

#### **Finance-Accounting**

## **Pay-On-Demand Development Bond Program Policy**

Approved by Council on: November 19, 2024

Report Number: F-28-24

Effective: November 19, 2024 Reviewed on: Not Applicable

Amended: July 15, 2025

Next Review: July 15, 2027

Note: Not Applicable

## **Objectives:**

To establish requirements for the City's Pay-On-Demand Development Bond program, which determine:

- when Pay-On-Demand Development Bonds may be accepted as Security required in accordance with Development Agreements;
- what conditions apply to Pay-On-Demand Development Bonds that are provided as a form of Security; and
- what conditions apply to Surety Providers issuing Pay-On-Demand Development Bonds.

This Policy seeks to ensure equitable and transparent administration of the use of Pay-On-Demand Development Bonds. This Policy, inclusive of Attachment A, "Development Agreement Pay-On-Demand Development Bonds", is available publicly.

#### Scope:

This Policy establishes details and requirements of the program approved by Council on June 18, 2024 through finance department report F-13-24, as outlined below.

This Policy applies to development applications where a Development Agreement is required, to determine if a Pay-On-Demand Development Bond may be provided as Security. The bonds accepted in accordance with this policy are to act in accordance with the City's letters of credit as contemplated in the Letters of Credit Policy.

In order to be eligible to participate in the program, a Principal must be able to secure a Pay-On-Demand Development Bond from a Surety Provider that meets the requirements of this Policy.

## **Policy Statement:**

- A Pay-On-Demand Development Bond shall only be accepted by the City as a form
  of Security where the following terms, conditions and requirements are met, and
  continue to be met during all times at which the Security requirement remains in
  place:
  - a) A Pay-On-Demand Development Bond may only fufill security requirements related to one (1) Development Agreement;
  - b) The Pay-On-Demand Development Bond fulfils a new Security requirement, as requests to transition active Securities shall not accepted;
  - c) The Pay-On-Demand Development Bond shall be issued by a Canadian Surety Provider having a minimum credit rating of:
    - i. "A" or higher as assessed by Dominion Bond Rating Service;
    - ii. "A-" or higher as assessed by Fitch Ratings;
    - iii. "A3" or higher as assessed by Moody's Investors Services Inc.;
    - iv. "A-" or higher as assessed by Standard & Poor's; or,

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- v. "A-" or higher as assessed by A.M. Best Company, Inc.;
- d) The Pay-On-Demand Development Bond shall be issued by a Surety Provider that is duly incorporated or constituted in Canada, validly existing and in good standing for no less than ten (10) years;
- e) The Pay-On-Demand Development Bond shall be issued by a Surety Provider that is overseen by the Financial Services Regulatory Authority of Ontario:
- f) The Principal must submit all information required by the City's Chief Financial Officer in order to determine the Principal's eligibility to provide a Pay-On-Demand Development Bond under this policy;
- g) The Pay-On-Demand Development Bond shall be in Canadian dollars; and
- h) The Pay-On-Demand Development Bond shall be irrevocable, unconditional, shall constitute a primary obligation and shall be in the form and on the terms of Attachment A, "Development Agreement Pay-On-Demand Development Bonds".
- 2. The City is guaranteed payment, notwithstanding any objection by the Principal, if the Principal defaults in performing an obligation guaranteed by the Pay-On-Demand Development Bond, in accordance with the terms of Attachment A, "Development Agreement Pay-On-Demand Development Bonds".
- 3. When, in the opinion of the City, a Pay-On-Demand Development Bond received and held by the City no longer provides adequate protection or a Surety Provider subsequently ceases to meet any or all of the requirements of this Policy, the City may, at its sole and absolute discretion, require Alternative Security. The Alternative Security must be provided to the City without negotiation within fifteen (15) days of demand for same, after which the original Pay-On-Demand Development Bond will be returned and/or exchanged for the Alternative Security.

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In the event the Alternative Security is not received as required, the City reserves the right to immediately draw upon the original Pay-On-Demand Development Bond.

- 4. A Principal may exchange an existing Alternative Security for a Surety Bond if:
  - a) The Development Agreement under which the Security was provided predated this Policy;
  - b) The ownership of the lands subject to the Development Agreement has not changed;
  - c) The Development Agreement is not in default; and
  - d) The Principle is able to secure a Pay-On-Demand Development Bond from a Surety Provider that meets the requirements of this Policy.

This Policy shall apply with necessary modifications to Surety Bonds provided in accordance with this section 4.

5. No deviations from the approved form of Attachment A, "Development Agreement Pay-On-Demand Development Bonds" will be accepted.

## **Definitions:**

For the purpose of this Policy, unless otherwise stated, the following definitions shall apply:

Term	Definition
Alternative Security	A letter of credit, bank draft, valid certified cheque, money order, electronic fund transfer or wire that satisfies all applicable City policies.

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Term	Definition
Development Agreement	Refers to any agreement entered into between the City of Burlington and a Principal pursuant to subsections 41(7)(c), 45, 51(26) and 53(12) of the <i>Planning Act.</i> For clarity, agreements entered into pursuant to other legislation and by-laws shall not be considered Development Agreements, whether or not they relate to a development application.
Pay-On-Demand Development Bond	A bond which guarantees the assumption of responsibility for payment of Security in the event of default of a Development Agreement.
Planning Act	R.S.O. 1990, c. P.13, as amended
Principal	The party whose Security obligation is guaranteed (i.e., developer).
Security	An amount provided to the City by a Developer under a Development Agreement to secure for the completion of the Developer's obligations under such Development Agreement.
Surety Provider	A company licensed under the <i>Insurance Act</i> , R.S.O. 1990, c. I.8 to provide surety in the form of Pay-On-Demand Bond that meets the requirements of this Policy.

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Development Agreements are entered into under the *Planning Act* and the required Security that this Pay-On-Demand Development Bond Program Policy applies to is outlined in each of the respective Development Agreements.

Related Policy – Letters of Credit

#### Roles:

#### **Accountable:**

Manager of Financial Strategies & Business Consulting

#### Responsible:

The Development Agreement Pay-On-Demand Development Bond Program Policy shall be administered by the Department of Finance.