



Council Policy

Policy Number: ply_SER_DEV_Development_Agreement_Securities_Policy

Development Agreement Securities

Date Approved by Council: February 8, 2022

Resolution No.: 032/22

Mayor: "Original Signed - Alanna Hnatiw"

County Commissioner: "Original Signed - Reegan McCullough"

1. Purpose

This purpose of this policy is to confirm the forms of security the County will accept as required in a development agreement between the County and a landowner, developer, or designate entering into a development agreement.

2. Revision History

<i>Approval Date</i>	<i>Revision Number</i>	<i>Modification</i>
<i>Day/Month/Year</i>		<i>New Document</i>

3. Persons/Areas Affected

County Administration
County Commissioner
Stakeholders

4. Definitions

The following definitions and interpretations apply to this policy:

Administration means the County Commissioner or his delegates.

Construction Completion Certificate or *CCC* means a certificate issued pursuant to the conditions of the Development Agreement.

County means the Municipality of Sturgeon County.

County Commissioner means the Chief Administrative Officer of the County.

development agreement or *servicing agreement* means an agreement which an applicant or developer enters into with the County pursuant to the *Municipal Government Act* (MGA) regarding the development of land. This agreement can include provisions for the servicing of lands, payment of off-site levies, and security and is required as a condition of a development permit or subdivision approval.

development bond means a type of contract performance insurance, guaranteeing the required municipal improvements are completed properly, and in a timely manner. This form of insurance provides the County the right to file claims against the development bond underwriter when seeking financial compensation for damages or any deficiencies caused by the principal or developer.

Final Acceptance Certificate or *FAC* means a document confirming that the construction and installation of the municipal improvements, and the warranty period, have been completed.

GMSS means the County's General Municipal Servicing Standards, which is a document intended to provide specific guidelines to assist the County and developers in the design, preparation, and submission of plans and specifications for construction of municipal improvements and systems that will meet the servicing requirements for commercial, industrial, and residential subdivision development within the County.

letter of credit means an irrevocable letter of credit issued by a chartered bank, credit union, or any other financial institution.

municipal improvements means all improvements within or adjacent to the lands to be subdivided or developed, including but not restricted to:

- gravel or paved roadways, including pavement markings;
- sidewalk, curb, and gutter;
- storm water drainage swales and municipal ditches;
- paved or gravel lanes, walkways, and Emergency Vehicle Accesses;
- water, sanitary, and/or storm service connections;
- water, sanitary, and storm sewer lateral lines;
- shallow utilities including electrical distribution, street lighting, natural gas, telephone, and cable television;
- landscaped berms, boulevards, medians, municipal reserves, and public utility lots;
- traffic control signs, street name identification signs, and subdivision information signs;
- and
- subdivision entrance features.

security means financial consideration, based on a percentage of the construction cost, provided by a stakeholder and that is held by the County to ensure that any development components of a project are completed to accepted engineering standards and in accordance with a development agreement signed by both parties.

stakeholder means a landowner or developer (or designate) entering into a development agreement.

5. Policy Statement

5.1. The County will accept securities only in the form of cash, certified cheque, automatically renewing irrevocable letter of credit, or development bond and as confirmed in a signed development agreement. Payments by credit card will not be accepted.

6. Procedures

6.1. Security is to be provided in the form of cash, certified cheque, automatically renewing irrevocable letter of credit, or a development bond.

6.2. The amount of security to be provided by a stakeholder is as follows:

- a) For development agreements that are required as a condition of approval of a subdivision, and prior to endorsement of the subdivision, the security will be 25% of the estimated cost of construction for all municipal improvements, including landscaping. Cost estimates are to be certified by a registered engineer as defined in the County's GMSS and approved by the County.
- b) Where a stakeholder wants to endorse a subdivision without having all CCCs issued, security/insurance equal to 125% of the construction costs of the outstanding municipal improvements must be provided to the County prior to endorsement.
- c) At the discretion of the County, an updated construction cost schedule will be required if there are outstanding municipal improvements before endorsement can occur. This schedule will need to be certified by a registered engineer as defined in the County's GMSS and is to be provided at the developer's expense.
- d) For development agreements that are required because of the approval of a development permit, the security/insurance will be 125% of the approved estimated cost of construction for all municipal improvements, including landscaping.
- e) After the County has issued Construction Completion Certificate(s) for each municipal improvement, the County shall:
 - i. In the case of security provided as cash, certified cheque, or automatically renewing irrevocable letter of credit, reduce (or release if no warranty period applies) the applicable cash, certified cheque, or letter of credit by 50%. However, the minimum security amount retained by the County shall be the lesser of \$50,000 or twice the construction cost of the municipal improvements for which Final Acceptance Certificates have not been issued.

- ii. In the case of security provided by way of a development bond, the County will provide a written approval or request for the bonding company to process any reduction or increase in the bond amount. The minimum bond amount retained by the County shall be the lesser of \$50,000 or twice the construction cost of the municipal improvements for which Final Acceptance Certificates have not been issued.
 - f) After the County has issued a Final Acceptance Certificate, the County will reduce the security it holds by another 40% with the last 10% of security released or returned once as-built construction drawings have been provided to the County.
- 6.3. If a letter of credit is provided as security, the following requirements apply when the developer's financial institution issues the letter of credit/guarantee:
- a) Must be issued by a Canadian financial institution, local credit union, or local treasury branch;
 - b) Must list Sturgeon County as a beneficiary;
 - c) Must be stated in Canadian dollars (numeric and text);
 - d) Shall be unconditional, irrevocable and payable at sight;
 - e) The initial term must be no less than one year but may be more than one year;
 - f) The expiry date must fall on a weekday that is not a statutory holiday;
 - g) The letter of credit must be in its original form and contain the original authorized signatures;
 - h) The letter of credit must include an automatic renewal clause where the expiry date is extended for a further one-year term, without amendment, unless 60 days' notice is given by the bank in writing and delivered by registered mail to the correct beneficiary's address; and
 - i) Partial withdrawals must be allowed.
- 6.4. If a development bond is provided as security, the following requirements apply when the customer's bond company issues the development bond:
- a) Must be entered into with a surety company licensed in Canada and Alberta with a minimum AM Best credit rating of A- or better;

- b) Must be stated in Canadian dollars (numeric and text);
- c) Shall be unconditional, irrevocable, and payable on demand;
- d) The terms of the development bond must match the term of the applicable development agreement;
- e) Partial withdrawals must be allowed;
- f) The development bond provider is responsible for the security, maintenance, and validity of the development bond; and
- g) The development bond must be in a form and content acceptable to Sturgeon County.

7. Responsibilities

The County Commissioner shall ensure administrative compliance with this Policy.

8. Review Period

This policy shall be reviewed by Administration at least every five years.

9. Cross Reference

Off-site Levy Policy
Fees and Charges Bylaw