

Category: Finance

Surety Bond Policy

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1. Background

The City of Brampton (the "**City**") requires landowners or developers to provide Security (as defined herein) to ensure the performance of certain obligations under their Development Agreement (as defined herein). Such Security is typically provided in the form of Letters of Credit (as defined herein) or cash. In addition, Ontario Regulation 461/24 under the *Planning Act*, R.S.O. 1990, c. P.13 (as may be amended from time to time) authorizes the use of surety bonds to secure performance of certain obligations by landowners or developers.

This Pay-On Demand Surety Bond Policy (the "**Policy**") sets out the requirements and acceptable format for a Pay-On Demand Surety Bond (as defined herein) that is to be provided to the City.

This Policy should be read together with the City's Letter of Credit Policy, 13.7.0, as amended.

2. Purpose

The purpose of this Policy is to define the criteria for the requirement, issuance and management of Surety Bonds from landowners or developers in accordance with Development Agreements with the City. The Policy specifies the conditions under which Surety Bonds will be accepted as a valid form of Security, establishing minimum standards to safeguard the City's financial interests.

3. Application and Scope

This Policy applies whenever a Surety Bond is required by the City. A Surety Bond may be required either for the full amount of the Security required to be posted by a landowner or developer with the City in respect of a Development Agreement, or for a portion of the Security required, as a supplement to a Letter of Credit, cash, valid certified cheque, bank draft or money order.

4. Outcomes

This policy outlines the key requirements and responsibilities related to Surety Bonds, including:

- i. the City's terms and conditions for a Surety Bond;
- ii. the City's requirements for the format of a Surety Bond;
- iii. the requirements which must be met by the issuing institution; and
- iv. responsibility for administration of Surety Bonds.

5. Policy Statements

5.1 ACCEPTABLE ALTERNATIVES:

Acceptable alternative forms of Security to a Surety Bond are Letter of Credit, cash, valid certified cheque, bank draft or money order.

If cash, valid certified cheque, bank draft or money order are provided in lieu of a Surety Bond, the funds must be forwarded to the City's Finance Department for deposit into the City's respective account(s). Releases or draws on the funds will be processed in the same manner as a Letter of Credit. No interest will be paid.

5.2 **FORMAT:**

Surety Bonds accepted by the City must:

- i. be issued in Canadian funds;
- ii. specify that the Surety Bond is irrevocable;
- iii. be registered in the name of The Corporation of the City of Brampton;
- iv. disclose the City's project file number and the municipal address and legal description of the subject property in the Development Agreement; and
- v. be prepared in accordance with and on the City's standard form of Pay-On Demand Surety Bond template, attached as Appendix A to this Policy.

A copy of the City's standard form of Pay-On Demand Surety Bond template is also available on the City's website ([City of Brampton | Securities](#))

5.3 **SURETY PROVIDER REQUIREMENTS:**

5.3.1 The Surety Bond must be issued by a Canadian Surety Provider (as defined herein) that holds at least one (1) of the following minimum credit ratings:

- i. "A" or higher as rated by Dominion Bond Rating Service;
- ii. "A-" or higher as rated by Fitch Ratings;
- iii. "A3" or higher as rated by Moody's Investors Services Inc.;
- iv. "A-" or higher as rated by Standard and Poor's; or
- v. "A-" or higher as rated by A.M. Best Company, Inc.

5.3.2 The Surety Provider must be incorporated in Canada for a minimum of ten (10) years and must issue Surety Bonds in Canadian dollars.

5.3.3 The Surety Provider must have the capability to issue the Surety Bond in Canadian dollars (CAD).

5.3.4 The Surety Provider must be an active institution monitored by the Office of the Superintendent of Financial Institutions (OSFI).

5.3.5 The Surety Provider must be licensed under the *Insurance Act*, R.S.O. 1990, c.1.8 (as may be amended from time to time), to write surety insurance in Ontario and be regulated by the Financial Services Regulatory Authority of Ontario (FSRA).

5.4 **TERMS OF SURETY BOND AGREEMENT:**

This Policy applies to all instances where a Surety Bond is provided as Security in support of a Development Agreement.

Where the City requires Security as a term of a Development Agreement or as a condition of development approval, a Surety Bond may be accepted as satisfactory Security, provided it is issued to and received by the City in accordance with this Policy and the following terms and conditions:

5.4.1 The Surety Bond must be irrevocable, ensuring that payment will be made notwithstanding any objection by the landowner or developer. It shall conform to the form and terms set out in the City's standard form of Pay-On Demand Surety Bond template, attached as Appendix A to this Policy, which explicitly provides that the Surety Provider shall not assert any defense or grounds of any nature or description for not making payment to the City pursuant to a written demand by the City, including, but not limited to:

- i. that a default has not occurred;
- ii. that the landowner or developer committed any fraud or misrepresentation in its application for the Surety Bond;
- iii. that the amount set out in the City's written demand is not appropriate, warranted or otherwise not in accordance with the Development Agreement; or
- iv. any bankruptcy, reorganization, or insolvency of the landowner or developer or any successor or assignee thereof.

5.4.2 Surety Bond Amount:

- i. The total Security amount, including any Surety Bond, shall not be less than one hundred percent (100%) of the estimated cost of the works being secured under the Development Agreement.
- ii. The Surety Bond amount should be no less than one hundred percent (100%) of the estimated cost of the secured works required under the Development Agreement.
- iii. The required Surety Bond amount shall be determined by the relevant City department(s) in consultation with the City's Finance Department. This determination will take into account, without limitation, the scope, complexity and risk profile of the development project. The Surety Bond amount must adequately cover potential costs related to the completion of the works, regulatory compliance and other contingencies as identified by City staff.

5.4.3 Surety Bond Approval Process:

- i. The landowner or developer shall submit a Surety Bond proposal to the City's Finance Department for review, using the City's standard form of Pay-On Demand Surety Bond template, attached as Appendix A to this Policy.

The proposal must include key details such as the type of bond, the issuing Surety Provider, the total bond amount, the file number, the municipal address and legal description of the subject property, and the proposed duration.

- ii. The Surety Bond proposal will be subject to review and approval by the City's Finance Department in accordance with this Policy and in consultation with all applicable City departments, prior to acceptance of the Surety Bond by the City.
 - iii. Upon receipt of the fully signed Surety Bond, the City's Finance Department shall confirm that the Development Agreement has been properly executed and that the corporate seal of the Surety Provider has been affixed.
- 5.4.4 In addition to payment of any applicable fees in accordance with the City's User Fee By-law No. 193-2024 (as may be amended from time to time), the landowner or developer shall be solely responsible for any third-party costs associated with the Surety Bond, including but not limited to, legal fees, registration charges and title searches.
- 5.4.5 In cases where there is doubt regarding the credit rating or other qualifications of a Surety Provider, the City's Treasurer shall have the authority, in his/her sole discretion, to determine whether the Surety Provider meets the requirements of this Policy and adequately protects the interests of the City and its stakeholders.
- 5.4.6 Subject to Section 5.4.9 below, if, at any time, a Surety Bond held by the City is deemed, in the City's sole discretion, to no longer provide adequate protection - whether due to a Surety Provider ceasing to meet the requirements of this Policy or for any other reason - the City may require the developer or landowner to provide a replacement Security. The replacement Security (e.g., Letter of Credit, cash, certified cheque, bank draft, or money order) must be satisfactory to the City and delivered within fifteen (15) days of written demand by the City. Upon the landowner or developer providing the City with the replacement Security and the City being satisfied with the same, the City will terminate the original Surety Bond by providing notice to the original Surety Provider. Should the replacement Security not be provided within the required timeframe set out above, or the City is not satisfied with the same, the City reserves the right to draw upon the original Surety Bond.
- 5.4.7 The Surety Provider guarantees that payment will be made to the City if the landowner or developer fails to fulfill the obligations secured by the Surety Bond. The determination of default shall be made at the sole discretion of the City, in consultation with the relevant City departments. Written notice of default will be provided to both the Surety Provider and the landowner or developer. Upon receipt of the default notice, the Surety Provider is required to make payment to the City within fifteen (15) business days, in accordance

with the terms of the City's standard form of Pay-On Demand Surety Bond template, attached as Appendix A to this Policy.

- 5.4.8 The Surety Provider must provide both the City and the landowner or developer with at least ninety (90) days written notice of its intention to terminate the Surety Bond. The landowner or developer shall deliver to the City a replacement Security in a form acceptable to the City (e.g., Letter of Credit, cash, certified cheque, bank draft, or money order) not less than sixty (60) days prior to the termination of the Surety Bond. If the replacement Security is not provided by the landowner or developer, or is not accepted by the City, the original Surety Bond will remain in full force and effect.
- 5.4.9 Notwithstanding anything to the contrary contained in this Policy, if at any time the Surety Provider: (i) becomes insolvent, (ii) is placed into receivership, (iii) files for or becomes subject to bankruptcy or insolvency proceedings, (iv) ceases to carry on business, (v) has its license to issue surety bonds suspended, revoked or not renewed, or (vi) is otherwise unable or unwilling to satisfy its obligations under the Surety Bond for any reason whatsoever, then the landowner or developer shall immediately and automatically assume full, direct and unconditional liability to the City for all obligations secured by the Surety Bond. Such liability shall be enforceable by the City without the need for further notice, action or demand, and shall continue in full force and effect until all obligations of the landowner or developer under the Development Agreement have been fully satisfied to the City's sole satisfaction. Upon written demand from the City, the landowner or developer shall immediately provide a replacement Security, in the same amount as the Surety Bond and in a form acceptable to the City.
- 5.4.10 At any time, and upon written request by the landowner or developer, the City may allow the substitution of a Surety Bond with an alternate form of Security (e.g. Letter of Credit, cash, certified cheque, bank draft, or money order), provided that the replacement Security is acceptable to the City. Additionally, the City may permit the exchange of a Surety Bond issued by one Surety Provider with a Surety Bond issued by another Surety Provider, subject to the approval of the replacement Surety Bond by the City's Treasurer and the terms of this Policy.
- 5.4.11 To initiate such an exchange, the landowner or developer must deliver the replacement Surety Bond or alternate form of Security to the City for review. The existing Surety Bond shall only be released once the replacement has been received and approved by the City Treasurer and is in accordance with the terms of this Policy.
- 5.4.12 The Surety Bond shall remain in full force and effect until all obligations under the Development Agreement are satisfied or, where applicable, until the specified term in the Development Agreement expires. Once the landowner or developer has completed all works required by the Development Agreement to the City's satisfaction, and the City has finally assumed all works in writing, as applicable, the City shall return the Surety

Bond to the Surety Provider for termination or advise the Surety Provider in writing that the Surety Bond is terminated.

- 5.4.13 The Surety Bond may allow for a partial release or reduction of the Security when the City confirms that certain on-site and municipal works have been completed. The remaining Security must be sufficient to cover all outstanding obligations plus the City's costs to complete works and any other obligations that are in default as outlined in the Development Agreement. Any approval or request for a reduction in the Surety Bond amount shall be at the sole discretion of the City.
- 5.4.14 There shall be no deviations from the City's standard form of Pay-On Demand Surety Bond template.
- 5.4.15 Notwithstanding any provision(s) in this Policy to the contrary, the City reserves the right, at its sole discretion, to decline acceptance of any Surety Bond.

5.5 EXISTING SECURITIES HELD BY THE CITY:

For Development Agreements executed prior to the effective date of this Policy, existing forms of Security (e.g., Letter of Credit, cash, certified cheque, bank draft, or money order) held by the City may be eligible for replacement with a Pay-On Demand Surety Bond, subject to the following conditions:

5.5.1 Exchange or "Swapping" of Eligible Security:

An existing Security may be exchanged for a Pay-On Demand Surety Bond provided that the original Security was received by the City on or after November 19, 2022. Any such exchange is subject to the proposed Surety Bond meeting all applicable requirements of this Policy. The landowner or developer shall also provide the City with a written acknowledgement regarding the release of the original Security, on the City's standard form of Acknowledgement template, attached as Appendix B to this Policy, as part of the exchange process.

5.5.2 General Conditions for Exchange/Swapping (applicable to all eligible exchanges of existing securities):

Any request to exchange an existing form of Security for a Surety Bond will also be subject to assessment and approval based on, but not limited to, the following considerations as determined by the City, in its sole discretion:

- i. The ownership of the lands affected by the Development Agreement has not changed since the original Security was provided;
- ii. The Development Agreement is not currently in default;
- iii. The landowner or developer is not currently a party, whether directly or indirectly, to any claim, proceeding or litigation involving or affecting the City, and has no outstanding debts, obligations or liabilities owing to the City. This

includes, without limitation, any matters arising from or related to the Development Agreement, or other agreement with the City, as well as any situation in which the City has or may have an adverse or opposing interest;

- iv. Payment of applicable non-refundable fees in accordance with the City's User Fee By-law No. 193-2024 (as amended from time to time); and
- v. The Surety Bond has been issued for the benefit of the City and has been reviewed and accepted by the City prior to the release of the previous Security.

5.5.3 Replacement upon Renewal:

If an existing form of Security is due for renewal, it may be considered for replacement with a Pay-On Demand Surety Bond, provided that the replacement complies with all applicable provisions of this Policy and is approved by the City Treasurer.

5.5.4 City's Discretion:

Notwithstanding any provision in this Policy to the contrary, the City reserves the right, in its sole and absolute discretion, to decline a request to exchange an existing Security for a Surety Bond.

6. Roles and Responsibilities

6.1 City Council will:

- i. Approve the Policy and its updates.

6.2 Finance Department will:

- i. Conduct future reviews and updates of this Policy;
- ii. Determine default of the landowner or developer obligations, in consultation with the relevant City departments; and
- iii. In the event of a default(s), issue notice(s) to the Surety Provider.
- iv. The safekeeping of all Surety Bonds (or acceptable alternatives) received by the City, and for processing all draws, reductions or releases of Surety Bonds.

6.3 Planning, Building and Growth Management / Development Services / Development Engineering / Development Construction:

These departments are involved in the technical and planning aspects secured by the Surety Bond. They respective Departments will:

- i. Determine the required Surety Bond amount based on the scope, scale and risk profile of the respective development project;
- ii. Advise the City's Finance Department when the landowner or developer is in default of any of its obligations under the Development Agreement; and

- iii. Advise on the release and reductions against the Surety Bond based on the completion of works and satisfaction of obligations as required by the Development Agreement.

7. Monitoring and Compliance

- 7.1 Finance Department shall be responsible for monitoring and compliance with the Policy, including, but not limited to:
 - 7.1.1 Ensuring that all Departments accepting Surety Bonds conform to this Policy
 - 7.1.2 Confirming that Surety Bonds conform to this policy after receipt by Finance
 - 7.1.3 Accept or reject Surety Bonds that do not conform to the City's standard form of Pay-On Demand Surety Bond template, attached as Appendix A of this Policy

8. Definitions

- 8.1 **"Development Agreement"** is a legally binding agreement entered into between the City and a landowner or developer setting out the terms and conditions associated with land use development and regulates the provision of required on-site and municipal works required to service land under development applications. These agreements include, but are not limited to, Subdivision Agreements, Site Plan Agreements, Municipal Works Agreements and Preserving Letters/Agreements.
- 8.2 **"Security"** is a financial guarantee required to be provided by a landowner or developer under a Development Agreement to ensure the satisfactory completion of on-site and municipal works. This Security may be returned upon fulfillment of the agreement terms to the City's satisfaction. Alternatively, it may be used by the City to complete or rectify any deficiencies or works not performed in accordance with the Development Agreement.
- 8.3 **"Surety Bond"** or **"Pay-On Demand Surety Bond"** is a demanded bond which guarantees the assumption of responsibility for payment of Security in the event of default by a landowner or developer under a Development Agreement.
- 8.4 **"Surety Provider"** is a legally constituted and authorized entity licensed to act as the surety under a Surety Bond agreement.
- 8.5 **"Letter of Credit"** is a legal undertaking by a bank to honour, without inquiry, and make payment on specific demands of the holder. A Letter of Credit normally contains a specific expiry date but can be made to renew each year automatically. An "irrevocable" letter of credit is one which is not subject to change or cancellation by a bank.

9. References and Resources

This Council Policy should be read and applied in conjunction with the following references and resources as updated from time to time. Please note that some of the following documents may not be publicly available.

9.1 External references

- [Ontario Regulation 461/24](#)

9.2 References to related bylaws, Council policies and administrative directives

- [Letter of Credit 13.7.0](#)

9.3 References to related corporate-wide procedures, forms and resources

- [Acknowledgement Regarding Release of Security](#)
- [Development Agreement Pay-On Demand Surety Bond](#)

10. Revision History

Date	Description
2025/09/17	New. Approved by Council Resolution #C270-2025.
2029/09/17	<i>Next Scheduled Review. (typically, four years after approval)</i>