

2025 January 13

ACCEPTABLE SURETY BONDS

SECURITY FOR SERVICING AGREEMENTS, ACCESS AND WORKS AGREEMENTS AND DCC/ACC INSTALMENT PAYMENTS

Where security is required by the City of Burnaby under a Servicing Agreement or Access and Works Agreement, or under the *Development Cost Charge and Amenity Cost Charge (Instalments) Regulation*, developers may provide a surety bond (“**Surety Bond**”) for such security on the following conditions, to the City’s satisfaction:

The Surety Bond must comply with the following requirements:

- 1.0 Surety Bonds are only accepted from an Office of the Superintendent of Financial Institutions (OSFI) regulated insurer that is registered with the British Columbia Financial Services Authority (BCFSA), is licensed with the Insurance Council of British Columbia (ICoBC), and has a minimum credit rating as detailed below:

Rating Agency	Minimum Credit Rating
A.M. Best	A-
Fitch	A+
Moody’s	A1
Morningstar DBRS	A (high)
Standard & Poor’s	A+

- 2.0 All Surety Bonds must contain the following information:

- Bond number;
- Bond amount;
- Principal: Full legal business name or sole proprietor's own legal name
- Obligee: City of Burnaby
- Principal's signature
- Insurer's signature
- Seal
- Date of Issuance

- City case reference number and bond description (in the absence of a case reference number, include the rezoning/subdivision/building permit or any other City of Burnaby assigned reference number); and
- Development/project location address

3.0 All Surety Bonds must comply with the following:

- (a) The Surety Bond must be issued in Canadian dollars only.
- (b) The Surety Bond contract of suretyship is executed in a province in which the company is licenced to do business and is duly signed by the Surety and the Principal.
- (c) The Surety Bond must have a coverage limit of at least 100 per cent of the required security amount.
- (d) The Surety Bond must not have an expiry date and stay in full force and effect until the condition(s) stipulated in the Surety Bond regarding the expiration of the Surety's obligation to pay are satisfied.
- (e) The Surety Bond must allow for partial claims and reductions in the bond amount.
- (f) The Surety Bond must be in the form of and on the terms of the applicable Surety Bond template, refer to Appendix "A" for Servicing / Access and Works Agreement Security, Appendix "B" for DCC Instalment Payments Security, and Appendix "C" for ACC Instalment Payments Security.

NOTE: Notwithstanding anything in this handout,

- (a) The City of Burnaby, may in its sole discretion, decline a Surety Bond for any reason.
- (b) When a Surety Bond has been received and is being held by the City of Burnaby, and the City is no longer satisfied that the Surety Bond provides adequate protection, the City may require a new security to its satisfaction to be provided to the City within thirty (30) days of demand for same and the original 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 make one or more claims under the original Surety Bond in accordance with the terms of the Surety Bond.

An administration fee will be charged for the replacement or exchange of Surety Bonds.

For more information, please contact:

City of Burnaby, Treasury Services at TreasuryServices@burnaby.ca or 604-294-7339

APPENDIX “A” – SERVICING / ACCESS AND WORKS AGREEMENT SECURITY

business days after the Surety’s receipt of a Claim from the Obligees at the address noted herein by hand or courier.

3. This bond is irrevocable, and payment will be made notwithstanding any objection by the Principal. Where a Claim in the prescribed form has been delivered to the Surety, it shall be accepted by the Surety as conclusive evidence of its obligation to make payment to the Obligees, and the Surety shall not assert any defence or grounds of any nature or description for not making payment to the Obligees, in whole or in part, pursuant to such Claim, including but not limited to any of the following reasons:
 - a. that the Principal is not in default of its obligations under the Agreement;
 - b. that the Principal committed any fraud or misrepresentation in its application for the bond;
 - c. that the amount set out in the Claim is not appropriate, warranted or otherwise not in accordance with the Agreement; or
 - d. that the Obligees failed to mitigate its damages resulting from the Principal’s default.

The Surety’s liability under this bond shall not be discharged or released or affected by any arrangements made between the Obligees and the Principal or by any dispute between the Surety and the Principal, or the taking or receiving of security by the Obligees from the Principal, or by any alteration, change, addition, modification, or variation in the Principal’s obligation under the Agreement, or by exercise of the Obligees or any of the rights or remedies reserved to it under the Agreement or by any performance or otherwise (whether or not by any arrangement, alteration or forbearance is made without the Surety’s knowledge or consent). All payments by the Surety shall be made without deduction, set-off or withholding, and without limiting the generality of any provision in this section 3, the Surety shall not be entitled to seek any repayment or reimbursement from the Obligees of any payments made to the Obligees or advance any other claims against the Obligees after making any payments under this Surety Bond.

4. The Obligees may make multiple Claims under this bond.
5. The amount of the bond may be reduced from time to time as advised by notice in writing by the Obligees to the Surety. The Obligees has the ability and sole discretion to decide as to whether the amount of the bond should be reduced.
6. Each payment made by the Surety under this bond shall reduce the amount of this bond.

APPENDIX “A” – SERVICING / ACCESS AND WORKS AGREEMENT SECURITY

7. In no event shall the Surety be liable for a greater sum than the amount of this bond.
8. No right of action shall accrue upon or by reason hereof to or for the use or benefit of any person other than the Obligee.
9. When the Principal has completed all works required by the Agreement to the Obligee’s satisfaction, all maintenance and rectification periods contained within the Agreement have expired, and the Obligee has finally assumed all works in writing, the Obligee shall return this bond to the Surety for termination or advise the Surety in writing that this bond is terminated, in accordance with the terms of this bond.
10. If the Surety at any time delivers at least ninety (90) days prior written notice to the Obligee and to the Principal of its intention to terminate this obligation, the Principal shall deliver to the Obligee, not less than thirty (30) days prior to the termination of this bond, financial security in the amount of this bond in a form acceptable to the Obligee. If the replacement financial security is not provided by the Principal or is not accepted by the Obligee, this bond shall remain in effect.
11. Nothing in this bond shall limit the Principal’s liability to the Obligee under the Agreement.
12. This bond shall be governed by and construed in accordance with the laws of the Province of British Columbia and the laws of Canada applicable thereto and shall be treated, in all respects, as a contract entered into in the Province of British Columbia without regard to conflict of laws principles. The Principal and Surety hereby irrevocably and unconditionally attorn to the jurisdiction of the courts of the Province of British Columbia.
13. All Claims and notices under this bond shall be delivered by hand, registered mail or courier at the addresses set out below, subject to any change of address in accordance with this section. All other correspondence may be delivered by regular mail, registered mail, courier, or email. An address for a party may be changed by giving notice to the other parties setting out the new address in accordance with this section.

a) to the Surety:

Name:

Address:

Email:

APPENDIX “A” – SERVICING / ACCESS AND WORKS AGREEMENT SECURITY

Phone:

b) to the Principal:

Name:

Address:

Email:

Phone:

c) to the Obligee:

Name: Director Treasury Services, with a copy to City Solicitor and Corporate Officer

Address: 2nd Floor, 6161 Deer Lake Avenue, Burnaby, BC V5G 4A3

Email: TreasuryServices@burnaby.ca

Phone: 604-294-7339

IN TESTIMONY WHEREOF, the Principal has hereto set its hand and affixed its seal and the Surety has caused these presents to be sealed with its corporate seal duly attested by the signature of its authorized signing authority.

SIGNED AND SEALED this _____ day of _____, 20____, in the presence of:

Principal: _____

Per: _____

Per: _____

Name:

Name:

Title:

Title:

Surety: _____

Per: _____

Per: _____

Name:

Name:

Title:

Title:

APPENDIX “B” – DCC INSTALMENT PAYMENTS SECURITY

BOND NO.: **Irrevocable Bond** **AMOUNT: \$**

KNOW ALL PERSONS BY THESE PRESENTS, that:

(Name and Address)

As Principal, hereinafter called “**Principal**”, and

(Name of Surety)

As Surety, hereinafter called “**Surety**”, are held and firmly bound unto the City of Burnaby, as Obligee, hereinafter called the “**Obligee**”, in the amount of _____ **Dollars (\$_____)** lawful money of Canada, for the payment of which sum, well and truly to be made, the Principal and the Surety bind themselves, their heirs, executors, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS the Principal is a person liable to pay for:

a development cost charge imposed under section 559(1) of the *Local Government Act*, R.S.B.C. 2015, c. 1 (“**Local Government Act**”) and Burnaby Development Cost Charges Bylaw 1979 (Bylaw No. 7328) or Burnaby Development Cost Charges Bylaw 2024 (Bylaw No. 14645) (“**Burnaby DCC Bylaw**”) for approval of Subdivision Application No. _____ / issuance of Building Permit No. _____ with respect to lands known as/legally described as _____ in the City of Burnaby in the amount of \$ _____ (“**Charge**”).

WHEREAS the Principal elected to pay the Charge by installments pursuant to the *Development Cost Charge and Amenity Cost Charge (Instalments) Regulation*, B.C. Reg. 166/84 (“**Regulation**”). The Principal is required to deposit with the Obligee security at the same time as it pays for the first installment of the Charge for the payment of the balance of the unpaid Charge by the Principal. The Principal paid the first installment of the Charge in the amount of \$ _____.

NOW THEREFORE, the condition of this obligation is such that if the Principal shall, in the opinion of the Obligee, pay the Charge in full, then this obligation shall be void and of no effect; otherwise, it shall remain in full force and effect.

PROVIDED, however, the foregoing obligation is subject to the following terms and conditions:

1. Whenever the Principal shall be declared in writing by the Obligee to be in default of its obligation to pay an installment of the Charge within any time required for payment by section 4 of the Regulation, and the Obligee intends to make a claim under this bond, the Obligee shall promptly notify the Principal and the Surety in

APPENDIX “B” – DCC INSTALMENT PAYMENTS SECURITY

writing of such default in the form of a claim, the form of which is attached to this bond as Schedule ‘A’ (each a “**Claim**”).

2. On determination by the Obligee, in its sole and absolute discretion, that the Principal is in default of its obligation to pay an installment of the Charge within any time required for payment by section 4 of the Regulation, the Surety and Principal agree that the total balance of the Charge becomes due and payable immediately and the Surety will make payment in the amount specified in the Claim, which amount will not exceed the total balance of the unpaid Charge, within ten (10) business days after the Surety’s receipt of a Claim from the Obligee at the address noted herein by hand or courier.
3. This bond is irrevocable, and payment will be made notwithstanding any objection by the Principal. Where a Claim in the prescribed form has been delivered to the Surety, it shall be accepted by the Surety as conclusive evidence of its obligation to make payment to the Obligee, and the Surety shall not assert any defence or grounds of any nature or description for not making payment to the Obligee, in whole or in part, pursuant to such Claim, including but not limited to any of the following reasons:
 - a. that the Principal is not in default of its obligations under the Regulation;
 - b. that the Principal committed any fraud or misrepresentation in its application for the bond; or
 - c. that the amount set out in the Claim is not appropriate, warranted or otherwise not in accordance with the Regulation, the *Local Government Act*, or the Burnaby DCC Bylaw.

The Surety’s liability under this bond shall not be discharged or released or affected by any arrangements made between the Obligee and the Principal or by any dispute between the Surety and the Principal, or the taking or receiving of security by the Obligee from the Principal, or by any alteration, change, addition, modification, or variation in the Principal’s obligation under the Regulation, the *Local Government Act*, or the Burnaby DCC Bylaw, or by exercise of the Obligee of any of the rights or remedies reserved to it under the Regulation, the *Local Government Act*, or the Burnaby DCC Bylaw or by any performance or otherwise (whether or not by any arrangement, alteration or forbearance is made without the Surety’s knowledge or consent). All payments by the Surety shall be made without deduction, set-off or withholding, and without limiting the generality of any provision in this section 3, the Surety shall not be entitled to seek any repayment or reimbursement from the Obligee of any payments made to the

APPENDIX “B” – DCC INSTALMENT PAYMENTS SECURITY

Obligee or advance any other claims against the Obligee after making any payments under this Surety Bond.

4. The Obligee may make multiple Claims under this bond.
5. The amount of the bond may be reduced from time to time as advised by notice in writing by the Obligee to the Surety. The Obligee has the ability and sole discretion to decide as to whether the amount of the bond should be reduced.
6. Each payment made by the Surety under this bond shall reduce the amount of this bond.
7. In no event shall the Surety be liable for a greater sum than the amount of this bond.
8. No right of action shall accrue upon or by reason hereof to or for the use or benefit of any person other than the Obligee.
9. When the Principal has paid in full the Charge, the Obligee shall return this bond to the Surety for termination or advise the Surety in writing that this bond is terminated, in accordance with the terms of this bond.
10. If the Surety at any time delivers at least ninety (90) days prior written notice to the Obligee and to the Principal of its intention to terminate this obligation, the Principal shall deliver to the Obligee, not less than thirty (30) days prior to the termination of this bond, financial security in the amount of this bond in a form acceptable to the Obligee. If the replacement financial security is not provided by the Principal or is not accepted by the Obligee, this bond shall remain in effect.
11. Nothing in this bond shall limit the Principal’s liability to the Obligee under the Regulation, the *Local Government Act*, or the Burnaby DCC Bylaw.
12. This bond shall be governed by and construed in accordance with the laws of the Province of British Columbia and the laws of Canada applicable thereto and shall be treated, in all respects, as a contract entered into in the Province of British Columbia without regard to conflict of laws principles. The Principal and Surety hereby irrevocably and unconditionally attorn to the jurisdiction of the courts of the Province of British Columbia.
13. All Claims and notices under this bond shall be delivered by hand, registered mail or courier at the addresses set out below, subject to any change of address in accordance with this section. All other correspondence may be delivered by regular mail, registered mail, courier, or email. An address for a party may be

APPENDIX “B” – DCC INSTALMENT PAYMENTS SECURITY

changed by giving notice to the other parties setting out the new address in accordance with this section.

a) to the Surety:

Name:

Address:

Email:

Phone:

b) to the Principal:

Name:

Address:

Email:

Phone:

c) to the Obligee:

Name: Director Treasury Services, with a copy to City Solicitor and Corporate Officer

Address: 2nd Floor, 6161 Deer Lake Avenue, Burnaby, BC V5G 4A3

Email: TreasuryServices@burnaby.ca

Phone: 604-294-7339

[signature page follows]

APPENDIX “B” – DCC INSTALMENT PAYMENTS SECURITY

IN TESTIMONY WHEREOF, the Principal has hereto set its hand and affixed its seal and the Surety has caused these presents to be sealed with its corporate seal duly attested by the signature of its authorized signing authority.

SIGNED AND SEALED this _____ day of _____, 20____, in the presence of:

Principal: _____

Per: _____

Per: _____

Name:

Name:

Title:

Title:

Surety: _____

Per: _____

Per: _____

Name:

Name:

Title:

Title:

APPENDIX “C” – ACC INSTALMENT PAYMENTS SECURITY

writing of such default in the form of a claim, the form of which is attached to this bond as Schedule ‘A’ (each a “**Claim**”).

2. On determination by the Obligee, in its sole and absolute discretion, that the Principal is in default of its obligation to pay an installment of the Charge within any time required for payment by section 4 of the Regulation, the Surety and Principal agree that the total balance of the Charge becomes due and payable immediately and the Surety will make payment in the amount specified in the Claim, which amount will not exceed the total balance of the unpaid Charge, within ten (10) business days after the Surety’s receipt of a Claim from the Obligee at the address noted herein by hand or courier.
3. This bond is irrevocable, and payment will be made notwithstanding any objection by the Principal. Where a Claim in the prescribed form has been delivered to the Surety, it shall be accepted by the Surety as conclusive evidence of its obligation to make payment to the Obligee, and the Surety shall not assert any defence or grounds of any nature or description for not making payment to the Obligee, in whole or in part, pursuant to such Claim, including but not limited to any of the following reasons:
 - a. that the Principal is not in default of its obligations under the Regulation;
 - b. that the Principal committed any fraud or misrepresentation in its application for the bond; or
 - c. that the amount set out in the Claim is not appropriate, warranted or otherwise not in accordance with the Regulation, the *Local Government Act*, or the Burnaby ACC Bylaw.

The Surety’s liability under this bond shall not be discharged or released or affected by any arrangements made between the Obligee and the Principal or by any dispute between the Surety and the Principal, or the taking or receiving of security by the Obligee from the Principal, or by any alteration, change, addition, modification, or variation in the Principal’s obligation under the Regulation, the *Local Government Act*, or the Burnaby ACC Bylaw, or by exercise of the Obligee of any of the rights or remedies reserved to it under the Regulation, the *Local Government Act*, or the Burnaby ACC Bylaw or by any performance or otherwise (whether or not by any arrangement, alteration or forbearance is made without the Surety’s knowledge or consent). All payments by the Surety shall be made without deduction, set-off or withholding, and without limiting the generality of any provision in this section 3, the Surety shall not be entitled to seek any repayment or reimbursement from the Obligee of any payments made to the

APPENDIX “C” – ACC INSTALMENT PAYMENTS SECURITY

Obligee or advance any other claims against the Obligee after making any payments under this Surety Bond.

4. The Obligee may make multiple Claims under this bond.
5. The amount of the bond may be reduced from time to time as advised by notice in writing by the Obligee to the Surety. The Obligee has the ability and sole discretion to decide as to whether the amount of the bond should be reduced.
6. Each payment made by the Surety under this bond shall reduce the amount of this bond.
7. In no event shall the Surety be liable for a greater sum than the amount of this bond.
8. No right of action shall accrue upon or by reason hereof to or for the use or benefit of any person other than the Obligee.
9. When the Principal has paid in full the Charge, the Obligee shall return this bond to the Surety for termination or advise the Surety in writing that this bond is terminated, in accordance with the terms of this bond.
10. If the Surety at any time delivers at least ninety (90) days prior written notice to the Obligee and to the Principal of its intention to terminate this obligation, the Principal shall deliver to the Obligee, not less than thirty (30) days prior to the termination of this bond, financial security in the amount of this bond in a form acceptable to the Obligee. If the replacement financial security is not provided by the Principal or is not accepted by the Obligee, this bond shall remain in effect.
11. Nothing in this bond shall limit the Principal’s liability to the Obligee under the Regulation, the *Local Government Act*, or the Burnaby ACC Bylaw.
12. This bond shall be governed by and construed in accordance with the laws of the Province of British Columbia and the laws of Canada applicable thereto and shall be treated, in all respects, as a contract entered into in the Province of British Columbia without regard to conflict of laws principles. The Principal and Surety hereby irrevocably and unconditionally attorn to the jurisdiction of the courts of the Province of British Columbia.
13. All Claims and notices under this bond shall be delivered by hand, registered mail or courier at the addresses set out below, subject to any change of address in accordance with this section. All other correspondence may be delivered by regular mail, registered mail, courier, or email. An address for a party may be

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changed by giving notice to the other parties setting out the new address in accordance with this section.

a) to the Surety:

Name:

Address:

Email:

Phone:

b) to the Principal:

Name:

Address:

Email:

Phone:

c) to the Obligee:

Name: Director Treasury Services, with a copy to City Solicitor and Corporate Officer

Address: 2nd Floor, 6161 Deer Lake Avenue, Burnaby, BC V5G 4A3

Email: TreasuryServices@burnaby.ca

Phone: 604-294-7339

[signature page follows]

APPENDIX “C” – ACC INSTALMENT PAYMENTS SECURITY

IN TESTIMONY WHEREOF, the Principal has hereto set its hand and affixed its seal and the Surety has caused these presents to be sealed with its corporate seal duly attested by the signature of its authorized signing authority.

SIGNED AND SEALED this _____ day of _____, 20____, in the presence of:

Principal: _____

Per: _____

Per: _____

Name:

Name:

Title:

Title:

Surety: _____

Per: _____

Per: _____

Name:

Name:

Title:

Title: