



Alternative formats and communication supports available upon request. Please contact accessibility@brantford.ca or 519-759-4150 for assistance.

Date December 14, 2022 **Report No.** 2022-698

To Chair and Members
Finance Committee

From Joelle Daniels
Director and Finance and City Treasurer

1.0 Type of Report

Consent Item ☐
Item For Consideration ☒

2.0 Topic **Securities Held for Subdivision and Development Project Policy [Financial Impact – None]**

3.0 Recommendation

- A. THAT report 2022-698, Securities Held for Subdivision and Development Project Policy, BE RECEIVED; and
- B. THAT the necessary by-law to amend by-law 70-2010, Being a By-law to adopt various policies of the City of Brantford and to create a Corporate Policy Manual, by adopting Finance Policy 016 – Securities for Subdivision and Development Services Policy BE PRESENTED to City council for adoption.

4.0 Executive Summary

Where financial security is required by the Corporation of the City of Brantford (City) as a term of any contract for Subdivisions or Development Projects this new Finance policy will provide guidelines for the various acceptable forms of securities that the City of Brantford will accept.

5.0 Purpose and Overview

The purpose of this policy is to ensure that monies to guarantee the installation of services will be available to the City when required. This policy will provide guidelines which will direct the form in which these securities will be accepted by the Municipality.

This policy is to be interpreted and applied in accordance with the requirements of the *Municipal Act*, 2001 (“the Act”) and any regulations passed thereunder (“the regulations”). Terms used in this policy have the meanings applicable to those terms in the corresponding sections of the Act and the regulations.

6.0 Background

Historically, where financial security is required from a contractor or a developer to ensure that a contract is performed as required, the City of Brantford’s preferred posting methods have included Irrevocable Letters of Credit and Certified Cheque. A letter of credit is a formalized document provided by an issuer (often a banking institution) guaranteeing payment of funds for a set period of time. They can also be automatically renewable. On behalf of developers, banks issue letters of credit to the municipality which can be drawn down on or cashed in the event work is not completed by the developer in accordance with the development agreements and approved plans and drawings. A certified cheque is a form of payment which demonstrates applicants/developers through their respective banking institutions have provided sufficient and readily accessible funds which can be drawn upon if works are not completed in accordance with the formalized contracts and agreements.

Within recent years, Ontario municipalities working alongside their respective development communities have looked at alternative methods for posting financial security in addition to Irrevocable Letters of Credit and Certified Cheque. This review has included reevaluating surety bonds as an appropriate method for posting securities as part of development agreements. In the past, surety bonds have included a requirement on municipalities to demonstrate default to the Surety company prior to drawing on the bond. This has created an environment where it was more common for sureties to dispute a claim.

7.0 Corporate Policy Context

This report seeks to establish a formal Finance Policy for securities being held by the City for Subdivisions and Development Services.

7.0 Input From Other Sources

This policy has been developed with input from the Legal and Planning departments.

8.0 Analysis

During the City of Brantford staff review and in consultation with the development community as part of the Development Approvals Process (DAP) Review in the spring of 2022, it was observed that surety providers are taking steps to improve surety bonds in comparisons to letter of credit and certified cheques. Over approximately the past two years, the language of the “contemporary” surety bond has been amended to make surety bonds behave more like letters of credit. In particular, surety bonds are now automatically renewing and are paid on demand without having to prove default. Surety bonds, similar to a letter of credit, are arranged between three parties; the Obligee (the municipality), the Principal (the developer), and the Surety (the provider/ Insurance company). Where a letter of credit from a financial institution guarantees developers can provide payment of funds to the municipality in the event work is not completed in accordance with the contract, surety bonds rely on the Surety to provide and guarantee funds to the municipality for deficient work (recognizing the Principal and the Surety have established the surety bond through a separate agreement structure).

Where financial security is required from a contractor or a developer to ensure that a contract is performed as required, the City will now accept Irrevocable Letters of Credit, Certified Cheque or Surety Bonds. These securities are used to protect the City in the event a contractor/subdivider defaults on their contractual obligations to the City. The Policy recommended in this report would outline criteria needed to be identified in the security offered to ensure consistency between the different forms of security. The policy will also provide a form template outlining certain criteria which the City will demand in order to accept a surety bond as security. In addition, the City will retain the right to refuse a surety bond for any reason. This will allow staff to tailor the type of security that the City accepts for any given project to ensure the City is adequately protected. Each of these financial instruments are considered very secure and are reasonably simple to draw funds from in the event of a contract breach. The policy sets out the criteria for considering which types of securities and the form that they must take in regards to Subdivision Agreements and Development Projects where a financial security is requested by the City. A security policy helps define the standards and guidelines for permitted

functionality. This plays an important role in our overall security posture as part of our prudent risk management.

Finance Policy 016 – Securities for Subdivision and Development Services is a new policy which establishes acceptable forms of securities that can be received by the City to serve as a guarantee to the municipality in the event work is not completed in accordance with the contract between the City and the Customer. Acceptable forms of securities are Letters of Credit, Surety Bonds and Cash. It remains at the discretion of the City to determine which form of security is appropriate for the particular project. Funds are committed to the project until such time that the agreement has been fulfilled to the City's specifications. The security is then released to the Principal upon completion.

9.0 Financial Implications

There is no direct financial implications with adopting the recommendation in this report.

10.0 Climate and Environmental Implications

N/A

11.0 Conclusion

The adoption of Finance Policy 016 - Securities for Subdivisions and Development Services is being recommended for approval, and addition to the Corporate Policy Manual.



Joelle Daniels
Director of Finance/City Treasurer

Prepared By:

Wanda Harding, Manager of Accounting

Attachments (if applicable)

Appendix A: Finance Policy 016 – Securities for Subdivision and Development Services

Appendix B: Securities for Subdivisions and Development Services Bylaw

Copy to:

In adopting this report, is a by-law or agreement required? If so, it should be referenced in the recommendation section.

By-law required ☒ yes ☐ no

Agreement(s) or other documents to be signed by Mayor and/or City Clerk ☐ yes ☒ no

Is the necessary by-law or agreement being sent concurrently to Council? ☒ yes ☐ no