

## Surety Bond Policy

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Approved By: Regional Council

Approved On: June 26, 2025

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### Policy Statement

A policy governing the use, application and acceptance of Surety Bonds, including Performance Bonds, Labour and Material Payment Bonds, and Pay-on-Demand Bonds by the Region.

### Application

This policy applies to the use of Surety Bonds as security for construction contracts exceeding the low dollar value purchase maximum amount as defined in the Procurement Bylaw, and approvals with respect of land use planning matters, and other financial obligations.

### Purpose

This policy establishes the objectives, standard of care, roles and responsibilities for accepting Surety Bonds, including Performance Bonds, Labour and Material Payment Bonds, and Pay-on-Demand Bonds. This policy will help achieve the following outcomes:

- Provide developers with greater financial flexibility
- Help facilitate the development of more residential and non-residential buildings

### Definitions

**Surety Bond:** A guarantee provided by a surety company (insurer). The surety guarantees that what has been promised to the obligee (owner) under the contract will be fulfilled by the principal (contractor).

**Surety Bond Review Committee:** A committee comprised of representatives from the Finance Department and Legal and Court Services who review and make determinations regarding the need for bonding, the bonding limits required, and potentially claiming against the bond.

**Surety company:** An insurer that will guarantee contract performance and/or financial obligations on behalf of their client by way of a Surety Bond, including Performance Bonds, Labour and Material Payment Bonds, and Pay-on-Demand Bonds. The surety company must be licensed under the *Insurance Act, 1990* to write surety insurance and be an active institution monitored by the Office of the Superintendent of Financial Institutions (OSFI).

## Description

### 1. Objectives of Surety Bond Policy

The objectives of the Surety Bonds policy are to ensure:

- Region contracts with financially strong contractors and service providers
- Contracts are fulfilled without additional financial impact to the Region
- Developers fulfill land use approval and infrastructure obligations as required

Contractors and developers must undergo thorough financial scrutiny by the surety company before Surety Bonds will be provided. Companies that do not meet the required financial criteria will not be able to obtain these bonds. Surety companies also closely monitor the projects and cashflow position of their bonded contractors as the mismanagement of resources could result in non-performance of a contract.

The Region will ensure that all bonds, at required limits, are submitted before any contract or approved land development commences and that such bonds are available should a default situation occur.

### 2. Bonds covered under this policy

- a) Performance Bond: The *Construction Act*, R.S.O. 1990, c. 30 requires contractors to furnish public owners with performance and labour and material bonds guaranteeing contracts over \$500,000.

This bond is a guarantee to the owner (Region) that a contractor will perform its obligations under a contract. Should the contractor default, the Region may call upon the surety to complete the contract. This type of bond may be used to secure performance of construction contracts, facility operating contracts and other service-type contracts or procurement of “special” manufactured goods contracts.

- b) Labour and Material Payment Bond: This bond is a guarantee to the owner (Region) that a contractor will pay the accounts of subcontractors and suppliers who perform work and/or provide materials under a construction contract. Should the contractor default, the Region may call upon the surety to pay the subcontractors and suppliers in accordance with the terms of the Labour & Material Payment Bond. This type of bond will be exclusive to construction contracts.
- c) Pay-on-Demand Surety Bond: Section 70.3.1 of the *Planning Act*, R.S.O. 1990, c. P. 13 requires municipalities to accept pay-on-demand surety bonds from owners of land and applicants for approvals, in respect of land use planning matters, to secure an obligation imposed as a condition of such approval.

This bond is a promise to the owner (Region) by a surety company to pay an agreed amount, on demand, if the principal (developer) fails to meet its agreed-upon development or land use obligations.

### 3. Credit Rating Requirement

Subject to Ontario Regulation 461/24, as amended from time to time, to minimize credit risk in instances of a Pay-on-Demand Surety Bond, the surety company will meet or exceed one of the following credit ratings:

- Dominion Bond Rating Service as “A” or higher
- Fitch Ratings as “A-” or higher
- Moody’s Investors Service Inc. as “A3” or higher
- Standard and Poor’s as “A-” or higher
- A.M. Best Company, Inc. as “A-” or higher

Performance and Labour and Material Payment bonds accepted by the Region will be issued by surety companies that meet the credit rating criteria listed above unless otherwise authorized by the Commissioner of Finance and Regional Treasurer or delegate.

### 4. Timely Payment

The surety company will pay the Region, in accordance with the terms of the Pay-on-Demand Surety Bond, for amounts demanded by the Region in writing to the principal and surety company.

Payments relating to Performance and Labour and Material Payment bonds will be administered according to the terms of such bond and the *Construction Act*.

## **5. Pay-on-Demand Surety Bond Acceptance or Replacement**

Notwithstanding anything in this policy, the Region may, in its sole discretion, decline a Pay-on-Demand bond, including a request to exchange security under this policy, if in the opinion of the Region it fails to meet the criteria established either under this policy or Ontario Regulation 461/24.

When the Region is holding a surety bond and is no longer satisfied that the surety bond provides adequate protection, or the surety company ceases to meet any of the requirements of this Policy:

- The Region may require a new security to its satisfaction to be provided to the Region within ten days of demand for same
- The original surety bond will be returned and/or exchanged for the replacement security

If the new security is not received as required, the Region may draw upon the original surety bond and otherwise take such steps as permitted in law as the Region, in its discretion, considers necessary.

## **6. Bond Forms and Submission**

Performance and Labour & Material Payment bonds will be submitted in forms compliant with the *Construction Act*, as applicable, or in the Region-approved forms for non-construction contracts.

Pay-on-Demand bonds will be submitted in the form attached to the policy, unless otherwise authorized by the Commissioner of Finance and Regional Treasurer or delegate.

All surety bonds will be submitted in electronic format, through a third-party verification service acceptable to the Region.

## **7. Security Reductions – Infrastructure Obligations**

If an infrastructure obligation is secured through a bond, under this policy, the Region may agree to reduce the bond's value to secure the warranty period of the infrastructure works following completion of the associated works.

## **8. Non-Planning Approval Related Pay-on-Demand Surety Bond Uses**

The Region may, at its sole discretion, accept Pay-on-Demand Surety Bonds to secure financial obligations (e.g., development charges deferrals or prepaid development charges credit agreements), or otherwise, that are not prescribed under section 70.3.1 of the *Planning Act*. The rules for such acceptance will be

guided by the terms under this policy and authorized by the Commissioner of Finance and Regional Treasurer or delegate.

### **9. Transition to Pay-on-Demand Surety Bonds**

Subject to the terms under this policy, and to the Commissioner of Finance's discretion, security provided by any existing Letters of Credit may be replaced by a Pay-on-Demand surety bond upon the date this policy takes effect. Any associated costs or fees will be paid by the principal under the bond.

### **10. Legal and Administration Fees**

All legal fees of the applicant, developer and Region, including any costs incurred by the Region to prepare any other agreements required by the Regional Solicitor and General Counsel, and other associated administration fees, will be paid by the principal under the bond.

### **11. Ontario Regulation 461/24**

For greater clarity, as it relates to Pay-on-Demand Surety Bonds, if Ontario Regulation 461/24 is ever revised or amended, or a new Regulation is introduced applying to section 70.3.1 of the *Planinng Act*, such that it conflicts with this policy, the new or amended Regulation will prevail.

### **12. Effective Date**

This policy will take effect the day it is passed by Regional Council and may be repealed by Council at any time.

## **Responsibilities**

### **Commissioner of Finance and Regional Treasurer**

- Overall responsibility to manage this policy

### **Director of Controllershship Office or designate**

- Oversee and ensure implementation of this policy and procedures
- Delegate administrative duties under this policy
- Ensure requirements under the policy are met
- Oversee actions of the Surety Bond Committee and its decisions
- Support Surety Bond Committee decisions regarding surety bond requirements

### **Regional Solicitor and General Counsel**

- Responsible for administration of construction-related Surety Bonds
- Advise and support circumstances that may result in the Region making a claim against a surety bond
- Support Surety Bond Committee

### **Project/Program Managers and Procurement Office or designates**

- Ensure all contracts, agreements, and procurement documents have met the requirements under this policy and its associated procedures
- Ensure all bonds are duly received and forwarded to the Controllership Office, Legal and Court Services or other departments in accordance with procedures
- Administer and renew non-construction bonds for department projects
- Bring forward issues to the Surety Bond Committee for determination
- Support the Surety Bond Committee

### **Surety Bond Committee Members**

- Ensure committee determinations are made with the best interests of Region
- Act as risk ambassadors respecting the use of surety bonds to protect the Region

## **Compliance**

The **Director, Controllership Office**, shall ensure compliance with the *Planning Act*, R.S.O. 1990, c. P. 13, the *Construction Act*, this policy and all other legislative requirements.

The **Director, Corporate Shared Financial Services**, will have responsibility for administration of Pay-on-Demand bonds, including claims and final release.

## **Reference**

### **Legislative and other authorities**

- [Construction Act, R.S.O. 1990, c. C.30](#)
- [Planning Act, R.S.O. 1990, c. P.13](#)

- [Ontario Regulation 461/24](#)
- [Council Report, 2026 Development Charges Bylaw - Update, June 26, 2025](#)
- Surety Bond Procedures (eDOCS #6449179)
- [Procurement Bylaw 2021-103](#)
- [Fees and Charges for Services and Activities Bylaw 2020-04](#)

## Contact

Title	Director, Controllership Office
Branch	Controllership Office
Department	Finance Department

## Approval

Council Date: <a href="#">June 26, 2025</a>	Committee Date: <a href="#">June 12, 2025</a>
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