

Staff Report

Report To: Corporate Services Committee
Report From: Christine Gilbert, Deputy Treasurer
Meeting Date: July 10, 2025
Report Code: CR-25-054
Subject: Surety Bonds

Recommendations:

THAT in consideration of Staff Report CR-25-054 respecting Surety Bonds, the Corporate Services Committee recommends that City Council:

1. Approve the Surety Bonds and Letter of Credit Policy, substantially in the form attached to this report; and
2. Direct staff to finalize standardized surety bond templates and application forms, in consultation with external legal counsel, prior to accepting any surety bonds under the policy.

Highlights:

- New Provincial regulation requires municipalities to accept pay-on-demand surety bonds as a form of development security.
- The City currently accepts development security in the form of cash securities (Developer Deposits) or Letters of Credit.
- The attached policy outlines conditions for acceptance and administrative oversight to ensure risk mitigation and consistency.
- The policy is aligned with practices adopted by several Ontario municipalities, including Hamilton, Kingston, and Innisfil.
- This ensures the City remains compliant with the Planning Act while maintaining financial protections.

Strategic Plan Alignment:

[Strategic Plan](#) Priority: A City that Grows.

This policy supports responsible and efficient growth by providing developers with a broader range of acceptable financial securities, helping to reduce upfront barriers to development. By clearly defining the City's conditions for accepting surety bonds, the policy promotes development readiness while safeguarding municipal interests.

Climate and Environmental Implications:

There are no anticipated climate or environmental impacts.

Previous Report/Authority:

N/A

Background:

A surety bond is a financial instrument issued by a licensed insurance company (the surety) on behalf of a developer (the principal) that guarantees payment to the City (the obligee) if the developer fails to meet obligations under a development agreement.

Ontario Regulation 461/24, which came into effect on November 20, 2024, mandates that municipalities accept pay-on-demand surety bonds as a valid form of security for development-related agreements. The regulation outlines strict requirements for issuer licensing, credit ratings, payment timelines, and bond format to ensure municipal interests are protected.

Historically, the City has relied on letters of credit and cash securities to secure obligations related to site plan, subdivision, and servicing agreements. The adoption of this policy ensures compliance with updated provincial legislation and provides clarity to staff and developers regarding the use of surety bonds.

Analysis:

The introduction of surety bonds as a required form of security presents both opportunities and considerations for the City. While surety bonds are now mandatory to accept under Ontario Regulation 461/24, municipalities still have discretion to establish local conditions for their use, provided those conditions align with the regulation.

To help illustrate how surety bonds compare to the City's current accepted securities, the following table outlines the key characteristics, benefits, and drawbacks of surety bonds, letters of credit, and cash securities from a municipal risk and administration perspective:

Security Type	Description	Benefits	Drawbacks
Surety Bonds	Insurance-backed guarantee issued by a surety provider. Funds are paid upon default, on demand.	<ul style="list-style-type: none"> • Provincially regulated and now mandatory to accept • Reduces developer financial barriers since funds do not have to be provided in full upfront • Can be called as required 	<ul style="list-style-type: none"> • Requires legal vetting of format and issuer and compliance with Provincial criteria • Less commonly used, with limited municipal precedent • Risk of inadequate protection if issuer lacks sufficient credit or standing • Requires staff judgment on insurer acceptability, increasing administrative risk
Letters of Credit	Bank-issued, irrevocable commitment to pay the City on demand in event of default.	<ul style="list-style-type: none"> • Familiar and widely used • Strong bank backing • Simple to call if terms are met 	<ul style="list-style-type: none"> • Can expire, which requires tracking and renewal • Reduces developer credit availability as funds are typically required to be secured with the bank

Cash Securities	Developer deposits funds directly with the City, held until obligations are met.	<ul style="list-style-type: none"> • City has immediate access to funds • No third-party risk • Simple to enforce 	<ul style="list-style-type: none"> • Requires City to manage and maintain funds • Impacts developer liquidity • Administrative burden lies with the City.
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The proposed policy ensures that surety bonds are only accepted where they meet strict internal and Provincial standards, mitigating financial and administrative risks to the City. Staff will work with external legal counsel to finalize standardized templates prior to implementation.

Financial Implications:

There are no direct financial costs to implementing the policy. However, legal fees will be incurred in the development of standardized templates and in the initial review of submitted bonds to ensure they comply with the required conditions. These costs are expected to be manageable within existing departmental budgets.

While pay-on-demand surety bonds are Provincially regulated and must meet minimum standards, they may pose increased financial risk to the City in the event that they are more difficult to enforce or “call” than traditional letters of credit or cash securities. To date, this risk has not materialized, and staff do not anticipate issues with compliant bonds. However, because of the legal and administrative complexities involved, the City cannot quantify this potential risk at this time. The proposed policy mitigates these concerns through strict conditions for bond format, issuer eligibility, and legal review.

Communication Strategy:

Upon Council approval, the policy will be communicated to developers and consultants through pre-consultation processes, Planning and Engineering correspondence, and will be posted on the City’s website. Standardized templates will be circulated once finalized.

Consultation:

Manager of Planning & Heritage

Development Team

Municipal Treasurer Groups

Attachments:

AF017 - Draft Surety Bonds and Letter of Credit Policy

Recommended by:

Christine Gilbert, Deputy Treasurer

Submission approved by:

Tim Simmonds, City Manager

For more information on this report, please contact Christine Gilbert, Deputy Treasurer at cgilbert@owensound.ca or 519-377-3877.