

D 900 BOND CONTROL

D 910 GENERAL BACKGROUND AND AUTHORITY

D 911 PURPOSE OF BONDS

In order to guarantee the construction of proposed public works improvements or the protection or replacement of existing public works improvements, the owners or developers must provide security. This security is commonly referred to as the bond. The bond also serves the following purposes:

1. The work will be performed according to City Engineer standards.
2. The work will be completed in a specified time and at no cost to the City.
3. The contracted labor and materials for subdivision improvements will be paid.
4. Any "B" Permit fee deficits will be paid.
5. Any improvement conditions, as set forth by the Advisory Agency, Planning Commission, Council, etc., will be met.

D 912 HISTORY

When California was settled by the Spanish, it was divided up and doled out by the King of Spain. Some land was designated for pueblos (towns) and other public land. Some was granted to the missions. A significant portion was given to individuals, in the form of grants known as Ranchos. Some Ranchos in the area of the present City of Los Angeles were Rancho San Rafael, Rancho Las Cienegas, Rancho La Ballona, Rancho San Pedro, and Rancho Los Feliz.

As the population grew, the land was further divided. Villages and towns were formed. A pattern of roads and streets developed. These were mainly unimproved, except where businesses chose to install wooden sidewalks.

With the increasing population and growth of cities it became apparent that an orderly system of street improvement was necessary. The philosophy developed that those putting the burden on the streets, namely those properties adjacent to the street, should bear the cost of improving the street.

In 1929, the Subdivision Map Act of the State of California was rewritten to allow local governments to require subdivisions to improve streets, provide for minimum lot size, setbacks, utility easements, etc.

It required that improvements to be made on public right of way be guaranteed by a bond if not completed prior to approval and recordation of the final map. Unfortunately, personal bonds as well as surety bonds were allowed.

Although the posting of a bond was a step in the right direction to guarantee street improvements, the personal bond proved to have two major faults. Quoting from a CAO's Risk Management Section letter of 1936:

". . . . The defects in bonds, which we have examined, are not related to their form but are related to (1) the nature of the surety required; and (2) the procedure to keep the bonds in force.

"The practice of accepting personal sureties on such bonds has not turned out well. So far as we can learn, there has been no definite method adopted whereby the sureties are examined concerning the property which they hold in order to make certain that their guarantee is good. Furthermore, there is no assurance that at some subsequent time their financial standing will be the same. As a matter of fact, many of the personal sureties and bonds held by the City have become bankrupt, insolvent or have disappeared, while business corporations signing as sureties have gone through mergers and reorganization, thus affecting the enforceability of the bonds.

"The second condition on which we have become advised is that there is no uniform system of following-up these bonds to make sure they are kept in force. Where surety companies have issued bonds, their liability has been cut off in many cases because of the obligor's failure to pay annual premiums. In many cases the contractors and subdividers who have given such bonds have gone out of business; have reincorporated, etc., without corresponding changes having been made in the bonds "

In 1941, the City Council adopted Ordinance No. 84,480, which eliminated the two faults described above. This ordinance is the basis on which the present procedures function. Originally, the bonds were required for safety and health-related improvements, which included adequate streets, street lighting, sewerage systems, and drainage.

Through subsequent ordinances, Council motions and changes in the Subdivision Map Act, the requirements for bonds were extensively broadened beyond the subdivision requirements, to include aesthetics such as oak trees, parkway trees, and landscaping.

D 913 AUTHORITY FOR REQUIREMENT OF BONDS

D 913.1 STATE OF CALIFORNIA

The Subdivision Map Act, and the Streets and Highways Code are the underlying authorities for the posting of bonds for the construction of improvements in connection with tract maps, condominiums, parcel maps, reversions to acreage and vacations of public right of way.

D 913.2 CITY OF LOS ANGELES

The Los Angeles Municipal Code provides for the posting of bonds in conjunction with zone changes, conditional uses, R3 Ordinance (Highway Dedication and Improvement Ordinance), oak tree preservation, voluntary improvements, private streets, and the import-export of earth.

D 920 TYPES OF SECURITIES

D 921 SURETY BONDS

A surety bond is a legal instrument issued by a bonding company, which guarantees to the City a fixed sum if the project is not completed.

Surety bonds are issued by a bonding company approved by the State of California Insurance Commission. A list of approved bonding companies is available in the Bond Control Section of the Land Development Group.

D 922 CASH SECURITIES

Cash securities may be in one of the following forms:

1. Cash
2. Check
 - a. Money order
 - b. Cashier's check
 - c. Certified check

D 923 CERTIFICATE OF DEPOSIT

A certificate of deposit is issued by a financial institution whose deposits are insured by an instrumentality of the Federal Government. A non-revocable assignment to the City is required which pledges that the funds are on deposit to guarantee the completion of the improvements. Such certificates of deposit may provide the interest be paid to the depositor. The assignment shall allow the City to withdraw

the principal amount, or any portion thereof, upon declaration of default by the Board of Public Works without the necessity of any further consent by the depositor. The improvement security shall be on a form prepared by the Bureau of Engineering shall be a joint and several obligation, and shall be in an amount estimated by the City Engineer to be reasonably necessary to complete the construction and installation of all of the required improvements.

D 924 LETTER OF CREDIT

A letter of credit is a document from a bank, which guarantees payment to the City in the event of non-performance. A letter of credit is only accepted when authorized by Council action.

D 925 CASH PAYMENT IN LIEU OF CONSTRUCTION

A cash payment may be required in lieu of construction where (a) the construction of improvements in the foreseeable future is uncertain, (b) the interest from a cash payment is required for maintenance purposes, or (c) an assessment project is being processed which includes the required public improvements of the private development and their removal would unduly delay the assessment project. A cash payment in lieu of construction is only used when directed by an administrative action and should be discouraged as much as possible. A cash payment for (a) and (b) is generally non-refundable. However, when cash is used as a deposit against an assessment project (c), any excess will be refunded and any deficit must be paid.

D 930 TYPES OF PERMITS

A permit shall be obtained from the Bureau of Engineering before any work can be done in the public right of way. The permit authorizes the work and requires that the work conform to the standards of the Bureau of Engineering.

D 931 "A" PERMIT

An "A" Permit does not require formal plans. The requirement for the posting of securities for "A" Permits is at the discretion of the District Office.

D 932 "B" PERMIT

A "B" Permit is required for any construction in the public right of way where formal plans are necessary. These plans shall be approved by

the City Engineer. Bonds and liability insurance shall be posted prior to the issuance of the "B" Permit.

D 933 "E" PERMIT

An "E" Permit is required where excavation is to take place adjacent to are within a public right of way. This permit may require lateral support to protect the public right of way.

This permit will not be issued until the applicant has made a special cash deposit. Whenever a cash deposit exceeds \$1,000, the applicant may post a surety bond in an amount equal to or in excess of the cash deposit.

D 940 PROJECTS FOR WHICH SECURITY IS REQUIRED

The securities, which are acceptable as deposits for the guarantee of various types of projects, are shown in Figure D 940.

D_941 SUBDIVISIONS, TRACT MAPS AND PARCEL MAPS

Before a subdivision map that requires public improvements can be recorded, the following three documents are mandatory: (1) an improvement agreement and contract, (2) a performance bond and (3) a labor and material bond. Additionally, a survey monument bond and/or an oak tree bond may be required.

The acceptable types of security for subdivisions are (a) surety bond, (b) cash, and (c) certificate of deposit. Only cash is acceptable for survey monuments

D 942 GENERAL IMPROVEMENTS

General improvements are the public improvements which are required in conjunction with (1) planning actions (other than subdivisions, e.g. zone changes, variances, conditional uses, etc.), (2) voluntary improvements, (3) street and alley vacations, (4) private streets and (5) parcel map exemptions.

The acceptable types of security for general improvements are (a) surety bond or (b) cash.

D 943 R3 IMPROVEMENTS (HIGHWAY DEDICATION AND IMPROVEMENT ORDINANCE)

An R3 improvement is any improvement required under the Highway Dedication and Improvement Ordinance.

The acceptable types of security for improvements required under the R3 Ordinance are (a) surety bond or (b) cash.

D 944 IMPORT/EXPORT

An import/export bond shall be required to repair damage to streets or other public facilities and for the removal of any deposits of earth materials or other debris resulting from the construction. The bond is required where haulage of 1000 cubic yards or more .of earth materials are involved.

The acceptable types of security for an import/export bond are (a) surety or (b) cash.

D 945 EXCAVATION - LATERAL SUPPORT

Any excavation made in the public right of way or on private property abutting thereto where the Lateral support of the public right of way is imperiled shall require an excavation - lateral support bond.

The acceptable types of security for an excavation –lateral support bond are (a) surety or (b) cash.

D 950 PROCEDURES FOR OPERATIONAL CONTROL OF IMPROVEMENT BONDS

D 951 RESPONSIBILITY FOR THE PREPARATION OF DOCUMENTS

D 951.1 LAND DEVELOPMENT GROUP RESPONSIBILITY

The Land Development Group shall be responsible for the preparation of the following:

Subdivisions

All subdivision bonds and documents

Oak tree bonds

Survey monument bonds

D 951.2 DISTRICT OFFICE RESPONSIBILITY

The District Office shall be responsible for the preparation of the following:

General Improvement Bonds

R 3 Bonds

Excavation - Lateral Support Bonds
Import/Export Bonds

D 952 PROOF OF OWNERSHIP

D 952.1 SUBDIVISIONS (TRACT MAP AND PARCEL MAP)

No bonds or receipts shall be prepared until a preliminary subdivision report (issued within the previous six months) has been submitted. Grant deeds, corporate deeds, tax deeds, title reports, trust deeds, etc., are not acceptable.

D 952.2 GENERAL IMPROVEMENTS, R3, EXCAVATION - LATERAL SUPPORT AND IMPORT/EXPORT BONDS

No bond shall be prepared until a title report, title policy or lot book report (issued within the previous six months) is submitted. Grant deeds, corporate deeds, tax deeds, subdivision reports, trust deeds, etc., are not acceptable.

D 953 ESTIMATES

D 953.1 IMPROVEMENT BOND ESTIMATES

The improvement bond estimates shall be prepared by the District Office. The bond estimate shall include an 15% permit contingency factor {PCF} and a 50% cost increase factor (CIF).

D 953.2 LABOR AND MATERIAL BOND ESTIMATES

The subdivision labor and material band shall be 50% of the improvement bond estimate.

D 953.3 NOTIFICATION TO LAND DEVELOPMENT GROUP

Bond estimates for subdivisions shall be forwarded in writing to the Bond Control Section of the Land Development Group. A copy of all other bonds prepared by the District Office shall be sent to the Bond Control Section.

D 954 SUBDIVISION BONDS

D 954.1 SUBDIVISION DOCUMENTS

The operational procedures for subdivision documents are shown on "Flow Chart - Subdivision Securities", {see Figure D 954.1}.

D 954.2 SUBDIVISION BOND PREPARATION NOTICE

After receiving (1) a request for the preparation of the bond, (2) the preliminary subdivision report, and (3) the bond estimate the Land Development Group shall prepare the "Subdivision Bond Preparation Notice" (see Figure D 954.2).

D 954.3 NOTICE TO CLASS "B" PERMIT AND BOND APPLICANTS

The Land Development Group shall prepare the "Notice to Class "B" Permit and Bond Applicants" (see Figure D 954.3) based on the information from Sec. D 954.2. This form provides information for the applicant to properly complete the necessary documents. Two copies of this notice shall be prepared (original applicant, copy - Land Development Group)

D 954.4 ENDORSEMENTS AND ACKNOWLEDGEMENTS

All documents requiring notarization shall conform to the following:

Individuals - Each individual must sign all copies of the bond and attach an individual all purpose notary acknowledgement to each copy.

Partnerships - All general partners must sign all copies of the band and attach a all purpose notary acknowledgement to each copy. Corporate partnerships see Corporations below.

Corporations - Two corporate officers, (one the chairman of the board, president, vice-president, or chief financial officer and the other secretary/assistant secretary or assistant treasurer) must sign all copies of the bond, and attach an all purpose notary acknowledgement to each copy. Corporate partnerships must attach an all purpose notary acknowledgement to each copy of the bond. Joint Venture - Each corporation and/or partnership participating in the joint venture must comply with the instructions under partnership and corporation above.

Facsimile signatures, photocopies or alterations are not acceptable (see Sec. D 994).

D 954.5 SUBDIVISION IMPROVEMENT AGREEMENT AND CONTRACT

A "Subdivision Improvement Agreement and Contract" (see Figure D 954.5) shall be executed by the applicant for every subdivision requiring bonds. The "Subdivision Improvement Agreement and Contract" provides that the applicant shall, among other things, agree to construct and install the improvements at no expense to the City, sha71 complete the improvements on or before 24 months from the recordation date, sha11 warrant against any defective work or defective materials for a period of one year following acceptance by the City of the improvements and shall agree to reimburse the City for all costs and

reasonable expenses and fees incurred by the City in enforcing the terms of the agreement including reasonable attorneys fees.

The agreement is prepared by the Land Development Group quadruplicate. The applicant receives all copies of which three properly executed are returned to the Bond Control Section. All the owners as shown on the preliminary subdivision report shall be signatories to the agreement,

D 954.6 PERFORMANCE BONDS

The bond shall be in the amount estimated by the District Office (see Section D 953.1). The bond guarantees payment to the City of all construction, engineering, inspection and administrative costs incurred by the City in the event of non-completion of the work.

Bonds shall only be prepared upon request from the principal or his representative. Experience has shown that bonds prepared prior to the request have had to be retyped due to changes in ownership, amount of estimate or scope of the project.

D 954.61 SURETY BOND - SUBDIVISIONS

The "Subdivision Improvement and Warranty Performance Bond" {see Figure D 954.61) shall be prepared in quadruplicate by the Land Development Group. The applicant returns the original and two copies, all properly executed, to the Land Development Group. All the owners as shown on the preliminary subdivision report shall be signatories on the bond. Far further routing see Sec. D 960.

D 954.62 MULTIPLE SURETY BONDS - SUBDIVISIONS

When the total value of the required surety bond for subdivisions exceeds \$500,000, the District Office, when requested by the developer, shall issue multiple bonds. A bond should cover a single or group of construction items. The description of the work areas or limits must be carefully written on each Subdivision Improvement and Warranty Performance Bond so the courts and attorneys will not be confused about the work covered by the bond. If a construction item is still larger than ~500,000 and does not meet the limitations of the proposed surety company involved, a construction item can be further divided at the discretion of the District Office. The number of bonds for a project, however, should be kept to a minimum. The District Office shall furnish the information to the Land Development Group as soon as practical so the bonds may be prepared.

D 954.63 CASH SECURITY - SUBDIVISIONS

A cash deposit may be received either at the Land Development Group or at the District Office. The cash amount shall be the sum of both the performance and the labor and material estimates. An "Improvement Cash Bond Receipt" (see Figure D 954.62A) is prepared and distributed as indicated on the receipt. If the cash is received at the Land Development Group, a copy of the receipt is made and forwarded to the District Office. The Miscellaneous Cash Bond number shall be obtained from the Accounts Receivable Section of the Bureau of Accounting at the time of preparation of the receipt.

All cash bonds for subdivisions should be accepted and processed by the Land Development Group. The Land Development Group prepares the form "Subdivision Cash or Negotiable Security Improvement and Warrantee Performance Agreement (see Figure D 954.62B) in quadruplicate. All the owners as shown on the preliminary subdivision report shall be signatories on the agreement. The applicant returns the property executed original and two copies to the Land Development Group. All the owners as indicated on the preliminary subdivision report shall be shown on the receipt. For further routing, see Section D 960.

D 954.64 CERTIFICATE OF DEPOSIT - SUBDIVISIONS

A copy of the "Information Sheet for Depositors of Certificate of Deposit to Guarantee Public Improvements in Connection with Subdivisions" (see Figure D 954.64) shall be given to the depositor.

The requirements and processing for certificates of deposit are as follows:

- A. The bond form required for certificate of deposit is "Subdivision Cash or Negotiable Security Improvement and Warranty Performance Agreement" (see Figure D 954.62B). The form will be prepared by the Land Development Group and executed by the applicant prior to the submittal of the certificate of deposit. All the owners as shown on the subdivision report shall be signatories. The applicant returns the properly executed original and two copies to the Land Development Group-
- B. The City will only accept insured certificates of deposit in an amount equal to or greater than the total bond estimate of both the performance and the labor and material estimates. If the aggregate amount (improvement + labor and material) exceeds \$100,000, one or more additional certificates must be obtained, each from a different financial institution, and none exceeding

\$100,000, to ensure that each will be fully insured. Issuing institutions must be banks or savings and loan institutions which are licensed to do business in the State of California and which are insured by either the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation. Each certificate's initial term must be thirty months minimum and be automatically renewable at the end of the term. An initial term of six (6) Months is acceptable if it is automatically renewable at the end of the term. The depositor must be one or more of the principals shown on the agreements. All principals must execute the assignment form.

- C. An "Assignment of Certificate of Deposit" (see Figure D 954.64C) consisting of two pages is issued to the depositor.

The "assignor" and bond amount on page 1 are typed in by the Land Development Group and the remainder is completed and executed by the depositor. The "First Endorsement" portion of page 2 shall be completed by an officer of the financial institution; the "Second Endorsement" is completed by the Land Development Group and a copy sent to the financial institution. A separate assignment form must be submitted with each certificate.

- D. A receipt (see Figure D 454.64D) shall be prepared in triplicate by the Land Development Group (original - depositor, green - Land Development Group, yellow to remain in receipt book).

- E. A transmittal letter "Deposit of Certificate of Deposit" (see Figure D 954.64E) to the City Treasurer shall be prepared by the Land Development Group in quadruplicate (original - City Treasurer, copy - depositor, copy - Land Development Group, copy - District Office).

D 954.65 CASH PAYMENT IN LIEU OF CONSTRUCTION - SUBDIVISIONS

Cash payment shall be received either at the Land Development Group or the District Office. An "Improvement Cash Bond Receipt" (see Figure D 954.62A) is prepared and distributed as indicated on the receipt. The Miscellaneous Cash Bond (MCB No.) shall be obtained at the time of preparation of the receipt from the Accounts Receivable Section of the Bureau of Accounting.

All the owners as indicated on the preliminary subdivision report shall be shown on the receipt. The District Office shall notify the Land Development Group by phone, e-mail or FAX of the cash receipt and then forward a copy to Land Development Group.

D 954.7 LABOR AND MATERIAL BOND - SUBDIVISIONS

Security shall be required for the guarantee of the payment of labor and material for subdivisions. The security shall be a surety bond, cash deposit or a certificate of deposit and shall be in an amount equal to 50% of the performance bond.

The procedures for different types of securities are as follows:

A. Surety Bond

The form to be used is "Subdivision Labor and Material Payment Bond" (see Figure D 954.7A) and is prepared in quadruplicate by the Land Development Group. The original and three copies are given to the applicant. The applicant returns to the Land Development Group the original and two copies, all properly executed. All of the owners shown on the preliminary subdivision report shall be signatories. For further routing see Section D 960.

B. Cash or Certificates of Deposit.

The amount of the labor and materials security to be provided by cash or certificates of deposit shall be included with the amount for the performance guarantee. The document "Subdivision Cash or Negotiable Security Improvement and Warranty Performance Agreement" (see Figure D 954.628) is used for both the performance and labor material guarantees for these three types of security. For procedural instructions for cash securities, see Sections D 954, 62, for negotiable securities D 954.63 and for certificates of deposit D 954.64.

D 954.8 SURVEY MONUMENT BOND - SUBDIVISIONS

A Survey Monument Bond shall be posted only as a cash deposit for monuments to be set subsequent to the recordation date of subdivisions. The purpose of the bond is to (a) guarantee payment to the engineer/surveyor for the placement of the monument and (b) guarantee the placement of the monuments in the event of the death, disability or retirement of the engineer or surveyor. (See "Flow Chart - Survey Monument Bonds", Figure D 954.8).

The procedural steps are as follows:

- A. CASH RECEIPT -The cash deposit shall be posted in the Land Development Group in an amount as determined by the Final Subdivision Section. When the deposit is received, a "Survey Monument Cash Bond Receipt" (see Figure D 954.8A) shall be issued. The name of the owner or owners as shown on the

preliminary subdivision report shall be entered on the receipt, together with the name of the depositor. The balance of the receipt shall be filled out as shown.

B. DIRECTIVE TO COMPLY - A letter, "Survey Monumentation Directive," (see Figure D 954.88) shall be prepared in triplicate (Original –the engineer/surveyor; Copies to the Survey Division - Tract Analysis and the Land Development Group) directing the engineer/surveyor to proceed with the required monumentation when any of the following conditions occur:

1. Upon receipt of a notice of completion of improvements from either the District Office or the Bureau of Contract Administration.
2. After recordation of the final subdivision map, if no improvements are required.
3. A soon as possible after any required public improvements by the City (e.g. capital improvement projects, assessment projects or defaulted bond proceedings) when such improvements are completed after recordation of the final subdivision map.

C. MONUMENTATION CLEARANCE

The Survey Division shall forward written notification to the Land Development Group of the satisfactory placement of monuments before any refund or payment of claim against the monument bond is made.

D. CERTIFICATION OF PAYMENT/NONPAYMENT REQUIRED - After receiving monumentation clearance, the Land Development Group shall complete and forward "Certification of Payment Directive" (see Figure D 954.8D) to the engineer/surveyor (Original - engineer/surveyor, Copy - Land Development Group).

No refund of the monument bond shall be paid until the engineer/surveyor responds as to whether or not payment has been made for monumentation services. If the engineer/surveyor do not respond in 60 days, the bond shall be released.

E. RESPONSE FROM ENGINEER/SURVEYOR - The procedures for the payment or nonpayment of monumentation fees to the engineer/ surveyor are handled as follows:

1. PAYMENT HAS BEEN MADE - After the Land Development Group receives written certification of payment to the engineer or surveyor for monumentation services, the Land Development Group shall prepare a release of bond "Subdivision Certificate of Monumentation" {see Figure D 954.8E.1} {original depositor, 2 copies Bureau of Accounting, 1 copy engineer/surveyor, 1 copy Land Development if needed, 1 copy to the assignee}.

2. PAYMENT HAS NOT BEEN MADE - After receipt of written notification from the engineer/surveyor, together with a copy of invoice for payment of the monumentation, the Land Development Group shall prepare "Monument Cash Bond Claim Notice" (see Figure D 954.8E.2) {original - depositor/owner, copy - Land Development Group file.}

If there is no response from the depositor/owner within 30 days to said letter, the Land Development Group shall prepare a release of bond form "Subdivision Certificate of Monumentation" as directed in E.1 above.

F. FAILURE TO SET MONUMENTS - Should the engineer/surveyor fail to set monuments, the Survey Division shall be responsible for the placement of the monuments.

D 954.9 OAK TREE BOND - SUBDIVISIONS

An oak tree bond may be required in conjunction with subdivisions to (1) guarantee the planting or relocation of oak trees, (2) guarantee the survival of the trees to be planted or relocated, and (3) guarantee the replacement of an oak tree not designated for removal which has been damaged or dies as a result of the construction. The bond warrants the tree life for three years from the time of planting or relocating. The bond shall allow two years to complete planting from the recordation date of the subdivision {see Figure D 954.9A}. The bond amount is to be obtained from the Urban Forestry Division of the Bureau of Street Services.

The security for oak tree bonds shall be in **cash only**. The processing shall be the same as for Subdivisions {see Sections D 954.61 through D 954.64, inclusive}.

The bond form "Oak Tree Replacement and Relocation Cash or Negotiable Security Bond," (see Figure D 954.9B) or "Oak Tree Replacement and Relocation Surety Bond" (see Figure D 954.9C), whichever is applicable, is prepared in quadruplicate by the Land Development Group and given to the applicant. The form title still says "Negotiable Securities", but this type of payment is obsolete and unacceptable. The applicant returns to the Land

Development Group the original and two copies, all properly executed. For further routing, see Sec. D 960.

The District Office shall notify the Land Development Group of the effective date of the start of the maintenance period. Upon completion of the warranty period, and after inspection by the Urban Forestry Division of the Bureau of Street Services, the District Office shall send a clearance to the Land Development Group, which shall then exonerate the bond.

D 955 GENERAL IMPROVEMENT BONDS

The security for general improvement bonds shall be either a surety bond or cash deposit. The District Office shall be responsible for the preparation of the surety bond and cash deposits. A "Notice to Class "B" Permit and Bond Applicants" (see Figure D 954.3) shall be prepared by the appropriate office in duplicate (original-depositor, 1 copy District Office), together with the preparation of bond forms or cash receipts.

The operational procedures for general improvements are shown on "Flow Chart-General Improvements, R-3 and Import/Export Securities" {see Figure D 955).

D 955.1 SURETY BOND - GENERAL IMPROVEMENTS

The District Office shall prepare "General Improvement Performance Bond" (see Figure D 955.1) in quadruplicate with all four copies given to the applicant. The applicant returns the original and two copies, all properly executed, to the Land Development Group. All the owners shown in the title documents (see Section D 952.2) shall be signatories. For further routing, see Section D 960.

D 955.2 CASH DEPOSIT - GENERAL IMPROVEMENTS

A cash deposit shall be received at the district office. An "Improvement Cash Bond Receipt" (see Figure D 954.62A) is prepared and distributed as indicated on the receipt. The Miscellaneous Cash Bond Number (MCB No.) shall be obtained at the time of preparation of the receipt from the Accounts Receivable Section of the Bureau of Accounting.

All the owners shown on the title documents (see Section D 952.2) shall be shown on the receipt. The District Office shall notify the Land Development Group by phone e-mail or FAX of the cash receipt and then forward a copy to the Land Development Group. For further routing, see Section D 96a.

D 955.3 CASH PAYMENT IN LIEU OF CONSTRUCTION -
GENERAL IMPROVEMENTS

The procedure for accepting a cash payment in lieu of construction to the same as used for Cash Deposit-General Improvements (see Section D 955.2).

D 956 R3 BONDS

The security for R3 bonds that require a B-Permit shall be a surety bond or a cash deposit.

The District Office shall be responsible for the preparation of the surety bond and cash deposits. A "Notice to Class "B" Permit and Bond Applicants" (see Figure D 954.3) shall be prepared by the District Office in duplicate (original depositor, copy - District Office), together with the preparation of bond forms or cash receipts.

The operational procedures for R3 bonds is the same as that used for General Improvement Bonds are shown on "Flow Chart - General Improvements, R3 and Import/Export Securities" (see Figure D 955).

D 956.1 SURETY BOND - R3

The District Office shall prepare a "General Improvement Bond" in quadruplicate for the applicant. A copy of the first sheet shall be forwarded to the Land Development Group. The applicant returns the original and two copies to the Land Development Group, all properly executed. All the owners shown on the title documents (see Section D952.2) shall be signatories. For further routing, see Section D 960.

D 957 IMPORT/EXPORT BONDS

The security for Import/export bonds shall be either a surety bond or a cash deposit.

The District Office shall be responsible, for the preparation of the surety bond and cash deposits. A "Notice to Class "B" Permit and Bond Applicants" (see Figure D 954.3j) shall be prepared by the District Office in duplicate (original depositor, 1 copy District Office}, together with the preparation of bond forms or cash receipts.

The operational procedures for import/export bonds are shown on "Flow Chart - General Improvements, R3 and Import/Export Securities", (see Figure D 955).

D 957.1 SURETY BOND -. IMPORT/EXPORT

The District Office shall prepare the "Import/Export Payment Bond" (see Figure D 957.1) in quadruplicate for the applicant. A copy of the first sheet shall be forwarded to the Land Development Group. The applicant returns the original and two copies, all properly executed, to the Land Development Group. All the owners shown on the title documents (see Section D 952.2) shall be signatories. For further routing see Section D 960.

D 957.2 CASH DEPOSIT - IMPORT/EXPORT

The procedures for cash deposit for import/export are the same as those used for Cash Deposit - General Improvements (see Section D 955.2).

D 958 EXCAVATION - LATERAL SUPPORT BOND

Security for excavation-lateral support shall be a surety bond, cash or negotiable securities. The District Office shall be responsible for the preparation of the surety bond or cash bond. A "Notice to Class "B" Permit and Band Applicants" {see Figure D 954.3} shall be prepared by the District Office in duplicate {original-depositor, 1 copy - District Office}, together with the preparation of bond forms.

The District Office shall prepare "Excavation-Lateral Support Bond" (see Figure D 958) in quadruplicate for the applicant. A copy of the first sheet shall be forwarded to the Land Development Group. The applicant returns the original and two copies, all properly executed, to the District Office. All the owners shown in the title documents {see Section D 952.2} shall be signatories. For further routing, see Section D 960,

Where the bond is for lateral support, the bond amount may be reduced by 50% upon notification from Contract Administration of {a} the restoration of public facilities and {b} the backfilling of the excavation to street level.

The bond shall be exonerated by the District Office two years after receipt of the notice of completion of the excavation. For exonerated, procedures see Section D 982.4.

D 960 APPROVALS AND ROUTING

D 961 CITY ENGINEER APPROVAL

After execution and notarization, all of the forms involving bonds, with the exception of the "Excavation-Lateral Support Bond", shall be returned to the Land Development Group for the City Engineer's approval. The forms include:

- "Subdivision Improvement Agreement and Contract" (Figure 954.5).
- "Subdivision Improvement and Warranty Performance Bond" (Figure D 954.61).
- "Subdivision Cash or Negotiable Security Improvement and Warranty Performance Agreement" (Figure D 954.628).
- "Assignment of Certificate of Deposit" (Figure D 954.64C).
- "Subdivision Labor and Material Payment Bond" (Figure D 954.1A)
- "Oak Tree Replacement and Relocation Cash or Negotiable Security Bond" (Figure D 954.98).
- "General Improvement Performance Bond" (Figure D 955.1).
- "R-3 Improvement Performance Bond" (Figure D 956.1).
- "Import/Export Payment Bond" (Figure D 957.1).
- "Excavation - Lateral Support Bond" (Figure C 958).
- "General Bond Riders" (Figures D 991A, D 9918, D 991C).

The Land Development Group will check for proper execution, correct amounts and that no alterations have been made. The approved document shall be stamped "Approved for the City Engineer by _____" and signed.

The exception to this procedure is the "Excavation - Lateral Support Bond" which, after execution and notarization, is submitted to the CAO's Risk Management Section for approval and then returned to the District Office for the City Engineer's stamped approval.

D 962 CAO'S RISK MANAGEMENT SECTION APPROVAL

After the City Engineer approves the documents (except for Excavation - Lateral Support Bonds), the principal shall take the documents to the CAO's Risk Management Section for approval. The CAO's Risk Management Section signs and stamps their number and the document. A copy remains with the CAO's Risk Management Section, and the principal returns the original and a copy to the Land Development Group. The "Excavation-Lateral Support Bond" is returned to the District Office.

D 963 CITY COUNCIL APPROVAL OF "SUBDIVISION IMPROVEMENT AGREEMENT AND CONTRACT" AND SUBDIVISION SECURITY DOCUMENTS

After approval by the CAO's Risk Management Section, the Final Subdivision Section of the Land Development Group transmits the "Subdivision Improvement Agreement and Contract" and subdivision security documents with the final subdivision map report to the City Council for approval. After approval, the City Clerk stamps its number on the contract and files the contract and documents.

D 964 CASH DEPOSIT OR CASH PAYMENT - ROUTING

When cash as a deposit for security or payment in lieu of construction has been received by the Land Development Group the blue copy of the cash bond receipt, together with the check, are hand-carried to the Bureau of Accounting. If the cash has been received in a District Office, it is deposited in the bank for transfer to the civic center branch. The branch notifies the City Treasurer who in turn notifies the Bureau of Accounting.

D 970 RECORD KEEPING

D 971 COMPUTER INPUT

After the principal completes the bonding procedure and the Land Development Group receives a copy of the approved bond, cash receipt or certificates of deposit, the Land Development Group shall the information into the Land Development Division's computerized status system

D 972 STATUS REPORTS

The status of all bonds and B-Permits can be determined from the report generator in the Land Development Division's computerized status system.

D 980 ENFORCEMENT OF BOND

D 981 CITY POLICY FOR BOND ENFORCEMENT

The bonding procedure guarantees the construction of improvements when the principal does not perform; however, attempts should be made to encourage the principal to complete the improvements. The District Office, therefore, is allowed discretion in applying time limitations.

The general policy is as follows:

- A. A timely completion of public improvements secured by improvement bonds.
- B. A timely action against improvement bonds through default proceedings.
- C. Adequate bond estimates to reduce the number of cost over runs when work is completed by the City after foreclosure.
- D. Timely action in obtaining extensions of time for surety bonds.

In keeping with this policy, each District Office shall take the following actions:

1. Proceed with default bond action against any project that fails to get under construction not later than the bond completion date or for which construction has been discontinued for three months or more.
2. Require re execution of surety bond riders for all projects secured by surety bonds whose bond completion date has expired. Riders shall not be required for projects that are at the point of final inspection.

D 982 EXONERATION OF THE BOND

The Land Development Group shall commence processing the bond exoneration when (a) the improvement is completed, (b) the project is cancelled or (c) default proceedings are completed.

D 982.1 EXONERATION OF THE BOND WHEN THE IMPROVEMENTS ARE COMPLETED - "B" PERMIT FOR SUBDIVISIONS AND NON-SUBDIVISIONS (EXCEPT R3 AND EXCAVATION - LATERAL SUPPORT BONDS)

- A. After completion of the improvements, the District Office sends Land Development Group a "Class 'B' Permit Completion Notice" (see Figure d 982.2A). The Bureau of Contract Administration sends the Land Development Group a similar notice.
- B. The bond cannot be exonerated if any money is owed to the City in the "B" Permit account. When all Bureau of Contract Administration and District Office clearances have

been received prior to the last day of the month, the Land Development Group can close the “BC” Permit for the final accounting of “B” Permit Fees. The Land Development Group then prepares a Work Order Closing Notice and attaches the originals of the clearances from the District Office and the Bureau of Contract Administration to be sent to the Bureau of Accounting.

C. Upon receipt of the status of the “B” Permit fee from the Bureau of Accounting, together with a notice of payment of any deficits, a certificate of acceptance and exoneration of bond letter is sent to the principals; for subdivisions use form letter “Subdivisions Certificate of Acceptance and Exoneration of Performance Bond” (see Figure D 982.2C) for non-subdivisions use form letter “Certificate of Acceptance and Exoneration of Bond” (See Figure D 982.2C.1); copies shall be sent as indicated. If a cash bond is involved, the Bureau of Accounting shall begin processing a refund.

D 982.2 EXONERATION OF THE BOND WHEN THE IMPROVEMENTS ARE COMPLETED – R3 BONDS REQUIRED UNDER A B-PERMIT

A. After completion of the improvements (1) the District Office sends the Land Development Group a “Class “B” Permit Completion Notice” (see figure D 982.2A), and (2) the Bureau of Contract Administration sends the Land Development Group a similar notice. A clearance is also obtained from the Department of Transportation.

B. The Land Development Group shall prepare “Certificate of Acceptance and Exoneration of Bond” (see Figure D 982.2C.1). Copies shall be sent as indicated. If a cash bond is involved, the Bureau of Accounting shall begin processing a refund.

D 982.3 EXONERATION OF THE BOND WHEN THE IMPROVEMENTS ARE COMPLETED - EXCAVATION - LATERAL SUPPORT BOND

The District Office shall be responsible for the exoneration of the excavation – lateral support surety bond. Cash deposits are handled by the Land Development Group. Upon satisfactory completion of the improvements, the District Office shall send a “Certificate of Acceptance & Exoneration” letter (see Figure D 982.2C) to the principal with copies to the surety company, the CAO Risk Management Section and the District Office file. If

cash is involved, the Land Development Group shall process the exoneration in conformance with Section 982.2C

D 982.4 EXONERATION OF THE BOND WHEN THE IMPROVEMENTS ARE COMPLETED UNDER “A” PERMIT AND “E” PERMIT

The District Office sends Land Development Group a clearance is complete. Land Development Group then exonerates the bond.

D 982.5 EXONERATION OF THE BOND – CANCELLATION OF PROJECT

The bond shall be exonerated when the project is cancelled. Cancellation may occur because of failure to record the subdivision, withdrawal of a zone case, the project is abandoned or for other reasons. The principal shall give written notice to the District Office of the Cancellation.

A. After receiving written notice of the cancellation, the District Office shall request in writing that the Land Development Group close the permit fee account and cancel the bond.

B. The Land Development Group shall prepare "Work Order Closing Notice" (see Figure D 982.2D) (original - Bureau of Accounting, 1 copy - Engineering Administration Division, 1 copy Bureau of Contract Administration, -1 copy District Office, 1 copy - Bureau of Street Lighting or Department of Transportation, and 1 copy - Land Development Group).. The Land Development Group attaches the Land Development Group original of the closing notice to the Bureau of Accounting request to close the Work Order.

D 983 DEFAULT OF BOND PROCEDURES

D 983.I INITIATION OF DEFAULT BOND PROCEEDINGS

The District Office shall determine the bonds in/or approaching default. The District Office shall initiate default bond proceedings whenever the improvement bond principal fails to satisfy any of the applicable requirements established below:

a. Execution of an extension of time surety bond rider or cash bond agreement (see Section 0 991}. This shall be done not later than the original bond completion date unless the project is more than 80 percent completed.

- b. Renewal of expired liability insurance, when required.
- c. Construction of the required improvements shall be underway not later than six months before the bond completion date unless there are specific reasons for not requiring Land Development Group ring immediate construction.
- d. Resumption of work when construction has been discontinued for three months or more.

Whenever the District Office determines that performance or lack of performance by the bond principal has created a hazardous condition, the District office shall obtain all necessary evidence to show need for an emergency priority bond default action, such hazardous conditions may include unstable slope conditions, erosion or flooding, in completed or un-constructed public improvements, etc.

D 983.2 NOTICE OF BOND DEFAULT

When any of the conditions established in Section D 983.1 exist, the District office shall make every effort to obtain the bond principal's cooperation to complete the improvements. However, once it becomes apparent that the bond principal will not comply or refuses to comply with the requirement of the improvement bond, a "Notice of Bond Default" letter (see Figure D 983, 2) shall be issued by the District Office with a contact person. The notification shall state the condition or conditions which will lead to bond default action, and shall specify a date for compliance and a specific date.

D 983.3 PREPARATION OF DEFAULT BOND FIELD ESTIMATES

Should the bond principal or surety fail to respond to the "Notice of Bond Default" letter, the District Office shall prepare and submit a default bond estimate based upon a field check and submit this estimate to the Bond Control Section of the Land Development Group. The Land Development Group will then prepare report to the City Attorney requesting legal action All responses or actions required by a "Notice of Bond Default" letter {see Section D 983.2) shall be requested and complied with not later than 30 days from the date of the notification.

D 983.4 COMPLETION OF WORK BY BOND PRINCIPAL OR SURETY AFTER IMPROVEMENT BOND IS DECLARED IN DEFAULT

The bond principal or the surety may elect to complete the required improvements after the bond is in default. However, if a defaulted surety bond is involved, the principal or the surety shall discuss the project with the City Attorney. The City Attorney shall determine, in consultation with the Bureau of Engineering, whether an extension of time surety bond rider is warranted (see Section D 991). If an extension of time rider is to be required, no rider form shall be prepared until the District Office has completed a revised bond estimate and determined the amount of any increase that may be required. **No reduction of bond shall be approved after a bond has been declared in default.**

D 983.5 DEFAULT BOND PROCEEDINGS COMPLETED

Immediately after (a) collection of a cash bond deficiency, (b) obtaining a defaulted surety bond settlement, (c) dismissal of action, or (d) a compromise has been approved, the City Attorney shall notify the Bureau of Engineering. The Land Development Group then exonerates the bond in conformance with Section D 982.

D 990 MISCELLANEOUS

D 991 SURETY BOND RIDERS - EXTENSION OF TIME

An extension of time for the completion of improvements may be granted by the District Office. Prior to the preparation of an extension of time surety bond rider, the District Office shall re-estimate the remaining construction costs. If the estimate is unchanged, increased or decreased, the general bond rider forms (see Figures D 991A, D 991B and D 991C, respectively) shall be used. All bond rider forms are prepared in quadruplicate { 1 copy - principal , 1 - copy CAO's Risk Management Section, 1 copy - Land Development Group, 1 - copy District Office).

After proper execution and notarization of the rider (see Section D 954.4), the forms are returned to the Land Development Group for approval and routing as described in Sections D 961 and D 962.

D 992 ASSIGNMENT OF CASH FUNDS

Any cash deposit to be returned must be returned to the owner of record. If the cash is to be returned to someone other than the owner of record, the Land Development Group will prepare an "Assignment of

Funds" and the owner shall sign it, have it notarized and the return this form back to the Land Development Group..

D 993 NOTICE OF CHANGE OF ADDRESS

The bond applicant shall be provided a copy of the "Notice of Change of Address" form {see Figure D 993) with the issuance of the bond forms. This completed form, if it becomes necessary, shall be returned to the Bond Section of the Land Development Group so that any correspondence and/or refunds can be sent to the proper address.

D 994 CORRECTIONS OR ALTERATIONS TO TYPED BOND FORMS

The bond applicant shall be provided a copy of the "Notice" (see Figure D 994) regarding changes, corrections, misspelling, alterations, etc., on the typed bond forms.

D .995 CLAIMS AGAINST THE LABOR AND MATERIAL BOND

Any claims against the labor and material bond shall be directed to the City Clerk. Under the State Subdivision Map Act, the developer is required to post a labor and material bond with the City. The City is not responsible for its enforcement. When the labor and material bond is cash or certificate of deposit, the City will not release the labor and material bond if a claim has been filed with the City Clerk. The City will pay the claim as directed by the court or if a settlement has been made between the contractor and depositor.

D 996 GOVERNMENTAL AGENCIES

Governmental agencies are not required to post bonds for construction within the public right of way. However, the contractor for the governmental agency must provide a performance bond (e.g. Contractor's Bond, Faithful Performance bond~ naming the City as a co-obligee.

D 997 STATUTE OF LIMITATIONS

The statute of limitations for all bonds and deposits is for a period of four years from the date specified for the completion of the improvements. The CAO's Risk Management Section must commence legal proceedings for bond defaults within this period of time.

D 998 ABBREVIATIONS

A.C.	asphaltic concrete
C.A.	City Attorney
C.D.	Council District
C.E.	City Engineer
Cent.	Central District (Engineering)
C.F.	Council File
C.I.F._	Cost increase factor
conc,	concrete
CPC	City Plan Case
CUZ	Conditional Use Zoning
Dist.	District (Engineering)
Div.	Division (Engineering)
Har.	Harbor District (Eng.)
L.A.M.C.	Los Angeles Municipal Code
LDG	Land Development Group
LM	Labor & Material
L&M	Labor & Material
M.C.B.	Miscellaneous Cash Bond
M.C.R.	Miscellaneous Cash Rcpt.
PCF	Percent Contingency
Factor	
PMLA	Parcel Map Los Angeles
R3	Highway Ded. & Impr. Ord.
St. Lts.	street lights
strm. drn.	storm drain
WLA	West Los Angeles District
YV	Yard Variance
ZA	Zoning Administrator
ZV	Zone Variance