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A FAIRFAX COMPANY



Mountain Region

Troy DeLuca – VP of Mountain
Region

Tanner Tregeagle – Regional
Underwriting Manager

Chris Hughes – Senior
Underwriter

Lindsey Plattner – Underwriting
Associate

Agenda

- What is a surety bond?
- What is a subdivision/improvement bond?
- Improvement bonds vs cash
- Underwriting a developer
- Development agreements
- Risks associated with not using an improvement bond
- The claims process



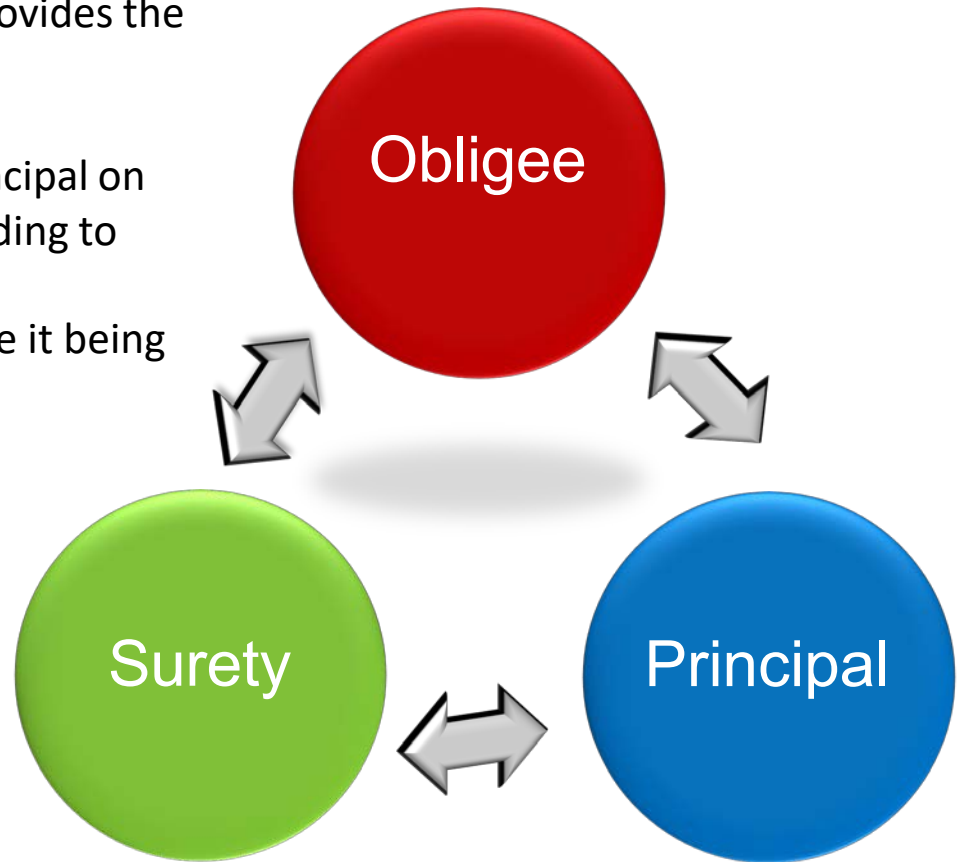
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What is a surety bond?

- ❑ Three-way agreement between:
 - **Obligee** – Party requiring the bond
 - **Principal** – Party being required to obtain the bond and whose work is guaranteed
 - **Surety** – Insurance company that provides the bond guarantee

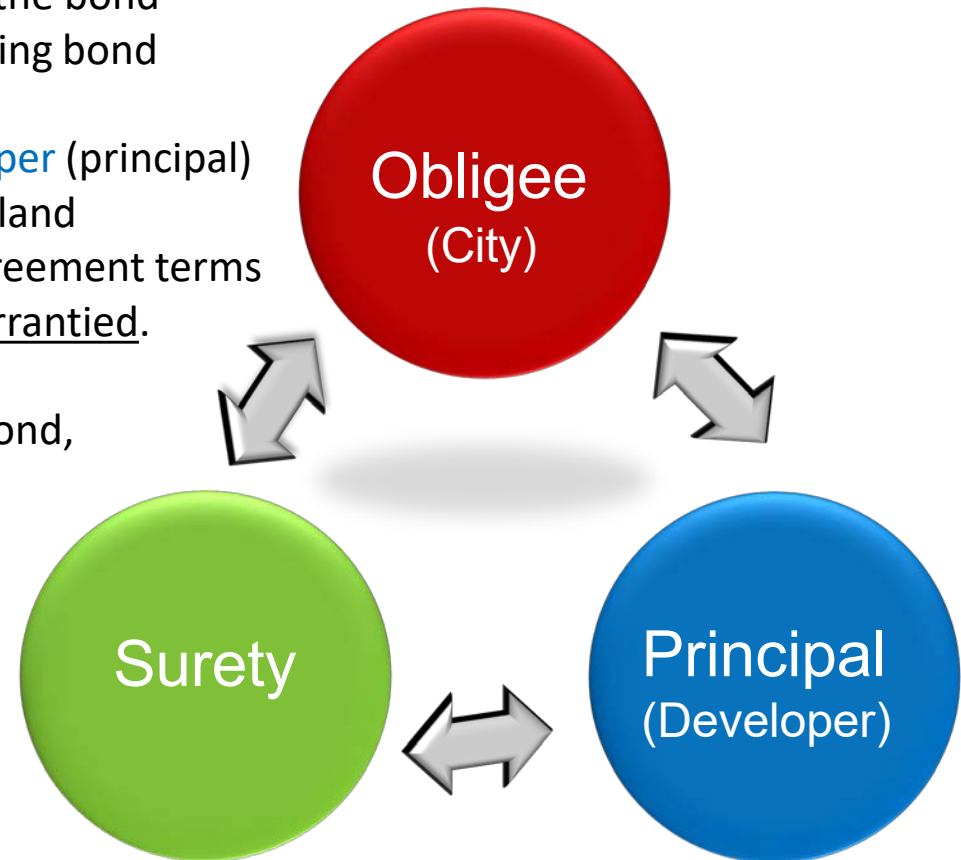
- ❑ Credit product guaranteeing that the principal on the bond will complete the project according to contract terms.
 - Surety is the financial backing; hence it being considered a credit product

- ❑ Protects the Obligee



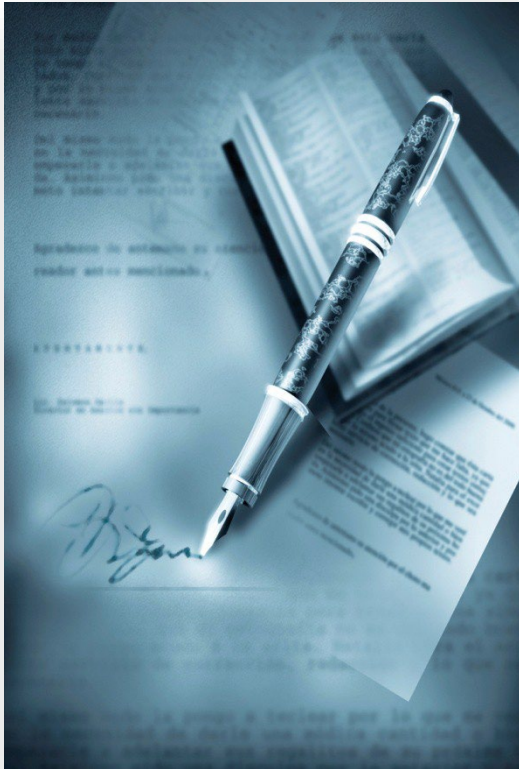
What is a subdivision/improvement bond?

- ❑ Surety bond specifically for developers
- ❑ Three-way agreement between:
 - **Obligee** – **City** requiring the bond
 - **Principal** – **Developer** required to post the bond
 - **Surety** – Insurance company guaranteeing bond
- ❑ Credit product guaranteeing that the **developer** (principal) will complete the development/subdivision/land improvement according to Development Agreement terms and conditions, and once done, it will be warrantied.
- ❑ Synonyms: Developer bond, improvement bond, subdivision bond



Improvement Bonds

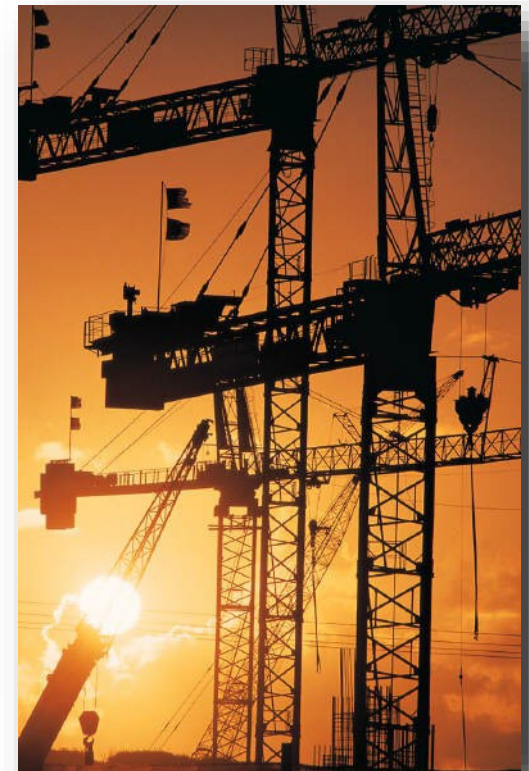
The **Surety** guarantees the Developer's completion of the development.



The **Developer** has the primary responsibility to fulfill the bond obligation.



The **Bond** protects the City from default by the Developer.



Improvement Bonds vs Cash

Cash/Line of Credit:

- Gives the municipality direct control of the funds

Improvement Bond:

- Requires the developer to go through financial and experience underwriting
- In the event of default, a claim must be filed with the surety
- Improvement bonds typically come with a warranty/maintenance bond that protect the municipality against defective materials and workmanship. Most warranties are for 1 year from completion.

Underwriting Considerations

- The 3 C's of Suretyship
- **Capital** – does the applicant's financial condition support the size and nature of the obligation?
- **Capacity** – does applicant possess the skill, experience and knowledge to perform the obligation?
- **Character** – is the applicant trustworthy, of good character

Underwriting a Developer



Developer Questionnaire

Narrative report on company history

Completed projects

Resumes of owners, partners, and/or key people



Copy of Development Agreement



Verification of funding for development

Self-funding (Copy of bank statements)

Loan (Copy of loan documents)



Fiscal year-end financial statements for past 3-5 years



Personal financial statements for the owners and/or partners

Development Agreement

- Land development laws have a commonplace statutory scheme, which are laws and regulations that ensure the developer properly installs improvements to prevent the subdivision from becoming an undue burden on the community and local taxpayers.
- The Development Agreement will require the developer to construct improvements consistent with laws and regulations and sets forth the time within which the improvements must be completed.
- The bond will guarantee compliance with this agreement which the developer signs with the Obligee.
- Development Agreements will typically reference engineers estimates which outline expected work to be completed before final sign off

Risks
Associated
with Not
Using an
Improvement
Bond

Municipality cannot "discriminate" against developers

Municipality becomes a fiduciary custodian of collateral

Municipality may become a "completion contractor" for which it is not licensed or insured

Municipality accepts financial risks of completion after collateral is exhausted

Municipality accepts warranty obligation of completed work

Claims Process

- Surety bonding companies have the opportunity for three different remedies. They will choose the least expensive legal option to fulfill their obligation to the city:
 1. They can write a check for the bond amount
 - This would only happen in extreme cases where a claim happens very early on in the project, or potentially during hyperinflation
 2. They have the opportunity to provide cashflow for the principal to help them complete the project
 3. They can hire a replacement to complete the obligation

The screenshot displays the CF Surety website's claims process page. The header includes the CF logo (EST. 1922, A FAIRFAX COMPANY) and navigation links: Home, About Us, News & Insights, Impact & Belonging, Careers, Contact Us, Log In, and a search icon. Below the header is a menu with categories: PROPERTY & CASUALTY, SURETY & CREDIT, ACCIDENT & HEALTH, CLAIMS, SERVICES, and PAY MY BILL. The main content is divided into two columns: Commercial Surety and Contract Surety.

Commercial Surety
Commercial Surety claims are claims on license & permit bonds, court & fiduciary bonds, public official bonds, miscellaneous bonds, etc.

Submitting Commercial Surety Claims
Please download and submit the [Commercial Surety Claim Form](#) along with the [Billing Invoice, Rate Confirmation & Bill of Lading/POD](#).

For BMC-84 claims, please submit the Invoice, Bill of Lading and Rate Confirmation or Dispatch Sheet.

Email to: suretyclaimssupport@cfins.com

Fax to: 877-622-6218

Mail to:
Crum & Forster
Attention: SURETY Department
305 Madison Avenue
Mail Code: SCD 615
Morristown, NJ 07960

Should you have any questions you can reach a claims representative at 1-800-690-5520.

Contract Surety
Contract Surety claims are claims made on construction payment and performance bonds.

Submitting Construction Payment or Performance Bond Claims
Please download and submit the [Payment Bond Proof of Claim Form](#) along with [Contract, Change Orders, Correspondence, Receipts and Photos](#).

Email to: suretyclaimssupport@cfins.com

Fax to: 877-622-6218

Mail to:
Crum & Forster
Attention: SURETY Department
305 Madison Avenue
Mail Code: SCD 602
Morristown, NJ 07960

Should you have any questions you can reach a claims representative at 1-800-690-5520.

Understanding the Obligation

- What is the nature of the obligation?
- What are the terms and conditions?
- Duration: cancellable or non-cancellable?
- What is the likelihood of default?
- What are the remedies to default?

