

CITY OF
Burlington
Corporate Policy

Finance-Accounting

Letters of Credit for Development Agreements

Approved by Council on: November 19, 2024

Report Number: F-28-24

Effective: November 19, 2024

Reviewed on: Not Applicable

Amended: Not Applicable

Next Review: November 19, 2026

Note: Not Applicable

Objectives:

To establish requirements for the City's acceptance of Letters of Credit (LOC) as Security under Development Agreements, which requirements determine:

- when Letters of Credit may be accepted as Security in accordance with Development Agreements;
- what conditions apply to Letters of Credit that are provided as a form of Security; and,
- what conditions apply to Financial Security Providers issuing Pay-On-Demand Development Bonds.

This Policy seeks to ensure equitable and transparent administration of the use of Letters of Credit in the development process. This Policy, inclusive of Attachment A, "Letters of Credit Template" is available publicly.

Scope:

This Policy applies to development applications where Security is required under a Development Agreement to determine if a Letter of Credit maybe provided.

Policy Statement:

- A. Unless otherwise directed by Council or as set out in this Policy, a LOC will only be accepted by the City from Schedule I Banks and Schedule II Banks.
- B. Schedule I Banks and Schedule II Banks providing an LOC to the City must:
- Be federally regulated financial institutions under the Office of the Superintendent of Financial Institutions (OSFI) or its successor; and
 - Have a credit rating of at least R-1 (Mid) or higher as provided by the Dominion Bond Rating Service (DBRS) or an equivalent rating by one of the other acceptable agencies (i.e. Moody's or Standard and Poors).
- C. LOCs provided from Schedule I Banks and Schedule II Banks do not have an upset limit.
- D. Notwithstanding clauses A, B, and C above, the City may accept an LOC from an Alternative Financial Institution that meets all of the following conditions:
- i) The Alternative Financial institution has a minimum of \$100 million in total assets;
 - ii) The total value of LOCs accepted from an individual Alternative Financial Institution shall not exceed \$200,000, at the discretion of the City's Chief Financial Officer;
 - iii) The aggregate total of all LOCs accepted from Alternative Financial Institutions shall not exceed \$2 million; and,
 - iv) The Principal providing an LOC from an Alternative Financial Institution must provide a certificate of compliance from the Alternative Financial Institution confirming that meets all applicable federal, provincial and municipal regulatory requirements and is in good standing under all such regulatory requirements.
- E. The Principal must submit all information required by the City's Chief Financial Officer in order to determine the Principal's eligibility to provide an LOC under this Policy.
- F. In the event that a Financial Security Provider fails to maintain eligibility under this Policy, the City may require a new LOC from an acceptable Financial Security Provider that satisfies all the requirements of this Policy. This LOC will be provided

to the City within 30 days of the request. If the replacement LOC is not received, the City reserves the right to immediately Draw upon the original LOC.

G. The LOC to be provided to the City shall be an Unconditional Irrevocable Standby LOC with an annual Automatic Renewal provision. Written notification must be received by the City prior to the expiration if Automatic Renewal is terminated. If a replacement LOC is not received prior to the expiration, the City reserves the right to immediately Draw upon the original LOC.

H. LOCs shall conform to the standard format attached hereto as Schedule A. No deviations from the said standard form of LOC accepted unless reviewed and approved by the City's Chief Financial Officer in their sole discretion.

Definitions:

For the purpose of this Policy, unless otherwise stated, the following definitions shall apply:

Term	Definition
Alternative Financial Institution	Refers to a financial institution that satisfies the requirements of this policy and that is not a Schedule I Bank or a Schedule II Bank.
Automatic Renewal	The condition which states that the Letter of Credit will be automatically extended without formal amendment for a specified period beyond the stated expiry date.
Development Agreement	Refers to any agreement entered into between the City of Burlington and a Principal to regulate the provision of on-site and municipal works required to service land under development applications.

Term	Definition
Draw	When the City makes a written demand to a Financial Security Provider to release all or part of a Letter of Credit due to default fully or in part by a Principal on their contractual obligations to the City.
Financial Security Provider	Refers to Schedule I Banks, Schedule II Banks and Alternative Financial Institutions.
Irrevocable	Means that the Letter of Credit may not be revoked or amended without the mutual consent of the issuing financial institution and the City .
Letters of Credit or LOC	A form of financial security issued by a Financial Security Provider on behalf of their client (the Principal) that guarantees payment from the Principal to the City.
Principal	The party whose Security obligation under a Development Agreement is guaranteed.
Schedule I Banks	Refers to domestic banks authorized under Schedule I of the <i>Bank Act</i> to accept deposits
Schedule II Banks	Refers to foreign bank branches of foreign institutions that have been authorized under Schedule II of the <i>Bank Act</i> to do business in Canada
Standby	The Letter of Credit is payable on demand to the City with guarantee by the Bank on behalf of the Principal, ensuring payment even in the case the Principal cannot fulfill the payment.

Term	Definition
Unconditional	The Letter of Credit is payable on demand to the City without further documentary evidence of obligation, without enquiry by the issuing financial institution as to the City's right to make the demand, and without recognizing any claim of the Principal.

References:

Development Agreements are entered into under the *Planning Act* and the required Security that this Letters of Credit for Development Agreements Policy applies to is outlined in each of the respective Development Agreements.

Related Policy – Pay-On-Demand Surety Bond

Roles:

Accountable:

Manager of Financial Strategies & Business Consulting
Chief Financial Officer

Responsible:

The Letters of Credit for Development Agreement Policy shall be administered by the Department of Finance.