



The Corporation of the City of Stratford Policy Manual

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Policy Section:	Financial and Fiscal
Department:	Corporate Services
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Date of Last Review:	Not Applicable
Policy Type:	Administrative Policy

Securities Policy

Policy Statement:

Municipalities sometimes require assurance of repayment for certain types of agreements and work. For example, when approving a proposal to develop real estate, municipalities look for assurance that the necessary site improvements will be delivered in a timely fashion and warranted by the developer. To ensure that the developer has the necessary financial resources to deliver and pay for the required site improvements, municipalities typically require financial security from the developer.

Typical examples of when deposits or securities may be required include:

- Pre-servicing, servicing, subdivision, or condominium development agreements
- Site plan, re-zoning, or land division applications
- The issuance of a building permit or a conditional building permit
- The issuance of a site alteration, tree, or road cut permit
- Improvements to existing sites, where site plan approval or building permit is not required
- Damage deposits
- The procurement of supplies and services

Financial Institutions issuing Letters of Credit for acceptance by the City of Stratford must meet the credit rating criteria and submit the Letter of Credit in a form and content that matches the City of Stratford's Standard Letter of Credit Format.

Purpose:

The primary objective of the Securities Policy and Standard Letter of Credit Format is to ensure that monies provided as security will be available to the City of Stratford if required.

The City of Stratford routinely enters into agreements, such as subdivision and development agreements, where the customer is required to submit financial security in the event they are unable to meet their obligations under the agreement.

This Securities Policy and Standard Letter of Credit Format are designed to provide adequate protection to the City of Stratford as well as to be fair, reasonable, and provide flexibility to our partners providing securities.

The City can also accept land (lots) as an alternative form of security in specific circumstances within Subdivision Agreements, however this type of security is outside the scope of this policy. Detailed provisions within a specific agreement would outline the use, conditions, and release for this type of security. Using lots as security may be a viable option but involves multiple layers of analyses and processes to ensure municipal interests are protected. Exploring this could impact liquidity and flexibility in managing city infrastructure projects and financial planning and would be subject to specific subdivision agreements with legal counsel.

Definitions:

“Letter of Credit” means a document issued by a financial institution on behalf of its client to guarantee payment to the beneficiary (the City). This security can be drawn against should the client fail to meet their obligations under an agreement.

“Letters of Guarantee” is a document issued by a financial institution that ensures the City gets paid if the supplier itself cannot pay.

“Surety Bond” is a three-party contract by which one party (the surety) guarantees the performance or obligations of a second party (the principal) to a third party (the obligee, being in most cases, the City).

“Lot Security” refers to the specific provision of land in the case of subdivision or site plan agreements.

“Irrevocable” means cannot be revoked or amended without the agreement of both the beneficiary (the City) and the issuing financial institution.

“Unconditional” means payable on demand without enquiry by the financial institution as to the City’s right to make the demand and without recognizing any claim of our customer.

“Automatically Renewing” means extended automatically without amendment for one year from any present or future expiration date.

Scope:

This policy shall apply in any cases where securities are accepted for any agreement, however, is focused upon Letters of Credit, as these represent the most common types of securities obtained.

This Securities Policy and Standard Letter of Credit Format apply to any Letter of Credit required by the City of Stratford.

The development agreement will apply in cases where Surety bonds are accepted as security under the Planning Act regulations.

Any Letters of Credit held by the City of Stratford prior to the approval of this Letter of Credit Policy and Standard Letter of Credit Format will continue to be held.

Procedure:

The Securities Policy, Standard Letter of Credit Format Development Agreement attachment will be maintained by the Finance Department and may be provided to any customer required to provide the City of Stratford with a Letter of Credit. Any checklists developed are for internal purposes only. This policy will be available on the City’s website.

Allowable Forms of Security

In addition to Letters of Credit, security will be accepted in the form of cash, certified cheque, money order, or bank draft, which will be deposited to the City of Stratford’s bank account. No interest will be paid to the customer on these funds.

Letters of Guarantee will not be accepted as they are less liquid and do not provide the same advantages or risk protections as Letters of Credit.

At the time of this policy, the Province of Ontario as part of Bill 185, has passed O. Reg 461/21: Surety Bonds – Section 70.3.1 of the Planning Act which authorizes owners of land and applicants for approvals in respect of land use planning matters to stipulate that a Surety Bond may be used to secure an obligation imposed by the municipality that is required to be secured as a condition to an approval in connection with land use planning. All requirements for this option are outlined in O. Reg. 424/24 Surety Bonds – Section 70.3.1 of the Planning Act with prescribed features to secure municipal obligations. Acceptance of surety bonds is intended only in the limited sense of the O. Reg. as it is less preferred by municipalities due to risks of realizing the bond. Where Surety Bonds are to be accepted, the applicable development agreement shall stipulate the terms in a form acceptable to the City’s Director of Corporate Services/Treasurer.

General Background

Where the obligation to build most typically found in either a subdivision agreement, a site plan agreement, or other form of development agreement (in Ontario), the agreement will describe the services to be constructed by reference to plans and specifications prepared by the developer's consulting engineer and reviewed and approved by the municipality's engineer. The services are typically designed according to engineering design criteria prepared by the municipality and adopted by Council. This ensures that services will be constructed to an acceptable and common standard.

In the City of Stratford, the design criteria are provided in the "Infrastructure Standards and Specifications Manual", which is posted to the Cities website and is updated annually to accommodate new technologies, methodologies and materials considered by the City.

A development agreement governing the construction will contain clauses respecting the satisfactory completion of the services because ultimately, the services will be owned by the municipality and therefore the municipality will be responsible for the continued maintenance, repair and replacement of the services and will be responsible for any liability resulting from the operation and use of the services by members of the public. During the maintenance period described above (usually 2 years or more), the developer is responsible to make all repairs to any part of the system that does not perform to a satisfactory standard. This agreement will also contain certain financial provisions which are intended to guarantee to the municipality that the services will be completed to the approved specifications and that they will function appropriately.

A development agreement will usually also include provisions for works that the municipality does not assume, particularly those mandated through site plan approval. Such provisions are essential to ensure that the developer complies with requirements related to on-site stormwater management, parking layouts, and accessibility standards, as examples. The developer will be required to provide financial securities to guarantee the installation and functionality of these elements to the satisfaction of municipal standards and site-specific approvals. These securities will remain in place until such works are completed and have been inspected and approved by the municipality. This approach ensures that all necessary infrastructure is implemented effectively and is operational to a satisfactory standard before being considered for release of the held securities.

Criteria: Letters of Credit

- 1) Letters of Credit must be issued in Canadian funds.
- 2) Credit Rating Criteria

Letters of Credit matching the City of Stratford's Standard Letter of Credit Format will be accepted from Banks and Trust Companies having a credit rating of R-1 (middle) AA or higher.

Letters of Credit will be accepted from the following Canadian Financial Institutions:

- a) Schedule I Banks
 - Bank of Montreal
 - Bank of Nova Scotia
 - Canadian Imperial Bank of Commerce
 - National Bank of Canada
 - Royal Bank of Canada
 - TD Canada Trust

- b) Other Schedule I Banks, Schedule II Banks, and Credit Unions, provided that:
 - They have a DBRS Morningstar credit rating of R-1 (Mid) or higher, or an equivalent rating by the rating agencies Fitch Ratings, Moody's Investor Services or S&P Global Ratings.
 - The Credit Union has its Head Office in Ontario.
 - The Treasurer has approved such financial institution.
 - The bank maintains the minimum credit rating throughout the period the Letter of Credit is held by the City. Should the bank's rating fall below the minimum level, the developer will be required, at their expense, to replace the Letter of Credit with one that meets the minimum rating.
 - Should the Letter of Credit not be replaced within the time frame specified by the City, the City may at their discretion draw down the existing Letter of Credit upon written notification to the developer.

- c) Trust Companies and Credit Unions, provided that:
 - The cumulative total of all Letters of Credit from each financial institution shall not exceed 0.5% of Tier 1 Capital as reported on each financial institution's most recent audited financial statements, which must be provided.
 - The total financial institution portfolio holdings will not exceed 20% of the total letter of credit portfolio holdings.
 - Notwithstanding the foregoing, the City of Stratford reserves the right, in its sole discretion to deny the use of a Letter of Credit from an institution, if, in the opinion of the Treasurer there is reason to believe it will no longer satisfy the above criteria in the near or medium term.

Letters of Credit from non-domestic financial institutions will not be accepted.

3) Standard Letter of Credit Format

A copy of the City of Stratford's Standard Letter of Credit Format is included in Appendix A of this policy. A template can also be obtained from the Finance Division.

Changes or additions to the text of the Standard Letter of Credit Format are not acceptable.

Site or agreement specific information can be added in the header (RE:) area of the Letter of Credit. This information is not to be added within the body of the document.

All Letters of Credit must be unconditional, irrevocable, automatically renewing, and permit partial drawings. All letters of credit must be in Canadian dollars.

Unclaimed Securities

The Finance Division will periodically prepare a schedule identifying all outstanding securities that are five or more years old. The list will be forwarded to each department, requesting confirmation whether all or a portion of the securities should (1) continue to be held to secure the relevant obligations under the applicable agreement or by-law; (2) be drawn against to fund deficiencies and the money treated as liquidated damages for the obligations secured under the applicable agreement or by-law; or 3) released to the owner of the securities in accordance with the applicable agreement or by-law.

Where securities are to be released to the owner, the City will endeavour to contact the owner. Methods utilized shall include but are not limited to regular or registered mail and corporate searches. If the owner is found, the securities will be released to the owner. In the case where the owner cannot be located, a notice will be sent to the person who posted the security at their last known address or financial institution. Should the funds continue to be unclaimed, they shall be added to a listing which the Director of Corporate Services/Treasurer will prepare. This listing shall be published on the City's website and in local newspapers advising that all persons having any claim to any of the money listed are required to complete a deposit refund claim form and prove their claims within 90 days of the publication of the notice. Evidence of claim shall include satisfactory proof that they are the person who posted the original security or that they have some other legal right to the securities. Where the City is uncertain of the claim to the securities, the City may pay the money into court. The costs of advertising shall be borne by the securities. Upon expiration of the 90 days, all money for which there is no claim will be transferred to the City's general funds.

Administration

All letters of Credit and other allowable forms of security will be forwarded to the City of Stratford Finance Division for holding. The Finance Division under the direction of the Director of Corporate Services/Treasurer is responsible for approving and maintaining the security, and processing all reductions, releases and draws in

connection with internal processes.

Any requests for reduction or release must be submitted to the Finance Division by the responsible department using the Security Release Checklist (Appendix C). The Checklist must be approved by the staff member who has been authorized with responsibility for verifying that the obligations within the original contract have been met.

In cases of policy violation, the City may investigate and determine appropriate corrective action.

This policy shall be reviewed every five years or at the discretion of the Director of Corporate Services/Treasurer where clarification or changes are required to more effectively administer the policy.

Legislative Authority:

The Municipal Act, 2001

The Planning Act, RSO, 1999

O.Reg 461/24: Surety Bonds – Section 70.3.1 of the Planning Act

Related Documents:

- Purchasing By-law
- Road Cut By-law
- Site Alteration By-law
- Site Plan Agreement
- Subdivision/Development or Condominium Agreement
- Building Policies, Procedures and By-laws
- Planning Policies, Procedures and By-laws
- Development Charges By-law
- Appendix A – Standard Format for Letters of Credit
- Appendix B – Standard Format for Development Agreement Bond
- Appendix C – Security Release Checklist

Appendix A Standard Format for Letters of Credit

FINANCIAL INSTITUTION LETTERHEAD

Letter of Credit

No: Total

Amount: Date:

Branch:

To: The Corporation of the City of Stratford

UNCONDITIONAL IRREVOCABLE LETTER OF CREDIT

RE: (Use this line for any specifics related to the Site or Agreement. Examples:
**Address /Subdivision File #/ Phase/# / Site Servicing or Performance or
Topsoil/Erosion / Site Plan File #
Date of Registered Agreement and Instrument #**

**Please note: Changes or Additions to the text of the Standard Format below
this line will not be accepted)**

We hereby authorize you to draw on **(Bank's name and address)** for the account of **(Owner/Applicant name)** up to an aggregate amount of **(\$CDN and amount written in full)** available on demand as follows:

Pursuant to the request of our customer, the said **(Owner/Applicant name)**, we, **(Bank name)** hereby establish and give to you this Unconditional Irrevocable Letter of Credit in your favour in the total amount of **(\$CDN and amount written in full)** which may be drawn on by you at any time and from time to time upon written demand for payment made upon us by you which demand we shall honour without inquiring whether you have a right as between yourself and our said customer to make such demand and without recognizing any claim of our said customer.

Provided, however, that you are to deliver to **(Bank name and address)**, at such time as a written demand for payment is made upon us a certificate signed by you agreeing and/or confirming that monies drawn pursuant to this Letter of Credit are to be used to perform any outstanding obligations of our said customer to you.

Provided, however, that you are to deliver to **(Bank Name & Address)**, at such time as a written demand for payment is made upon us a statement signed by you stating that monies drawn under this Letter of Credit are drawn pursuant to the following:

Agreement or Site Plan Letter of Undertaking ("LOU"): *[please specify Agreement (and type) or Letter of Undertaking]*

Party(ies) to Agreement/LOU: *[Owner's name(s)]*

Legal Description of the Subject Lands: *[please include only Lot, Plan and Concession #]*

Application No.: *[reference Planning File #or Permit #]*

Development Name and Phase: *[field not mandatory – use if needed]*

and that the said monies will be used to fulfil the obligations of **(Owner's Name)** under the said Agreement or LOU.

The amount of this Letter of Credit shall be reduced from time to time as advised by notice in writing given to us from time to time by you.

Any written demand for payment under this credit must bear an intimation that it has been drawn under Letter of Credit Number _____, issued by the **(Bank's Name)**, dated _____, 20__.

Partial drawings are permitted.

This Letter of Credit shall **automatically extend for one (1) year from the present or any future expiration date hereof, unless thirty (30) days prior to any such date we shall notify you in writing, by Registered Mail**, that we elect not to consider this Standby Letter of Credit renewed for any such additional period. Upon receipt by you of such notice, you may draw hereunder by means of your demand accompanied by your written certification that the amounts drawn will be retained and used to meet obligations incurred or to be incurred in connection with the above Agreement or LOU.

We hereby covenant with drawers, drawn upon and in accordance with the terms of this credit that the same will be duly honoured if drawn and negotiated on or before _____, **20__ or any automatically extended expiry date.**

For **(Bank Name)**
(Signature)

Appendix B Standard Format for Development Agreement Bond

CITY OF STRATFORD LETTERHEAD

Development Agreement Bond

Bond Number: [insert bond number]	Amount: \$[insert bond amount in numbers]
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KNOW ALL PERSONS BY THESE PRESENTS, that **[insert name of Principal]**, as Principal (hereinafter called the "**Principal**"), and **[INSERT NAME OF SURETY]**, as Surety (hereinafter called the "**Surety**"), are held and firmly bound unto The Corporation of the City of Stratford (hereinafter called the "**City**"), in the amount of **[insert amount in words]** (\$**[insert amount in numbers]**), lawful money of Canada, for the payment of which sum, well and truly to be made, the Principal and the Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS the Principal and the City have entered into an agreement entitled "**[insert title of agreement]**" dated the **[insert day]** day of **[insert month]**, 20**[insert year]** in connection with a development located in the City of Stratford, Province of Ontario and legally described as **[insert land description]** (said agreement is by reference made a part hereof and is hereinafter referred to as the "**Development Agreement**");

NOW THEREFORE, the condition of this obligation is such that if the Principal shall perform the Development Agreement in accordance with its terms and fully indemnify the City from all losses and costs, including solicitor and client costs, which the City may suffer by reason of the Principal's failure to do so, then this obligation shall be void; otherwise, this obligation shall remain in full force and effect.

PROVIDED, however, the foregoing obligation is subject to the following conditions:

1. The Principal shall ensure that the Surety bond provided meets all of the requirements and obligations set out in Ontario Regulation 461/24 including but not limited to those requirements set out in section 2(2) of Ontario Regulation 461/24;

2. Whenever the Principal shall be declared by the City in its sole discretion in writing and in accordance with the terms of the Development Agreement to be in default under the Development Agreement ("**Default Notice**"), and the City intends to make a demand under this bond, the City shall notify in writing the Principal and the Surety of such default and provide a copy of the Default Notice to the Surety.
3. For each demand for payment under this bond ("**Demand**"), the City shall provide to the Surety a written notice, substantially in accordance with Schedule "A" to this bond setting out the amount of monies demanded to be paid to the City pursuant to this bond and the bond shall confirm that the City is guaranteed payment if the Principal defaults in performing any obligation guaranteed by the bond.
4. Upon receiving the Demand from the City, the Surety shall make payment to the City in the amount of the Demand within seven (7) business days to enable the City to remedy the Principal's default under the Development Agreement.
5. The City may make multiple Demands under this bond in its sole and absolute discretion.
6. The City shall provide to the Surety upon receipt of a reasonable request in writing by the Surety an accounting of the amounts expended by the City to remedy the Principal's default under the Development Agreement. In the event the total amount of all payments made by the Surety under this bond exceeds the amount required to indemnify the City to remedy the default of the Principal under the Development Agreement, the City shall return all excess payments to the Surety.
7. In no event shall the Surety be liable for a greater sum than the amount specified in this bond. For greater certainty, the amount of this bond is not and shall not be deemed to be cumulative from year to year.
8. Each payment made by the Surety under this bond shall reduce the amount of this bond by the amount of such payment.
9. No right of action shall accrue upon or by reason hereof to or for the use or benefit of any person other than the City.
10. Upon confirmation by the City in its sole and absolute discretion the performance of all of the Principal's obligations to the City under the Development Agreement, the City shall return this bond to the Surety for termination or advise the Surety in writing that this bond is terminated.

11. The amount of this bond may be amended only by written endorsement executed by the Surety and the Principal, and consented to by the City, substantially in accordance with Schedule "B" to this bond.
12. If the Surety at any time delivers at least ninety (90) days prior written notice to the City and to the Principal of its intention to terminate this obligation, the Principal shall deliver to the City, not less than 30 days prior to the termination of this bond, financial security in the amount of this bond in a form acceptable to the City to replace this bond. If the replacement financial security is not so provided by the Principal or is not accepted by the City, this bond shall remain in effect.
13. Notices to the Surety, including Demands, are to be delivered to the Surety at its office located at **[insert address of Surety's office]**, or at such other address as may be specified by the Surety in written notice delivered to the City.
14. Nothing in this bond shall limit the Principal's liability to the City under the terms and conditions of the Development Agreement.
15. This bond shall be governed by and construed in accordance with the laws of the Province of Ontario and the applicable laws of Canada. The parties attorn to the courts of the Province of Ontario and City of London in respect of all matters arising from and related to this bond.

IN TESTIMONY WHEREOF, the Principal has hereto set its hand and affixed its seal and the Surety has caused these presents to be sealed with its corporate seal duly attested by the signature of its authorized signing authority.

SIGNED AND SEALED this **[insert day]** day of **[insert month]**, 20**[insert year]**, in the presence of:

[INSERT NAME OF PRINCIPAL]

Per: _____

(print name and title of authorized signing officer)

[INSERT NAME OF SURETY]

Per: _____

City of Stratford Letterhead

SCHEDULE "A" TO DEVELOPMENT BOND

SPECIMEN DEMAND

[Insert Date]

[Insert Issuing Surety Name]

[Insert Issuing Surety Address]

and to:

[Insert Principal's Name]

[Insert Principal's Address]

Re: Bond No. [Insert Bond Number] dated [Insert Bond Date] for [insert full name of Principal] (hereafter referred to as the "Principal")

To Whom It May Concern:

This is a demand for payment of the City in the amount of Canadian dollars (\$**[Insert Specific Amount In Numbers]**) under the above-referenced bond. We hereby advise that the Principal has defaulted in performing an obligation as set out in the Development Agreement.

Please pay the amount demanded to The Corporation of the City of Stratford and deliver the payment to: **[Insert Delivery Instructions For The Payment Of The Demand]**

Yours Truly,

[INSERT NAME OF OBLIGEE]

By: _____
Name: **[Insert Authorized Name - City]**
Title: **[Insert Authorized Title - City]**

City of Stratford Letterhead

SCHEDULE "B" TO DEVELOPMENT BOND

SPECIMEN RIDER AMENDING BOND AMOUNT

Rider No. [Insert Number]

This rider is to be attached to and form part of bond number **[insert bond number]** dated the **[insert day]** day of **[insert month]**, 20**[insert year]** and issued on behalf of **[insert name of Principal]** ("Principal") by **[insert name of Surety]** ("Surety") in favour of The Corporation of the City of Stratford ("City").

WHEREAS the Principal and the Surety issued the Bond in favour of the City in the amount of **[\$[insert amount of bond in numbers]]**; and

WHEREAS on the **[insert day]** day of **[insert month]**, 20**[insert year]** the City authorized amending the amount of the Bond to **[insert amended amount of bond in numbers]**;

NOW THEREFORE IT IS HEREBY UNDERSTOOD AND AGREED THAT:

the Bond amount is amended to read:

[insert amended bond amount in words] \$[insert amended bond amount in numbers]

All other terms and conditions of the Bond remain unchanged.

This rider is effective as of the **[insert day]** day of **[insert month]**, 20**[insert year]**.

SIGNED AND SEALED this **[insert day]** day of **[insert month]**, 20**[insert year]**, in the presence of:

[INSERT NAME OF PRINCIPAL]
Per: _____

[INSERT NAME OF SURETY]
Per: _____

[INSERT NAME], Legal Counsel

Appendix C SITE PLAN AGREEMENT (SPA) SECURITY RELEASE CHECKLIST

SITE PLAN FILE No.:

ADDRESS:

SECURITIES COLLECTED	AMNT. RECEIVED	DATE RECEIVED	COLLECTED BY
SPA SECURITIES			PLANNING
DAMAGE DEPOSIT			ENGINEERING
OTHER			N/A

SECURITIES REFUNDED	AMNT. REFUNDED	DATE REFUNDED	APPROVED BY
SPA SECURITIES			PLANNING
DAMAGE DEPOSIT			ENGINEERING
OTHER			N/A

SECURITIES RELEASE REQUESTED BY	NAME	
	CONTACT PHONE	
	CONTACT EMAIL	

WHO TO RELEASE THE SECURITIES TO	NAME	
	CONTACT PHONE	
	CONTACT EMAIL	
	CONTACT REFUND ADDRESS	

DEPARTMENTAL APPROVALS	DATE OF REQUEST	DATE OF APPROVAL
EMAIL SUBMITTED TO DEPARTMENTS REQUESTING APPROVAL FOR FINAL SECURITIES RELEASE		

DEPARTMENT SITE COMPLETION CHECKLIST	APPROVED	DATE OF APPROVAL
<i>BUILDING SERVICES</i>	Select Person Completing Approval	
Review and Approval Completed	NO	
<i>COMMUNITY SERVICES DEPARTMENT</i>	Select Person Completing Approval	
Review and Approval Completed	NO	
<i>ENGINEERING DIVISION</i>	Select Person Completing Approval	
SWM COMPLIANCE LETTER	NO	
GRADING COMPLIANCE LETTER	NO	
AS-BUILT SURVEY (SEALED BY O.L.S.)	NO	
AS-BUILT SITE SERVICING	NO	
LANDSCAPING PLAN COMPLETE	NO	
INSPECTOR NAME	Select Person Completing Inspection	
INSPECTION COMPLETED	NO	
<i>FIRE DEPARTMENT</i>	Select Person Completing Approval	
Review and Approval Completed	NO	
<i>FESTIVAL HYDRO</i>	Select Person Completing Approval	
Review and Approval Completed	NO	
<i>PLANNING SERVICES</i>	Select Person Completing Approval	
Review and Approval Completed	NO	