infrastructure"):

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a) Date of Construction Drawing Approval: \_\_\_\_\_

b) Name of Final Plat (the "Final Plat"):  
\_\_\_\_\_

c) Case Number of Final Plat: \_\_\_\_\_

d) Date of Infrastructure Acceptance Form: \_\_\_\_\_

Name of Principal (Name of Developer):

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

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Name of Surety:

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

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Bond amount (in words and figures):

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Bond number: \_\_\_\_\_

Date of Execution of this Bond: \_\_\_\_\_

Obligee: CITY OF DURHAM, a North Carolina municipal corporation.

\* \* \* \* \*

**THE CONDITION OF THIS OBLIGATION IS SUCH**, that whereas the Principal has submitted an infrastructure acceptance form and thereby requested City Council acceptance of the specified infrastructure in accordance with Durham City Code of Ordinances (“Code”) §§ 62-126 and 62-127. It is acknowledged that the Required Infrastructure can only be accepted by action of the Durham City Council pursuant to Code § 62-127. Infrastructure accepted by the Durham City Council pursuant to a submitted infrastructure acceptance form is referred to herein as the “Accepted Infrastructure.” The Department of Public Works will only recommend City Council acceptance of infrastructure that has been completed in accordance with the 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, construction standards, the approved site plan and Construction Drawings and the City of Durham’s requirements for acceptance of infrastructure (collectively “City Requirements”).

This Infrastructure and Warranty and Repair Bond (“Bond”) is provided to secure the Principal’s obligation to warrant that the Accepted Infrastructure is free from defects and to make repairs to Accepted Infrastructure that may be necessitated by ongoing construction activity related to the Project. The obligations stated in this Bond shall become effective on the date of execution of the bond and shall terminate one year from the date the Durham City Council formally accepts the infrastructure pursuant to Code § 62-127 (“Bond Period”). Work, materials, or equipment that comprises the Accepted Infrastructure that does not continue to conform to City Requirements throughout the Bond Period shall be considered defective. The Principal’s obligations under this Bond does not include the obligation to remedy damage caused by parties who are not performing work in the Project or that is caused by improper or insufficient maintenance, improper operation, or normal usage (normal usage does not include construction traffic).

The Surety agrees that this bond is fully binding on it whether or not the Principal executes this 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 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 subsection shall not apply to subsequent actions to enforce a judgment entered in actions heard pursuant to this subsection.

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)*

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[Execution by Principal when the Principal is a corporation]

By: \_\_\_\_\_  
Title of officer: \_\_\_\_\_

*(Affix Principal's corporate seal.)*

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

By: \_\_\_\_\_  
Manager of Principal

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[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. Continue to the next page to acknowledge the bond.)***

ACKNOWLEDGMENT OF DEVELOPER'S EXECUTION OF INFRASTRUCTURE WARRANTY AND REPAIR 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 Infrastructure Warranty and Repair 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 execution of this Infrastructure Warranty and Repair Bond carries on the company's business in the usual way, and (4) acknowledged the due execution of the Infrastructure Warranty and Repair Bond on behalf of the company.

This the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

My commission expires: \_\_\_\_\_  
Notary Public

ACKNOWLEDGMENT OF SURETY'S EXECUTION OF INFRASTRUCTURE WARRANTY  
AND REPAIR 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 Infrastructure Warranty and Repair 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