



Corporate Financial Policy Performance Security

APPROVED DATE

NEXT REVIEW DATE

PURPOSE

This Policy is to establish a framework of what type and when performance security is required for bidding opportunities, purchasing contracts, and Servicing Agreements.

Security is sought to increase the likelihood that contractors and developers satisfy their contractual obligations as well as reducing the City's associated financial exposure due to a contractor or developer failure.

POLICY SCOPE

- This Policy applies to all City staff.
- This Policy applies to Purchasing Branch bidding opportunities and contracts as well as servicing agreements arranged by the Development Engineering Branch according to the particulars in this Policy.
- When performance bonds are requested, they are to be issued from a surety that is licensed to perform surety services in the Province of British Columbia.
- When a Letter of Credit (LOC) is requested it will be an unconditional irrevocable perpetual standby LOC or otherwise in a form acceptable to the Finance Department. LOCs are to be issued by a chartered bank, credit union, or trust company.
- Purchase agreements and lease agreements for real property, as transacted by the Real-estate Department, are exempt from this Policy.

RESPONSIBILITY

- The Purchasing Branch is responsible for the setting of values, requesting and receiving of any purchasing related security.
- The Development Engineering Branch is responsible for the setting of values, requesting and receiving of any developer security for Servicing Agreements.
- The City's Finance Department is responsible for the care and custody of security when it is in the form of cash or as a LOC and will do so in accordance with applicable policy and procedure.
- In the case of a bond, the department or branch accountable for project managing the contract will be responsible to provide project updates to the surety when one is requested and will provide an immediate notice to the surety of potential, or actual, performance failure of the contractor on the project.

POLICY STATEMENT - PURCHASING

- Bid security is only utilized when a binding bid solicitation process is used (Contract A/B tendering), the value is set at 10% of the bid price.
- Bonding is the primary and preferred type of security. This preferred type of security is due to the rigor a surety applies in qualifying a contractor and underwriting of the project by issuance of a bond.
- The Purchasing Manager or designate may, but is not required to, accept alternate types of security. Those other types may include but are not limited to, cash, certified cheque, or a LOC.
- The Purchasing Manager or designate has the authority to adjust security requirements for any bidding opportunity or purchasing contract but will do so in consultation and consideration of user departments and others as determined.
- Projects that require security include construction and significant maintenance service contracts.

- a. However, if there is a reasonable possibility that there would be a material negative impact to the City by failure of any contractor, in the assessment of the Purchasing Branch, Purchasing may request security for any contract.
 - b. Likewise, if there is no reasonable expectation of a material negative impact to the City by failure of a contractor, for example a replacement contractor can be easily secured or delayed service is a nuisance but there is no material impact to service availability to the public, no security may be required.
- The following security requirements will apply to Purchasing contracts.

Contract Type	Performance Security	Labour & Material Security
Significant maintenance services (for one year when multi year)	50%	Nil
Common construction work of \$100,000 or more but under \$200,000.	50%	Nil
Common construction work of \$200,000 or more.	50%	50%
High-risk contracts, of all types. Are when contractors have an un-common skillset and/or would be difficult to replace and/or project failure would reasonably result in a significant negative impact on City operations and/or citizens.	100%	100%

POLICY STATEMENT – DEVELOPMENT ENGINEERING

- Performance and Maintenance security as well as Insurance are key components of a Servicing Agreement, pursuant to City of Kelowna Subdivision, Development & Servicing Bylaw No. 7900 and the Servicing Agreement template contained within Schedule 2.
- Performance security means either a certified cheque or a LOC.
- Maintenance security means a deposit in the form of cash, certified cheque or Letter of Credit as noted below.
- Performance and/or Maintenance bonding, as issued by a Surety, are not accepted for Servicing Agreements.
- The Development Engineering Manager or designate may, but is not required to, accept alternate types of security. Those other types may include but are not limited to bonding from a surety.
- The following security requirements will apply to servicing agreements:

Security Type	Cash	Certified Cheque	Letter of Credit
Performance	N/A	All	>\$50,000
Maintenance	<\$5,000	All	>\$5,000

RELATED REFERENCES

- *Bylaws*
 11477 – Purchasing Bylaw
 7900 – Subdivision, Development & Servicing Bylaw
- *Policy*
 Purchasing

Effective Date	Revised Date	Authorized By	Approved By
Day/Month/Year	Day/Month/Year	@ Division Director	@ City Manager