

**SOIL EROSION AND SEDIMENTATION CONTROL
PERFORMANCE AGREEMENT AND BOND**

The following general instructions are applicable to the attached City of McDonough Soil Erosion and Sedimentation Control Performance Agreement and Bond, and are provided for information purposes only. The personnel of the Community Development Department of the City of McDonough are not authorized to provide the public with advice or answer questions on issues requiring legal analysis of specific circumstances. For answer to such questions, consultation with an attorney is recommended.

1. A Soil Erosion and Sedimentation Control Performance Agreement and Bond are required for all developments located within the City of McDonough.
2. The bond may be posted in an irrevocable letter of credit, commercial surety bond or any combination thereof; and, it must be valid for eighteen (18) months past the initial date of this agreement.
3. All bonds are reviewed and approved by the Community Development Director or his/her designee and the attached Agreement must be executed by the Director or his/her designee at the time of approval.
4. The applicant/developer, engineer or other professional involved directly with the proposed project, should complete the attached forms.
5. The applicant or other authorized person(s) shall sign this document. Authorized person(s) include, but are not limited to, individuals who have the authority to bind an organization, partners of a partnership or joint venture, president or vice president of a corporation, attorney-at-law, etc.



Community Development Department Building and Inspections Division

136 Keys Ferry Street, 3rd Floor McDonough, GA 30253
Phone (770) 898-3506 Fax (770) 898-3508

SOIL EROSION & SEDIMENTATION CONTROL AGREEMENT

This Agreement is made this _____ day of _____, 20 _____ by and between _____ (hereinafter called the "Developer") and the City of McDonough; Georgia (hereinafter called the "City").

WHEREAS Developer seeks approval of development site plans for: *(insert description of the project in the space below)*

WHEREAS the above project requires approval of a soil erosion and sedimentation control plan prior to the issuance of a land disturbance permit, in accordance with the Code of Ordinances of the City of McDonough, Georgia (hereinafter the "Code"); and

WHEREAS this Agreement governs the posting of bond, in an amount set out in the Code and to be determined by the Community Development Director, allowing the applicant to secure a permit for development in the City, and allows the City to ensure the installation, maintenance and adequate performance of soil erosion and sedimentation control measures.

NOW THEREFORE and in consideration of the foregoing premises and the following terms and conditions and in further consideration of the approval of the aforesaid plans by the City and issuance of permits for the development, the parties agree as follows:

1. Developer has given sufficient bond to the Mayor and Council of the City in the sum of _____ Dollars (\$_____), in the form of a letter of credit or commercial surety bond from _____, conditioned upon performance of all terms and conditions set forth in that certain City of McDonough Soil Erosion and Sedimentation Control Performance Bond, Bond No. _____. The City, by execution of this Agreement, accepts said bond, subject to the terms of this Agreement.
2. If the conditions of said bond are violated, the City shall have the right to enter at reasonable times to enter upon Developer's property to stabilize the site and/or complete such actions as may be necessary to prevent soil erosion or sedimentation from leaving the site in violation of the Georgia Soil Erosion and Sedimentation Control Law, the City permit and/or its Code and ordinances.
3. Developer agrees to be responsible for and to indemnify and hold harmless the City of McDonough from any loss or damage to property, personal injury, or other monetary claim for damages, arising, directly or indirectly, from design, construction, failure to maintain, or use of soil erosion, sedimentation and drainage measures and facilities, during construction and any required maintenance period following final approval thereof.

4. In the event permanent drainage easements or facilities are to be granted to the City as a condition of the final development approval, Developer shall deliver to the City for dedication a warranty deed describing said easements or facilities, accompanied by the certification of an attorney licensed in the State of Georgia that marketable, fee simple title is conveyed, for formal acceptance by the Mayor and Council.
5. This Agreement shall be performed and enforceable under laws of the State of Georgia. By execution hereof, Developer agrees that proper venue and jurisdiction lies in the Superior or State Court of Henry County, Georgia.
6. It is expressly agreed by the parties that the City shall hold any cash bond in a non-interest-bearing escrow account until the completion of all site improvements required by permit or ordinance, and/or until bond is released, in writing, on behalf of the City of McDonough by the Community Development Director or the Director's designee.
7. When bond is given by letter of credit, said letter shall comply with the Uniform Commercial Code (Georgia form) and the bank or financial institution on which drawn shall be licensed and authorized to transact business in the State of Georgia. The bank's permanent mailing address shall be included on said letter and it shall expressly state that the City shall be notified prior to changing this address.

AGREED TO BY:

Name: _____

Title: _____

Address: _____

Sworn to and subscribed before me on

_____, 20____

Notary Public

My Commission Expires: _____

ACCEPTED BY:

Name: _____

Title: _____

Address: _____

Sworn to and subscribed before me on

_____, 20____

Notary Public

My Commission Expires: _____



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City of McDonough, Georgia
SOIL EROSION AND SEDIMENTATION CONTROL PERFORMANCE BOND
Bond No.: _____

KNOW ALL MEN BY THESE PRESENTS that we _____, hereinafter called the Principal and _____, as Surety, are held and firmly bound unto the CITY OF MCDONOUGH, GEORGIA, hereinafter called the Obligee, in the just and full sum of _____ Dollars (\$ _____) to the payment of which, well and truly to be made, the said Principal and Surety bind themselves, their respective heirs, administrators, executors, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, the said Principal has heretofore received authorization from the Obligee for development and construction of Residential and Non-Residential Subdivision Development for

WHEREAS, as a condition precedent to the approval, the Principal is required to undertake on-site and erosion control improvements, in a manner which is set forth and specified in the approval as executed by the Obligee. If full implementation of the approved plan does not provide for effective erosion control measures, additional erosion control and sedimentation measures shall be implemented by the Principal to control or treat the sediment source;

WHEREAS, this agreement shall be governed by the laws of the state of Georgia;

WHEREAS, the maintenance of all soil erosion and sedimentation control measures and practices, whether, temporary or permanent, shall be at all times the responsibility of the Principal. In the event that the Principal fails to maintain compliance with the approved plan or with the requirements of the City of McDonough Soil Erosion and Sedimentation Control Ordinance the value of the bond shall be used by the City of McDonough to stabilize the site and otherwise bring the site into compliance;

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION is such, that if the above bounded Principal shall well and truly keep, do and perform each and every, all and singular, the matters and things in said approval, then this obligation shall be null and void; otherwise it shall remain in full force and effect. The bond shall remain in full force and effect until permanent stabilization and satisfactory removal of temporary erosion control measures has occurred, as determined by the City of McDonough Engineering Division, or 18 months from the issuance of a Final Plat or Certificate of Occupancy.

IT IS HEREBY UNDERSTOOD AND AGREED that the penal sum of this bond shall not exceed the sum as stated above.

IN WITNESS WHEREOF, this instrument has been executed by the duly authorized representatives of the Principal and Surety.

SIGNED, SEALED AND DATED, this _____ day of _____,
20_____

By: _____
Principal (Signature)

Printed Name and Title

ATTEST (SEAL):

Corporate Secretary

By: _____
Surety Name (Signature)

Printed Name and Title

ATTEST (SEAL):

Corporate Secretary