

Policy

Policy Name:	Development Agreement Surety Bond Policy
Policy Owner:	Corporate and Financial Services –Treasurer
Approved by:	Commissioner of Corporate and Financial Services
Effective Date:	March 19, 2025
Date of Last Revision:	March 04, 2026
Review Date:	as required
Procedure Status:	Update

Purpose:

As per Bill 109, *More Homes for Everyone Act, 2022* and subsequent O.Reg 461/24, the City is legislated to accept Pay-on-Demand Surety Bonds as a form of security. This Policy outlines the requirements of a Pay-on-Demand Surety Bond to be an acceptable form of security for Development Agreements.

Policy Principles:

O.Reg 461/24 provides the framework for a Pay-on-Demand Surety Bond to be used as a form of security for Development Agreements. The Development Agreement Surety Bond Policy establishes additional terms of use and criteria to protect the financial interests of the City and to ensure transparent administration of the use of Pay-on-Demand Surety Bonds for Development Agreements. This Policy will define requirements for the uses of Pay-on-Demand Surety Bonds, which include but are not limited to the following:

- The terms and conditions to be included for the instruments to be accepted.
- Standard wording in the “Surety Bond for Development Agreement Standard Format” to be acceptable by the City and attached as Appendix A

Definitions:

In this Policy, the following words and/or terms have the associated meaning:

Business Day: means a day from Monday to Friday, other than a holiday.

City (alternatively “Obligee”): means The Corporation of the City of Richmond Hill (the “City”).

City Solicitor: means the Solicitor of the City, their successor or delegate.

Development Agreement: Refers to an agreement between the City and a landowner to regulate the provision of on-site (including Landscaping, Fire, Occupancy, Lot Grading, Transportation Demand Management etc) and municipal works required to service land as a condition of land-use planning approvals. These agreements include Plans of Subdivision, Site Plans, Servicing Agreements and any other agreements as may be approved by the Treasurer.

Letter of Credit (LC): means an irrevocable, unconditional demand letter of credit issued by a Canadian chartered bank acceptable to the Treasurer.

Principal: A party that has entered into a Development Agreement with the City and has tendered a Surety Bond to the City to secure the construction of on-site and/ or municipal services.

Security: An amount required to be provided under a Development Agreement, to secure the construction obligations of on-site and/or municipal services, which will ultimately be returned to the Principal when the terms of the Development Agreement have been performed to the City's satisfaction. The Security can alternatively be drawn upon to rectify and/or complete any on-site or municipal services not performed to the City's satisfaction.

Surety Bond: A bond which guarantees the payment of the amount of the Security in the event of a default in a Development Agreement.

Surety Provider: A company legally capable of acting as the surety in the Surety Bond agreement, that meets the criteria established in Provincial regulations in Ontario.

Treasurer: means the Treasurer of the City, their successor or delegate.

Written Notice: Correspondence to the Principal and Surety Provider from the City Treasurer delivered by regular mail, courier services, certified mail or electronically.

Scope

This Policy is applicable, in all cases, in which a Surety Bond is being used as a security for a Development Agreement where on-site and/ or municipal works are to be constructed. Surety Bonds may be provided for any Development Agreement which is required to provide a Security for on-site and/ or municipal works to permit the construction of works and may be for the full amount of the Security required or in the case where a surety bond is provided for a portion of the Security, and supplemented with a Letter of Credit or certified "cash" (certified cheque, bank draft or money order) deposit. Surety Bonds will only be applicable to a Development Agreement that has specific language within the agreement permitting Surety Bonds as a form of Security.

Policy

This Policy is applicable, in all cases, in which a Surety Bond is being evoked as Security for a Development Agreement.

Terms and Conditions

Where a financial Security is required by the City, as a condition of a planning approval, or where a Development Agreement is related to a planning approval, Surety Bonds are a satisfactory financial Security provided that are issued to and received by the City in accordance with the following terms and conditions:

1. The Surety Bond for a Development Agreement shall be issued by a Canadian Surety Provider having a minimum credit rating of:
 - a. "A" or higher as assessed by Dominion Bond Rating Service Limited;
 - b. "A-" or higher as assessed by Fitch Ratings;
 - c. "A3" or higher as assessed by Moody's Investors Services Inc.; or
 - d. "A-" or higher as assessed by S&P.
 - e. "A-" or higher as assessed by A.M. Best Company, Inc
2. The Surety Provider is incorporated in Canada for no less than ten (10) years prior to the date of issuance of the Surety Bond and having the capability to issue a Surety Bond in Canadian dollars.
3. The issuing Surety Provider must be an active institution monitored by the Office of the Superintendent of Financial Institutions (OSFI).
4. The Surety Bond to be provided to the City issued by a Surety Provider shall be irrevocable and shall be in the form and on the terms of the "**Surety Bond for Development Agreement Standard Format**" template attached hereto as **Appendix A**.
5. The Development Agreement being secured must have language and/or clause(s) to allow a Surety Bond to be used as a form of Security.
6. If an amendment is required to the Development Agreement being secured, to allow for the use of a Surety Bond, a non-refundable fee will be charged which must be paid in advance by the Principal, in accordance with the City's Tariff of Fees bylaw (as amended).
7. Amendments to existing Developments Agreement to allow for a Surety Bond as a form of Security will need to satisfy the following conditions:
 - a. The Development Agreement is not in default; and,
 - b. The landowner or developer is not currently a party to litigation in relation to the Development Agreement where, in the opinion of City Solicitor the landowner or developer is adverse in interest to the City.

8. The Principal must submit a proposed Pay-on-Demand Surety Bond in advance to the City for review. This Pay-on-Demand Surety Bond must be in accordance with the “**Surety Bond for Development Agreement Standard Format**” template attached hereto as **Appendix A** and must include details about the type of bond, the issuing entity, the bond amount, duration and contact information of all parties. The proposal will be reviewed and approved by the City before the Surety Bond can be accepted.
9. Any deviations from the form in **Appendix A** shall be reviewed by and are subject to the approval of the Treasurer and/or City Solicitor.
10. Where there is doubt as to the credit rating or other qualification of a Surety Provider, the City’s Treasurer shall make the final determination on whether the Surety Provider satisfies the requirements of this Policy.
11. Notwithstanding anything in this Policy,
 - a. the City may, in its discretion, decline a Surety Bond for any reason; and/ or,
 - b. when a Surety Bond has been received and is being held by the City and the City is no longer satisfied that the Surety Bond adequately provides adequate protection, the City may require a new form of Security to its satisfaction to be provided to the City within ten (10) Business Days of demand for same. 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 draw upon the original Surety Bond.
12. In order for the Surety Provider to terminate its obligations under the Surety Bond, the following requirements must be satisfied:
 - a. The Surety Provider must give Written Notice to the City and to the Principal of the Surety Provider’s intention to terminate its obligations under the Surety Bond.
 - b. The Written Notice must be given at least ninety (90) days before the day on which the Surety Provider intends to terminate its obligations under the Surety Bond.
 - c. At least thirty (30) days before the day on which the Surety Provider intends to terminate its obligations under the Surety Bond, the Principal must deliver a financial Security to the City in the amount of the Surety Bond and the Security must be acceptable to the City to replace the Surety Bond; and,
 - d. In the event the new Security is not received as required, the City may draw upon the original Surety Bond.
13. Surety Bonds may be accepted for other types of agreements at the discretion of the Treasurer.

Roles and Responsibilities:

Financial Services Division

Director Financial Services and Treasurer

- Maintains administrative authority and responsibility for this Policy;
- Accepts or rejects Surety Bonds that do not conform to the standard format;
- Accepts or rejects Surety Bonds as a replacement for an existing Security;
- Determines whether a Surety Provider satisfies or does not satisfy the requirements of this Policy; and,
- Issues the required Written Notice to the Surety Provider.

Legal Services Division

- At the request and discretion of the City Treasurer, assists in the drafting, reviewing and interpreting any Development Agreements that are required as a part of this Policy, to protect the legal interests of the City pertaining to Surety Bonds; and,
- Ensure appropriate clauses are added within Development Agreements permitting the use of Surety Bonds as a form of Security.
- Determine if the landowner or developer is currently a party to litigation in relation to the Development Agreement where, in the opinion of City Solicitor the landowner or developer is adverse in interest to the City.

Infrastructure and Engineering Services Division / Planning and Building Services Division

- Determines the amount of a Security requirement for a Development Agreement.
- Determines if conditions within a Development Agreement are satisfied in order to release, in part or in whole any held Securities.
- Determines default of the Principal's obligation and provides written instructions to the City's Treasurer, including the dollar amount to draw on the Surety Bond.

Related Documents

- Municipal Act, 2001
- Planning Act, R.S.O. 1990
- O. Reg. 461/24: SURETY BONDS - SECTION 70.3.1 OF THE ACT