Corporate Policy

Subject: Development Agreement Surety Bond Policy

Council Approval Date: July 8, 2025

Report Number: Staff Report 2025-0413

Reviewed on: July 8th, 2025, Council Meeting

Amended: NA

Next Review: July 2030

Repeals or Replaces: None

Purpose:
The purpose of this Policy is to ensure the equitable and transparent administration of the use of a Surety Bond for a Development Agreement. Acceptance of a Security Bond which meets certain requirements ensures that the interests of the Town are protected.

This policy identifies:

- the Town's requirements for the format of a Surety Bond,
- the requirements which must be met by the issuing Surety Provider,
- the requirements which must be met by the Principal (i.e. developer),
- acceptable alternatives to a letter of credit, and
- responsibility for the administration of a Surety Bond.

Definitions:

Term	Definition
Development Agreement	Refers to any agreement entered into between the Town of Caledon (the "Town") and a landowner to regulate the provision of on-site, off-site and/or municipal works required for the appropriate development of land under a development application, and includes, but is not limited to a Subdivision Agreement, Site Plan Agreement, Construction Agreement, Shared Services Agreement and Consent Agreement.
Principal	The party whose obligation is guaranteed (i.e. developer).
Security	An amount of funds required to be provided under a Development Agreement which will ultimately be returned to the Principal after the terms of the Development Agreement have

	been executed and carried out to the Town's satisfaction, but may be drawn upon in the event of a contravention to the Development Agreement obligations, or from time to time at the discretion of the Town.
Surety	The party that assumes the obligation if the Principal cannot.
Surety Bond	A bond which guarantees the assumption of responsibility for payment of Security in the event of a default under a Development Agreement.
Surety Provider	A company that is determined to be legally capable of acting as the Surety in a Development Agreement.

Scope:

This Policy is applicable in all cases in which a Surety Bond is being provided as Security for a Development Agreement.

A Surety Bond may be provided on the terms set out in this Policy for any Development Agreement which requires Security and may be for the full amount of Security required or for a portion if supplemented with a letter of credit, certified cheque, bank draft or cash, and only where the language in the associated Development Agreement permits a Surety Bond.

Principles of the Policy:

Provide flexibility to the development community in acceptable forms of securities associated with a Development Agreement where risks to the municipality can be minimized.

Policy Statement:

This Policy outlines the requirements of a Surety Bond to be an acceptable form of Security for a Development Agreement. A Surety Bond that is accepted by the Town must meet specific requirements where the Surety Bond is being proposed as Security under a Development Agreement.

This Policy is applicable in all cases in which a Surety Bond is being provided as full or partial Security for a Development Agreement.

Where financial Security is required by the Town as a term of any Development Agreement, a Surety Bond may be satisfactory financial Security provided it is issued to and received by the Town in accordance with the following terms and conditions:

1. The Developer must complete a Request to Post Surety Bond in the form attached hereto as Appendix "B" and submit this to the Town Treasurer. The Town Treasurer and the applicable Department Head (or their designate), in consultation with the Town's Chief Legal Officer, will review and determine whether to approve the request.

2. The Development Agreement Surety Bond shall be issued by an insurer that is licensed under the Insurance Act to write surety insurance and that is rated:

   a. "A" or higher as assessed by Dominion Bond Rating Service; or

   b. "A-" or higher as assessed by Fitch Ratings; or

   c. "A3" or higher as assessed by Moody's Investors Service Inc.; or

   d. "A-" or higher as assessed by Standard and Poor's; or

   e. "A-" or higher as assessed by A.M. Best Company, Inc.

3. The issuing Surety Provider shall be incorporated in Canada for not less than ten (10) years and issue Surety Bonds in Canadian dollars.

4. The issuing Surety Provider must be an active institution monitored by the Office of the Superintendent of Financial Institutions (OSFI).

5. When a Surety Provider that has issued or has confirmed a Surety Bond received and held by the Town subsequently ceases, in the opinion of the Town Treasurer, to meet all or any of the requirements of this Policy, the Town may, in its sole discretion, require a new Security to its satisfaction, to be provided to the Town within ten (10) days of demand for same, and the original Surety Bond will be returned and/or exchanged for the replacement Security. In the event the new Security is not received as required, the Town may draw upon the original Surety Bond.

6. Where there is doubt as to the credit rating or other qualification of a Surety Provider, the Town Treasurer shall be satisfied that the Surety Provider meets the requirements of this Policy.

7. The Surety Bond to be provided to the Town issued by a Surety Provider shall be irrevocable and shall be in the form and on the terms of the "Development Agreement Surety Bond" template attached hereto as Appendix "A".

8. Notwithstanding anything in this Policy, a. the Town may, in its sole discretion, decline a Surety Bond for any reason; and b. when a Surety Bond has been received and is being held by the Town, and the Town is no longer satisfied that the Surety Bond adequately provides adequate protection, the Town may require a new Security to the satisfaction of the Town Treasurer, to be provided to the Town within ten (10) days of demand for same, and the original Surety Bond will be returned and/or exchanged for

the replacement Security. In the event the new Security is not received as required, the Town may draw upon the original Surety Bond.

9. Any deviations from the approved form of Development Agreement Surety Bond template shall be reviewed by and are subject to approval of the Town Treasurer, in consultation with the Town's Chief Legal Officer.

Consequences of Non-Compliance:

If the Surety Bond is not able to meet this policy to the Town's satisfaction an alternative form of Security will be required.

Alternative forms of security include letters of credit, certified cheque, bank draft or cash. If any of these are provided as Security for a Development Agreement, the funds must be forwarded to the Finance Division for processing. No interest will be paid by the Town.

Roles:

Managers/Supervisors: The Manager, Revenue/Deputy Treasurer is responsible for the review and safekeeping of all Surety Bonds (or acceptable alternatives) received by the Town, and for processing all draws, reductions or releases of Surety Bonds.

Town Treasurer: All Surety Bonds and Requests to Post Surety Bonds are to be personally delivered or sent by courier or registered mail to the attention of the Town Treasurer. The Town Treasurer will inform the requesting Department upon receipt of an acceptable Surety Bond and forward that to the Manager, Revenue/Deputy Treasurer.

Department Heads and Other Staff: Assist the Town Treasurer as outlined in the Policy and provide information to developers regarding this Policy.

Review Cycle:

This Policy will be reviewed at a minimum of every five years, but no failure to review this Policy within such time frames shall invalidate its provisions.

Reference and Related Documents:

Appendix A – Development Agreement Surety Bond template

Appendix B – Request to Post Surety Bond

Development Agreement – Surety Bond Template Form

Policy:	Development Agreement Surety Bond Policy
Policy Application:	Town Development Agreement Surety Bond Security
Approval Date:	July 8, 2024 (Staff Report 2025-0413)
Approval Authority:	Council, approved by Council Resolution No. 2025-063

APPENDIX "A" TO TOWN OF CALEDON
DEVELOPMENT AGREEMENT SURETY BOND POLICY

DEVELOPMENT AGREEMENT BOND NO.: [NTD: Insert] (the "Bond") in the amount of Cdn.$ [NTD: Insert](the "Bond Amount").

KNOW ALL PERSONS BY THESE PRESENTS, that:

[NTD: Insert Principal Name]

as Principal, hereinafter called "Principal"

and

[NTD: Insert Surety Name]

as Surety, hereinafter called "Surety"

being a Surety licensed under the *Insurance Act* (Ontario) R.S.O. 1990, c. I.8, as amended or replaced from time to time that has a financial strength rating of "A-" or better as assigned by A.M. Best Company, Inc. or an equivalent rating assigned by a similar rating agency acceptable to The Corporation of the Town of Caledon, or otherwise acceptable to The Corporation of the Town of Caledon. Hereunder, the Surety is held and firmly bound to The Corporation of the Town of Caledon, as Obligee, hereinafter called "Obligee", in the amount of [NTD: Spell Amount] Dollars (Cdn.$ [NTD: Insert Dollar Amount]) in lawful money of Canada pursuant to the Principal's request to post a surety bond as set out in Schedule "B", Developer's Request to Post Surety Bond attached hereto, for the payment of which sum, well and truly to be made, the Principal and the Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS the Principal and Obligee have entered into, or will enter into, an agreement with reference number [NTD: Insert Caledon Development Agreement Reference Number] with respect to lands in the Town of Caledon known as [NTD: Insert Municipal Address] (said agreement is incorporated by reference and is made a part hereof and is hereinafter referred to as the "Development Agreement").

NOW THEREFORE, the condition of this obligation is such that if the Principal shall, in the opinion of the Obligee, do and perform all of the stipulations, conditions, covenants and terms of the Development Agreement to the satisfaction of the Obligee, then this obligation shall be void and of no effect; otherwise, it shall remain irrevocable and in full force and legal effect.

PROVIDED, however, the foregoing obligation is subject to the following terms and conditions:

1. Whenever the Principal shall be declared in writing by the Obligee to be in default under the Development Agreement, and the Obligee intends to make a claim under this Bond, the Obligee shall promptly notify the Principal and the Surety in writing of such default in the form attached to this Bond as Schedule “A”, Development Agreement Surety Bond DEMAND – NOTICE OF DEFAULT (“Demand(s)”).

2. On determination by the Obligee, in its sole and absolute discretion, that the Principal is in default of its obligations under the Development Agreement, the Surety and Principal agree that the Surety will make payments to the Obligee for amounts demanded by the Obligee, up to an aggregate of the Bond Amount, within fifteen (15) business days after the Surety’s receipt of a Demand from the Obligee at the address noted herein by hand or courier.

3. This Bond is irrevocable and payment is guaranteed and will be made regardless of any objection by the Principal. Where a Demand in the prescribed form (Schedule “A” hereto) has been delivered to the Surety, it shall be accepted by the Surety as conclusive evidence of its obligation to make payment to the Obligee, and the Surety shall not assert any defence or grounds of any nature or description for not making payment to the Obligee, in whole or in part, pursuant to such Demand, including but not limited to any of the following reasons: that a Default has not occurred, that the Principal committed any fraud or misrepresentation in its application for the Bond, or that the amount set out in the Demand is not appropriate, warranted or otherwise not in accordance with the Development Agreement. The Surety's liability under this Bond shall not be discharged or released or affected by any arrangements made between the Obligee and the Principal or by any dispute between the Surety and Principal, or the taking or receiving of security by the Obligee from the Principal, or by any alteration, change, addition, modification, or variation in the Principal’s obligation under the Development Agreement, or by the exercise of the Obligee or any of the rights or remedies reserved to it under the Development Agreement or by any forbearance to exercise any such rights or remedies whether as to payment, time, performance or otherwise (whether or not by any arrangement, alteration or forbearance is made without the Surety’s knowledge or consent). All payments by the Surety shall be made free and clear without deduction, set-off or withholding.

4. The Obligee may make multiple Demands under this Bond.

5. The amount of the Bond may be reduced from time to time as advised by notice in writing by the Obligee to the Surety.

6. Each payment made by the Surety under this Bond shall reduce the “outstanding” amount of this Bond.

7. In no event shall the Surety be liable for a greater sum than the amount of this Bond.

8. No right of action shall accrue upon or by reason hereof to or for the use or benefit of any person other than the Obligee.

9. When the Principal has completed all works required by the Development Agreement to the Obligee’s satisfaction, all obligations under the maintenance and rectification periods contained within the Development Agreement have been satisfied, and the Principal has completed all requirements under the Development Agreement to the satisfaction of the Obligee in the Obligee’s sole and absolute discretion, the Obligee shall return this Bond to the Surety for termination or advise the Surety in writing that this Bond is terminated, in compliance and in accordance with the terms of the Development Agreement.

10. If the Surety at any time delivers at least ninety (90) days prior written notice to the Obligee and to the Principal of its intention to terminate this obligation, the Principal shall deliver to the Obligee, not less than thirty (30) days prior to the termination of this Bond, financial security in the amount of this Bond in a form acceptable to the Obligee, in its sole and absolute discretion. If the replacement financial security is not provided by the Principal or is not accepted by the Obligee, this Bond shall remain in full legal effect and shall not be terminated.

11. Nothing in this Bond shall limit the Principal’s liability to the Obligee pursuant to the Development Agreement.

12. This Bond shall be governed by and construed in accordance with the laws of the Province of Ontario and the laws of Canada applicable thereto and shall be treated, in all respects, as a contract entered into in the Province of Ontario without regard to conflict of laws principles. The Principal and Surety hereby irrevocably and unconditionally attorn to the jurisdiction of the courts of the Province of Ontario.

13. All Demands and notices under this Bond shall be delivered by hand, registered mail or courier to the Surety, with a copy to the Principal at the addresses set out below, subject to any change of address in accordance with this Section. All other correspondence may be delivered by regular mail, registered mail, courier, or email. A change of address for the Surety is publicly available on the *Financial Services Regulatory Authority of Ontario* website. The address for the Principal may be changed by giving notice to the other parties hereto setting out the new address in accordance with this Section.

Surety	Principal	Obligee
[NTD: Insert Name]	[NTD: Insert Name]	[NTD: Insert Name]
[NTD: Insert Address]	[NTD: Insert Address]	[NTD: Insert Address]
[NTD: Insert Email]	[NTD: Insert Email]	[NTD: Insert Email]
[NTD: Insert Phone]	[NTD: Insert Phone]	[NTD: Insert Phone]

IN TESTIMONY WHEREOF, the Principal has hereto set its hand and affixed its seal and the Surety has caused these presents to be sealed with its corporate seal duly attested by the signature of its authorized signing authority.

SIGNED AND SEALED this_____day of _____, 2026:

[NTD: Insert name of **PRINCIPAL**]

Per: _____
Name:
Title:

Per: _____
Name:
Title:

I/We have authority to bind the Corporation.

[NTD: Insert name of **SURETY**]

Per: _____
Name:
Title:

Per: _____
Name:
Title:

I/We have authority to bind the Corporation.

Schedule "A"
DEVELOPMENT AGREEMENT SURETY BOND POLICY
DEMAND – NOTICE OF DEFAULT
(The Corporation of the Town of Caledon)

Date: [NTD: Insert Date]
Surety: [NTD: Insert Name]
Address: [NTD: Insert Address]
Attention: [NTD: Insert Individual's Name]

Re: Development Agreement Bond No. [NTD: Insert Bond #] (the "**Bond**")
Principal: [NTD: Insert Principal's Name] (the "**Principal**")
Obligee: [NTD: Insert Obligee's Name] (the "**Obligee**")
Agreement: [NTD: Insert Town Development Agreement #] (the "**Development Agreement**")

Pursuant to the above referenced Bond, The Corporation of the Town of Caledon hereby declares a default under the Development Agreement.

We hereby Demand that the Surety honour its fifteen (15) business day payment obligation as per the terms and conditions of the Bond and we hereby certify that we are entitled to draw on the Bond pursuant to the terms of the Principal's Development Agreement with the Town and request payment of Cdn.$ [NTD: Insert $ Amount] under the terms of the Bond.

Town Payment Instructions:

[NTD: Insert Payment Instructions to Surety]

Yours truly,

[NTD: Insert Town Signature Line]

Name: [NTD: Insert Name]
Title: [NTD: Insert Title]

Schedule "B"
DEVELOPMENT AGREEMENT SURETY BOND POLICY
DEVELOPER'S REQUEST TO POST SURETY BOND
(The Corporation of the Town of Caledon)

Date of Request:	[NTD: Insert Date]
Developer's Name:	[NTD: Insert Developer's Name](the "**Developer**")
Development Location:	[NTD: Insert Development Location](the "**Development**")
Surety Bond Provider:	[NTD: Insert Bond Provider's Corporate Name]
Amount of Security Posted:	[NTD: Insert Dollar Amount]

Years' Experience of Surety: _____
Years Incorporated in Canada/Issuing Surety Bonds in Canadian Dollars: _____
Surety Bond Provider Monitored by OFSI?: _____
Credit Rating of Bond Provider (Attach proof): _____

Dear Town of Caledon,

Pursuant to the Development Agreement to be entered into with the Town in accordance with the above noted Development, we are requesting that the Town approve the use of a Surety Bond as a form of security under the Development Agreement pursuant to Ontario Regulation 461/24 (Surety Bond(s)).

We are aware of the requirements of the Town of Caledon's Development Agreement Surety Bond Policy and understand that the Town shall utilize the information provided herein to determine suitability of the Developer's proposed Surety Bond request.

Yours truly,

[NTD: Insert Principal Signature Line]

Name: [NTD: Insert Name]
Title: [NTD: Insert Title]