



Corporate Policy

Finance-Accounting

Pay-On-Demand Surety Bond Pilot Program Policy

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 Pay-On-Demand Surety Bond pilot program, which determine:

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

This Policy seeks to ensure equitable and transparent administration of the use of Pay-On-Demand Surety Bonds. This Policy, inclusive of Attachment A, "Development Agreement Pay-On-Demand Surety Bonds", is available publicly.

Scope:

This Policy establishes details and requirements of the pilot program approved by Council on June 18, 2024 through finance department report F-13-24, as outlined below.

This Policy applies to development applications where a Development Agreement is required to determine if a Pay-On-Demand Surety Bond may be provided as Security in accordance with the pilot program. The bonds received through the pilot program are to act in accordance with the City's letter of credits as contemplated in the Letters of Credit Policy.

Pay-On-Demand Surety Bond Pilot Program

The pilot program provides that the City may accept a maximum of five (5) developments bringing forward a site plan application within a two-year period, beginning on November 19, 2024 and ending on November 19, 2026, or when otherwise directed by Council or provincial regulation. The pilot program will run for the duration of each application, until the Security is drawn upon and/or returned to the Principal.

In order to be eligible to participate in the pilot program, a Principal must be able to secure a Pay-On-Demand Surety Bond from a Surety Provider that meets the requirements of this Policy.

Policy Statement:

1. A Pay-On-Demand Surety Bond shall only be accepted by the City as a form of Security where the following terms, conditions and requirements are met, and continue to be met during all times at which the Security requirement remains in place:
 - a) The scope of the Pay-On-Demand Surety Bond shall be limited to one (1) development agreement;
 - b) A Pay-On-Demand Surety Bond may only fulfill one (1) security requirement;
 - c) The Pay-On-Demand Surety Bond fulfills a new Security requirement, as requests to transition active Securities shall not be accepted;
 - d) The Pay-On-Demand Surety Bond shall be issued by a Canadian Surety Provider having a minimum credit rating of:

- i. "A" or higher as assessed by Dominion Bond Rating Service;
 - ii. "A-" or higher as assessed by Fitch Ratings;
 - iii. "A3" or higher as assessed by Moody's Investors Services Inc.;
 - iv. "A-" or higher as assessed by Standard & Poor's; or,
 - v. "A", or higher as assessed by AM Best Company Inc.;
 - e) The Pay-On-Demand Surety Bond shall be issued by a Surety Provider that is duly incorporated or constituted in Canada, validly existing and in good standing for no less than ten (10) years;
 - f) The Pay-On-Demand Surety Bond shall be issued by a Surety Provider that is overseen by the Financial Services Regulatory Authority of Ontario;
 - g) The Principal must submit all information required by the City's Chief Financial Officer in order to determine the Principal's eligibility to provide a Pay-On-Demand Surety Bond under this policy;
 - h) The Pay-On-Demand Surety Bond shall be in Canadian dollars; and
 - i) The Pay-On-Demand Surety Bond shall be irrevocable, unconditional, shall constitute a primary obligation and shall be in the form and on the terms of Attachment A, "Development Agreement Pay-On-Demand Surety Bonds".
2. When, in the opinion of the City's Chief Financial Officer, a Pay-On-Demand Surety Bond received and held by the City no longer provides adequate protection or a Surety Provider subsequently ceases to meet any or all of the requirements of this Policy, the City may, at its sole and absolute discretion, require Alternative Security. The Alternative Security must be provided to the City without negotiation within fifteen (15) days of demand for same, after which the original Pay-On-Demand Surety Bond will be returned and/or exchanged for the Alternative Security. In the event the Alternative Security is not received as required, the City reserves the right to immediately draw upon the original Pay-On-Demand Surety Bond.

3. No deviations from the approved form of Attachment A, "Development Agreement Pay-On-Demand Surety Bonds" will be accepted.
4. Notwithstanding anything in this Policy, the City's Chief Financial Officer may, in its sole and unfettered discretion, decline to accept a Pay-On-Demand Surety Bond for any reason.

Definitions:

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

Term	Definition
Alternative Security	A letter of credit, bank draft, valid certified cheque, money order, electronic fund transfer or wire that satisfies all applicable City policies.
Development Agreement	A Site Plan Agreement entered into in accordance with section 41 of the <i>Planning Act</i> .
Pay-On-Demand Surety Bond	A bond which guarantees the assumption of responsibility for payment of Security in the event of default of a Development Agreement.
<i>Planning Act</i>	R.S.O. 1990, c. P.13, as amended
Principal	The party whose Security obligation is guaranteed (i.e., developer).
Security	An amount provided to the City by a Developer under a Development Agreement to secure for the completion of the Developer's obligations under such Development Agreement.

Term	Definition
Surety Provider	A company licensed under the <i>Insurance Act</i> , R.S.O. 1990, c. I.8 to provide surety in the form of Pay-On-Demand Bond that meets the requirements of this Policy.

References:

Development Agreements are entered into under the *Planning Act* and the required Security that this Pay-On-Demand Surety Bond Pilot Program Policy applies to is outlined in each of the respective Development Agreements.

Related Policy – Letters of Credit

Roles:

Accountable:

Manager of Financial Strategies & Business Consulting
Chief Financial Officer

Responsible:

The Development Agreement Pay-On-Demand Surety Bond Pilot Program Policy shall be administered by the Department of Finance.