

## **Financial Security for Development Charges Payment Programs**

Date: February 1, 2021

To: City Council

From: Chief Financial Officer and Treasurer

Wards: All

### **SUMMARY**

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This report responds to a request from Executive Committee to provide information about the types of financial security accepted by other municipalities for development charges payment programs.

### **RECOMMENDATIONS**

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The Chief Financial Officer and Treasurer recommends that:

1. City Council receive this report for information.

### **FINANCIAL IMPACT**

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There are no financial impacts arising from the adoption of this report.

### **DECISION HISTORY**

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At its meeting on January 27, 2021, Executive Committee considered the report "Development Charges Policy Updates" and directed staff to report directly to the February 2 and 3, 2021 meeting of City Council on a scan of other municipalities in the Greater Toronto Area and region with respect to what methods these municipalities are utilizing to obtain security as part of the development charges process.

<http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2021.EX20.4>

## COMMENTS

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The following provides a summary of the types of financial security accepted by surrounding jurisdictions related to development charges payment programs.

### **Financial Security Accepted for Development Charge Payment Programs**

Staff engaged 35 municipal partners comprised of the municipalities in the Greater Toronto Area as well a number of larger municipalities in Ontario to gather information on the types of financial security accepted in surrounding jurisdictions related to development charges alternate payment programs.

The City received 18 responses representing a 51% response rate. Four municipalities (22%) responded indicating that they do not offer alternate payment programs at the moment. Out of the 14 municipalities that do offer programs, the most widespread form of financial security accepted are letters of credit (12 municipalities or 86%) followed by cash or cash equivalents, such as certified cheques, bank drafts and money orders (5 municipalities or 36%). Of the 14 municipalities that offer programs, nine municipalities (64%) indicated that letters of credit and cash equivalents are the only forms of financial security accepted.

Three municipalities accepted first mortgage or second mortgages as a form of financial security. One municipality does not require financial security and one municipality requires a restrictive reserve agreement. A summary of the responses by municipality is provided in Attachment 1.

The new deferral programs introduce significant collection risk to municipalities because unlike the present policy of collecting development charges at the time of building permit issuance without which the permit can be withheld, the City has no ability to withhold the permit. The new deferral programs introduced by the Province defer payments for five (5) or twenty (20) years. Outstanding development charges can be added to the property tax roll, but the Province has yet to introduce measures to ensure collection such as priority lien status. As a result the City assumes the collection risk, in the event of default and disposition of the property that development charges will fall behind all other claims on the property.

In order to ensure collections and protect the City from a loss due to a bad debt, particularly since collection risks increase with longer-term deferral programs or where there is a change in ownership, financial security is taken to mitigate the risk of non-payment. Financial security varies in terms of costs to the City, the level of administration involved, as well as the level of collection risks that the City assumes. Letters of credit and cash or cash equivalents are guaranteed by financial institutions and are a well understood, easy to administer and secure form of financial security used for many decades. This form of financial security transfers the collection risk to the financial institutions which are suited to manage this risk. These are the lowest cost to municipalities and carry the least amount of risk of incurring a loss due to a bad debt. It is only at this low level of risk of collection loss for the City to use its cost of capital as an appropriate interest rate to be in effect for the deferral program.

Other forms of financial security introduce a high level of risk of loss due to a bad debt, administration and other costs such as legal or collection costs. For example, a second mortgage charge on title to land do have collection risks and higher administrative requirements. There are costs to register the mortgage, undertake legal proceedings, pay any associated real estate fees that must be borne by the City and the City would still not have a guarantee of collection because the City could be behind other secured creditors. Collections can only be enforced upon the assumption of the property and the liquidation of the asset through a disposition process. Once liquidated, municipalities may not recoup all the charges if there are other lenders ahead of the second mortgage, such as first mortgages.

## **Conclusions**

Based on a survey of surrounding jurisdictions, letters of credit along with cash or cash equivalents are the more commonly accepted forms of financial security for development charges payment programs. Other types of security, such as second mortgage charge on title to land, are used on a much more limited basis. In evaluating what form of financial security to accept, the City must weigh the collection risks, administrative implications, costs, the implications to stakeholders and the City's related strategic objectives and as a result staff currently accept letters of credit as the only viable type of financial security and do not recommend accepting other forms of security.

## **CONTACT**

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## **SIGNATURE**

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Heather Taylor  
Chief Financial Officer and Treasurer

## **ATTACHMENTS**

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Attachment 1: Financial Security Accepted in Surrounding Jurisdictions

## Attachment 1: Financial Security Accepted in Surrounding Jurisdictions for Development Charges Payment Programs

MUNICIPALITY <sup>3,4</sup>	LETTER OF CREDIT	CASH EQUIVALENTS <sup>1</sup>	MORTGAGES <sup>2</sup>	NONE	RESTRICTIVE RESERVE AGREEMENT
Barrie	✓				
Burlington	✓				
Durham	✓				
Guelph	✓	✓			
Halton	✓	✓	✓		
Hamilton			✓		
London <sup>4</sup>				✓	
Markham	✓				✓
Milton	✓	✓			
Mississauga	✓	✓			
Peel	✓	✓			
Vaughan	✓				
Windsor	✓				
York	✓		✓		
<b>Total</b>	<b>12</b>	<b>5</b>	<b>3</b>	<b>1</b>	<b>1</b>

### Notes:

- (1) Includes cash, money order, certified cheques or bank drafts depending on the municipality
- (2) Includes first, second or third mortgages depending on the municipality
- (3) The municipalities of Caledon, Oakville, Oshawa and Waterloo (Region) responded indicating that they have no alternate development charges payment programs at the moment.
- (4) The alternate payment programs in London provide that rental housing is given the option to pay at permit issuance instead of in instalments over 5 years starting at occupancy; non-profit housing is given the option to pay 1-2 years after permit issuance instead of in instalments over 20 years starting at occupancy.