



THE CORPORATION OF THE CITY OF VAUGHAN

CORPORATE POLICY

POLICY TITLE: DEVELOPMENT AGREEMENT PAY ON DEMAND SURETY BOND

POLICY NO.: 12.C.21

Section:	Finance & Budgets		
Effective Date:	December 1, 2024	Date of Last Review:	Click or tap to enter a date.
Approval Authority:	Policy Owner:		
Council	DCM, Corporate Services, City Treasurer & Chief Financial Officer		

POLICY STATEMENT
This Development Agreement Pay on Demand (“DAPOD”) Surety Bond Policy (the “Policy”) outlines the requirements, and the acceptable form, of a DAPOD Surety Bond to be issued to the City of Vaughan (the “City”) as a financial guarantee for Development Agreements (as defined below) in Vaughan.
PURPOSE
<p>The purpose of this Policy is to establish the criteria for the requirement, issuance, and management of DAPOD Surety Bonds from landowners and/or developers pursuant to Development Agreements with the City. This ensures that land development projects meet the standards and legal requirements of the City, thereby protecting the interests of the City and its stakeholders. This policy ensures the equitable and transparent administration of the use of DAPOD Surety Bonds for Development Agreements.</p> <p>Among other things, this Policy defines the requirements for a DAPOD Surety Bond, including:</p> <ul style="list-style-type: none"> • acceptable DAPOD Surety Bond terms and conditions; • issuing institution requirements; and • City staff responsibilities and approval authorities. <p>A DAPOD Surety Bond may be required either for: (a) the full amount of the securities required to be posted with the City in respect of a land development project; or (b) for a portion of the security required, as a supplement to a Letter of Credit or cash security.</p>

POLICY TITLE: DEVELOPMENT AGREEMENT PAY ON DEMAND SURETY BOND

POLICY NO.: 12.C.21

SCOPE

This Policy applies, in all cases, where a DAPOD Surety Bond is provided as security further to a Development Agreement with the City executed either:

- 1) On or after the Effective Date of this Policy; or
- 2) Before the Effective Date of this Policy where the Security Amount is equal to or greater than One Million Dollars (\$1,000,000.00).

It is applicable to all internal departments of the City that are involved in the drafting, approval, and monitoring of Development Agreements and DAPOD Surety Bonds further to those Development Agreements.

This policy should be read together with the City's Letter of Credit Policy, 12.C.04, as amended.

LEGISLATIVE REQUIREMENTS

The requirement for DAPOD Surety Bonds is included in the City's Development Agreements in order to ensure compliance with City approvals, policies, technical specifications and by-laws, as well as applicable legislation, such as the *Planning Act*, 1990, as amended, as may be applicable.

DEFINITIONS

- 1) **Bond Amount:** The amount secured under the Bond Agreement.
- 2) **DAPOD Surety Bond:** A bond which guarantees the assumption of responsibility for payment of security in the event of a default of the Development Agreement.
- 3) **Development Agreement:** The formal contract made between the City and a landowner or developer outlining the terms and conditions for land development, and regulating the provision of on-site and municipal works required to service the land under development applications, including, but not limited to, Subdivision, Site Plan, Pre-Servicing, Spine Services and External Servicing Agreement.
- 4) **Security Amount:** An amount required to be provided under a Development Agreement and used to secure the obligations of a landowner or developer, often in the form of cash, letter of credit, or other acceptable financial guarantees, such as a Surety Bond.
- 5) **Surety Provider:** A company or other legal entity that is constituted, licensed, authorized, and capable of providing suretyship services.

POLICY TITLE: DEVELOPMENT AGREEMENT PAY ON DEMAND SURETY BOND

POLICY NO.: 12.C.21

POLICY

1) BOND AMOUNT

- a) The minimum Security Amount, inclusive of the Bond Amount, shall not be less than 100 per cent of the estimated cost of the works being secured.
- b) The Bond Amount may be either:
 - i) The full Security Amount; or
 - ii) A portion of the Security Amount, as a supplement to a Letter of Credit or cash security.
 - iii) But in no case shall the total Security Amount, inclusive of the Bond Amount, be less than 100% of the total estimated costs of the works being secured.
- c) The required Bond Amount shall be determined by Development Engineering, in consultation with Financial Planning and Development Finance, based on the scope, scale, and risk profile of the land development project. The Bond Amount should cover potential costs for completion, compliance, and any other contingencies as assessed by each, and all, relevant department(s) of the City.

2) TERMS OF BOND AGREEMENT

- a) The DAPOD Surety Bond shall be irrevocable and shall conform to the format and terms of the "Development Agreement DAPOD Surety Bond" template, which form is to be approved by DCM Corporate Services, Chief Financial Officer and City Treasurer.
- b) Upon written request of the landowner or developer, and the payment of applicable non-refundable fees in accordance with the Fees By-Law (as may be amended from time to time).
 - i) For Development Agreements executed prior to the Effective Date of this Policy where the Security Amount is equal to or greater than One Million Dollars (\$1,000,000.00), an existing form of security may be exchanged for a DAPOD Surety Bond, if:
 - (1) The ownership of the lands affected by the Development Agreement has not changed since it was executed;
 - (2) The Development Agreement is not in default; and

POLICY TITLE: DEVELOPMENT AGREEMENT PAY ON DEMAND SURETY BOND

POLICY NO.: 12.C.21

(3) The landowner or developer is not currently a party to litigation in relation to the Development Agreement where, in the opinion of Legal Services, the landowner or developer is adverse in interest to the City.

- ii) For all other Development Agreements, the DAPOD Surety Bond may be exchanged for an alternate Security subject to the alternate security conforming to the Letter of Credit Policy as determined by the Manager, Development Finance, and by each, and all, relevant department/s of the City.
- c) In the event of an exchange of security under section 2.b., the alternate security shall be issued to the City prior to the release of the previous security, and the previous security shall be released only if the alternate security is acceptable to the City.
- d) In addition to any fees payable under section 2.b., the landowner and/or the developer shall be solely responsible for any third-party costs related to the DAPOD Surety Bond (ie. legal fees, registration fees, title searches, etc.).
- e) Any approval for the reduction of the amount of the DAPOD Surety Bond shall follow, and be compliant with, the Letter of Credit Policy.
- f) Notwithstanding anything in this Policy, the City may, in its sole and absolute discretion, decline a DAPOD Surety Bond, including a request to exchange security under section 2.b., for any reason, or for no reason.

3) BOND ISSUER

- a) The DAPOD Surety Bond shall be issued by a Surety Provider that:
 - i) Is an active institution monitored by the Office of the Superintendent of Financial Institutions (OSFI);
 - ii) Has a minimum credit rating of:
 - (1) "A" or higher as assessed by Dominion Bond Rating Service Limited;
 - (2) "A-" or higher as assessed by Fitch Ratings;
 - (3) "A3" or higher as assessed by Moody's Investors Services Inc.; or
 - (4) "A-" or higher as assessed by S&P; and

POLICY TITLE: DEVELOPMENT AGREEMENT PAY ON DEMAND SURETY BOND

POLICY NO.: 12.C.21

- iii) Is incorporated in Canada for no less than 10 years prior to the date of issue of the Surety Bond, and having the capability to issue a Surety Bond in Canadian dollars.
- iv) Notwithstanding the above, where the credit rating or other qualification of a Surety Provider does not meet the criteria set out in this Policy, the DCM Corporate Services, Chief Financial Officer and City Treasurer shall review the matter so as to make an appropriate determination that protects the interests of the City and its stakeholders.
- v) If a Surety Provider, at any time, ceases to meet any of the requirements of this Policy, the City may, in its sole and absolute discretion, require a new DAPOD Surety Bond or other form of Security, to its satisfaction, to be issued within 10 days of its demand for same, and the original DAPOD surety bond will be returned and/or exchanged for the replacement security. In the event the new security is not received as required, the City may draw upon the original DAPOD Surety Bond.

4) BOND DURATION

- a) The DAPOD Surety Bond shall remain in effect until all obligations under the Development Agreement have been fulfilled, or until such time as specified in the Development Agreement. The DAPOD Surety Bond may be required to be extended if project timelines are adjusted.

5) BOND ISSUANCE AND APPROVAL PROCESS

- a) Bond Proposal
 - i) The landowner or developer must submit a bond proposal to the City for review. This proposal should include details about the type of bond, the issuing entity, the bond amount, and duration.
 - ii) The proposal will be reviewed and approved by the City's Financial Planning & Development Finance department, in consultation with all relevant departments before the bond can be accepted.
 - iii) Upon receipt of an executed Development Agreement POD Surety Bond Agreement, the Financial Planning & Development Finance department shall be responsible for ensuring that the agreement has been duly executed and that the Surety Provider has applied their corporate seal.

POLICY TITLE: DEVELOPMENT AGREEMENT PAY ON DEMAND SURETY BOND

POLICY NO.: 12.C.21

6) ROLES AND RESPONSIBILITIES

- a) DCM Corporate Services, Chief Financial Officer and City Treasurer
 - i) Maintains administrative authority and responsibility for this Policy; Approves any DAPOD Surety Bond form of agreement; and
 - ii) Responsible for approving departmental operating procedures and processes under this Policy.

- b) Director, Financial Planning & Development Finance and Deputy City Treasurer
 - i) Responsible for the implementation of, and adherence to, this Policy;
 - ii) Responsible for drafting, reviewing and maintaining departmental operating procedures and processes under this Policy;
 - iii) Reviews and, if deemed appropriate, makes recommendations to the DCM Corporate Services, Chief Financial Officer and City Treasurer, and the City Solicitor with respect to the form of any DAPOD Surety Bond form of agreement.

- c) Legal Services
 - i) At the request and discretion of the DCM Corporate Services, Chief Financial Officer and City Treasurer, review and interpret any Development Agreements where securities are required to secure obligations to protect the legal interest of the City pertaining to the administration, custody, and use of DAPOD Surety Bonds and provide advice on the collection, reduction or release of same; and
 - ii) Draft any necessary amendments to Development Agreements to reflect an exchange of Security and take any steps necessary to ensure that same are registered on title.

ADMINISTRATION

Administered by the Office of the City Clerk.

Review Schedule:	Other (specify) 2 years	Next Review Date:	November 19, 2026
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POLICY NO.: 12.C.21

Related Policy(ies):	12.C.04 – Letter of Credit
Related By-Law(s):	
Procedural Document:	
Revision History	
Date:	Description:
19-Nov-24	Approved at Council. Report No. 39 Item No. 2 Effective December 1, 2024