



MANAGEMENT REPORT

Date: March 18, 2025
To: Finance and Labour Relations Sub-committee
From: Karmen Krueger, CPA, CA, Director of Corporate Services/Treasurer
Report Number: FIN25-010
Attachments: Administrative Securities Policy and Appendices

Title: Securities Policy

Objective: To advise Council of the introduction of a new administrative Securities Policy to ensure consistency and to protect the financial interest of the Municipality.

Background: The City often requires securities as a condition of a contract, development, subdivision, or site plan agreement to help ensure that financial and/or performance obligations are met. While these are often in the form of Letters of Credit (LOC), the drafted policy covers all forms of securities. Staff sometimes receive inquiries from stakeholders regarding the acceptable format of the LOC, or alternatives that the Municipality is willing to accept in place of an LOC. In the absence of a standardized policy and guidelines surrounding this process, staff must review and assess each request individually, which may not always result in a consistent approach to ensure risks to the City are mitigated consistently.

External legal counsel is also consulted, depending on the nature of the request.

Analysis: The purpose of this Securities Policy is to establish minimum standards for Letters of Credit and when Surety Bonds may be accepted to protect the financial interests of the Municipality. The policy defines the requirements for the use of LOC and Surety Bonds including:

- Acceptable letter format and content
- Issuing financial institution requirements
- Acceptable security alternatives
- Staff responsibilities

In place of certified cheques, bank drafts or money orders, Letters of Credit are a preferred option for the following reasons:

- They are an unconditional obligation of a financial institution to remit payment to the Municipality on demand.
- The issuing bank's obligation to pay is independent of the underlying contract, and therefore the Municipality does not need to prove a breach of contract and the extent to which we suffered damages.
- Letters of Credit are governed by their own legal principles rather than contract law and are therefore easier to enforce and collect upon.

The Securities Policy requires that all Letters of Credit be issued by Schedule I Banks, which are domestic banks authorized under Schedule I of the *Bank Act*. There are 34 Schedule I banks in Canada, including Royal Bank of Canada, Toronto Dominion Bank, Scotiabank, National Bank, Bank of Montreal, and Canadian Imperial Bank of Commerce (the Big Six). The complete list can be found on the [Justice Laws website](#).

Credit Unions are not listed in Schedule I of the *Bank Act* as these organizations are regulated by Provincial and territorial governments rather than the Federal Government under the *Credit Unions and Caisses Populaires Act, 2020*. Credit Unions are owned by their members, with a Board of Directors elected from the membership base.

The Securities Policy permits Letters of Credit issued by Credit Unions provided that certain conditions are met. One of these requirements includes being a member of [Central 1](#), which provides liquidity management and other related services to its member Credit Unions in Ontario. This condition is imposed to ensure adequate liquidity is maintained, which reduces the level of risk to the Municipality.

Other alternatives, such as Letters of Guarantee or Surety Bonds, generally are not preferred and will only be accepted where the City is legislatively required to accept them. Surety Bonds are demand instruments, and they involve a claims adjustment process whereby the surety must investigate the underlying default. This slows down the reimbursement process, and sureties may deny claims they believe are without merit. This poses a significantly higher risk to the Municipality.

When initially drafting this policy, the Provincial Government was consulting in the development of a regulation under s.70.3.1 of the *Planning Act* that would authorize landowners to stipulate pay-on-demand Surety Bonds to be used to secure municipal obligations that are conditions of land-use planning approvals, particularly draft plans of subdivision and site plan approvals through clauses included within their respective development agreements. A wider acceptance of pay-on-demand Surety Bonds may help homebuilders to free up funds for housing projects. This regulation has now been passed as [O. Reg 461/24](#).

Notwithstanding the intent of the regulation, Surety Bonds carry additional risks to municipalities as they have traditionally been more difficult to collect upon. While some developers may prefer Surety Bonds as they do not impact their borrowing capacity and are less costly to procure, they are not as desirable for the City but are an acceptable

alternative within the policy, in the strictest application as they relate to s.70.3.1 of the *Planning Act*.

The City's Director of Building and Planning Services has reviewed the new regulation relating to Surety Bonds. Given that there is no ability for the City to prohibit the use of Surety Bonds, the City needs to be prepared for accepting them when developers prefer this form of security. The City's solicitor has prepared supporting agreements that will be required in the case of development agreements to be signed by the developer and their surety company.

O. Reg 461/24 does incorporate various mandatory elements, enabling eligible Surety Bonds to operate more like Letters of Credit. Additionally, the regulation imposes further restrictions related to licensing and credit rating requirements to enhance the reliability of the Surety Bond. Among its provisions, the regulation requires that if an insurer intends to terminate a Surety Bond, the principal (developer) must provide the municipality with replacement financial security in the full amount of the bond at least 30 days before termination. This replacement security must be acceptable to the municipality, ensuring that financial guarantees remain in place to secure development obligations.

The Director of Corporate Services/Treasurer or delegate will review all securities submitted to ensure compliance with this Policy and will be involved in the release of or claim against any securities.

The policy does not explicitly address lot securities (i.e. property lots), however in some cases, these could be an acceptable alternative in a subdivision agreement, subject to specific circumstances and legal counsel.

This policy has been reviewed by the Chief Administrative Officer, members of the Corporate Leadership Team and specific members of the Corporate Management Team to ensure its operational implementation is feasible.

Financial Implications:

Financial impact to current year or future year operating budget:

There are no direct financial considerations, nor impacts to operating budgets associated with the development of this policy.

Legal considerations:

This policy has been developed to mitigate financial risks to the organization when securities are pledged. Any deviations or exceptions to this policy could increase the Municipality's financial risk.

Alignment with Strategic Priorities:

Enhance our Infrastructure

This report aligns with this priority as it ensures that appropriate financial controls are in place to protect the City's infrastructure and financial resources.

Alignment with One Planet Principles:

Not applicable: This financial policy and report do not directly align with the One Planet Principles.

Staff Recommendation: THAT the report titled, "Securities Policy" (FIN25-010), be received for information.

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