

# Annual Report on City Loans and Loan Guarantees

## Appendix 2: Amended Loan Guarantee Policy

### Purpose:

The purpose of this policy is to provide a framework for the City of Toronto ("City") to consider requests from eligible entities for the provision of capital loan or line of credit guarantees as may be required in support of third-party capital loans or lines of credit.

Requested financial guarantees for consideration must be deemed to be in the best interests of the City and a local community, while minimizing financial risks to the City.

Loan guarantees represent a contingent liability for the City. This means, should the borrower default on a loan that is supported by a City loan guarantee, the City would become responsible for the payment of all or a portion of the outstanding loan amount, to the maximum of the guarantee.

Where the City becomes obligated to make a payment under a loan guarantee, the Chief Financial Officer and Treasurer ("CFO") is authorized to fund the immediate legal obligation of the City. The responsible program area, together with the CFO, shall report to the next available Executive Committee meeting on the circumstances of the default.

### Authorities:

The *City of Toronto Act, 2006*, section 83(2)(a) provides the power to guarantee a loan that Council considers to be in the interests of the City.

### Definitions:

A City capital loan guarantee, or line of credit guarantee (both, "loan guarantees"), is a financial obligation made by the City, to a third-party lender, in support of a loan or line of credit made to an eligible City agency or entity, where the lender has requested such a guarantee as a condition of agreeing to lend to the borrower.

#### 1. Line of Credit Guarantee

A line of credit is a short-term operating loan, up to a pre-set maximum limit, which is used by operating entities in their day-to-day operations, to bridge a timing gap between cash inflows and outflows. A line of credit guarantee may be required where the lender identifies a need for additional security.

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In considering a request for a line of credit guarantee, the entity must demonstrate that it is managing its cash flows adequately. In addition, the entity must pledge its operating cash inflows and/or other security to the lending financial institution in support of its line of credit.

Total outstanding City line of credit guarantees are limited to \$10 million in aggregate.

### *2. Capital Loan Guarantee*

A capital loan is provided to finance a capital project, or the acquisition of a capital asset. To be eligible for a loan guarantee, the capital loan must not be used for operational purposes nor to address operating deficits.

Total outstanding City capital loan guarantees are limited at \$300 million in aggregate, with an individual loan guarantee limited to a maximum of \$10 million.

### **Eligibility:**

#### *Eligible entities*

Eligible entities must have an existing financial relationship with the City, meaning that they are recipients of operating grants or other subsidies and/or that the entity's annual budget must be provided to Toronto City Council for its consideration and approval.

Entities eligible for line of credit guarantees are non-profit local community and cultural entities.

Entities eligible for capital loan guarantees are non-profit sporting, recreational and community entities which are seeking to acquire or upgrade their facilities.

All financial guarantees must be deemed to be in the best interests of the City and local communities.

#### *Eligible financial Institutions*

Loan Guarantees may be considered in support of loans made to eligible entities by the following eligible financial institutions:

- a Bank listed in Schedule I or Schedule II to the *Bank Act (Canada)*;
- a loan corporation or trust corporation registered under the *Loan and Trust Corporations Act*; or
- a credit union, or central, to which the *Credit Unions and Caisses Populaires Act, 2020* applies.

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In addition, the financial institution must be rated by at least two (2) accredited credit rating agencies in Canada (which credit rating agencies include Standard & Poor's Corporation, Morningstar DBRS, Moody's, and Fitch Ratings) and must have a minimum credit rating of "A". In the case where the ratings are split, the higher of the ratings will prevail and must be a minimum of "A".

### Requirements:

Loan guarantees should only be considered where the requesting entity meets the eligibility criteria and is able to demonstrate through its business plans/forecasts its financial viability and capacity to repay the funds, to the satisfaction of the CFO.

#### *Line of Credit Guarantees:*

The entity must demonstrate that it is pledging its operating cash inflows and/or other security to the lending financial institution in support of its line of credit.

#### *Capital Loan Guarantees:*

With respect to capital loan guarantees, the duration of the underlying loan shall not exceed the useful life of the asset being constructed, nor may it exceed the remaining term of any related leasing and/or operating agreements. The term of the loan guarantee cannot exceed the term of the underlying loan.

#### *Equity Contribution:*

In considering providing a capital loan guarantee to an eligible entity, the level of firm financial commitment from that entity to the capital project must be at least fifteen percent (15%) of the overall project capital cost, with the amount required based on assessed risk. The information presented to the City must be to the satisfaction of the CFO. The equity contribution may be generated through means including grants, sponsorships, or other fundraising efforts.

#### *Required Information/Documentation to be Provided*

At the time of an initial request for a loan guarantee or a request for a loan guarantee agreement extension, information to be provided by the requesting eligible entity to the City shall include the following, at a minimum:

- Documented evidence from at least two separate eligible financial institutions, that the eligible entity will be denied sufficient and reasonable financing without a City loan guarantee;

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- Copy of audited financial statements for the preceding three (3) fiscal years, as well as the most recent interim (may be unaudited) financial statements if nine (9) months or more have passed since the latest fiscal year end;
- Current debt schedule disclosing the details of all outstanding loans and leases;
- Listing of entity's secured creditors and collateral pledged to those creditors; and
- During the term of a loan guarantee agreement, annual audited financial statements must be provided no later than four (4) months after each fiscal year end.
- *For Capital Loan Guarantees:*
  - explanation as to why the underlying capital project is necessary;
  - explanation outlining the potential benefit of the capital project;
  - business plan including proforma budgets and cash flows for the next three (3) years, detailing sources of funding and financing;
  - details of capital project costing, capital procurement details. The City may require verification of project costs by a qualified third-party where the third-party costs are to be paid for by the eligible entity;
  - longer-term cash flow forecast demonstrating the ability to meet loan repayments throughout the term of the underlying loan; and
  - during the term of the loan, periodic cash flow reporting for the entity, with the required timelines to be determined by the CFO on a case-by-case basis.
- *For Line of Credit Guarantees:*
  - explanation as to why the underlying line of credit is required;
  - cash flow forecast demonstrating the ability to meet loan repayments throughout the term of the underlying loan; and
  - during the term of the loan, periodic cash flow reporting for the entity, including identification of the use and repayment of the underlying line of credit. Principal balance of line of credit.

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### **Financial Due Diligence:**

Financial due diligence should be performed by the CFO or their designates to assess the potential level of financial risk associated with granting each loan guarantee. The analysis should result in an understanding of the creditworthiness of the requestor, its capacity to repay the underlying loan for which a guarantee is being requested, and the recommended terms and conditions or other measures required to provide a City loan guarantee.

The completed analysis should be kept on file at a minimum throughout the term of any related agreements.

### **Security/Collateral:**

The CFO, in recommending approval of a financial guarantee under this policy, will determine what security/collateral is appropriate for each potential loan guarantee.

Consideration will be given to the nature of the entity and the availability of real property or other assets. The loan guarantee agreement may also provide for the withholding of grants or other financial contributions by the City to the entity in the event of a default on the underlying debt, as determined by the CFO.

Where the City takes security from an eligible entity, it must be subject to registration as to title to provide the City with appropriate protection.

At the discretion of the CFO or their designate, the eligible entity may be required to provide an appraisal prepared by a qualified third-party of the value of the security to be pledged in support of the loan guarantee. Where this is required, the entity will be responsible for any related costs.

### **Terms of Agreement:**

The City requires an agreement between itself and the entity that is to be supported by a loan guarantee as well as a tri-partite agreement between the City, the entity, and the relevant third-party lender. The terms and conditions should take into consideration measures to mitigate the financial risks to the City in the event of a default of the loan agreement by the eligible entity.

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The terms and conditions of the proposed loan guarantee agreements are subject to the approval of the CFO and City Solicitor, and where appropriate, the relevant Deputy City Manager. At a minimum, loan guarantee agreement terms should require the entity to provide the following to the City:

- Annual audited financial statements, no later than four (4) months after each fiscal year end;
- Regular reporting from the entity and/or its third-party lender as to whether the supported capital loan is in good standing, and as well, whether the entity is meeting its overall debt repayment obligations;
- For capital loan guarantees, where the loan was made to finance a capital project, regular reporting as to the status of the capital construction, including where there may be any material changes to project costs, and/or anticipated substantial completion;
  - The City may conduct on-site visits, and may require a final report from the entity, at the completion of construction, with a copy to be provided to the CFO and where appropriate, the relevant Deputy City Manager.
  - The City may also require qualified third-party verification of any of the above, with the entity responsible for third-party costs.
- Advise of any material adverse changes; and
- Where the City becomes obligated to make payment as a result of a default of the entity on the underlying loans which are supported by a City guarantee, the guarantee agreement terms shall permit the amount paid by the City to become convertible to a fully recoverable loan from the entity to allow the City to be made whole.

### Reporting:

#### *New Loan Guarantee or Loan Guarantee Extensions*

Reports to Council/Committee on a recommendation to grant a new line of credit guarantee or extend a loan or line of credit guarantee shall include:

- eligibility of the entity requesting a City loan guarantee;
- program area support for the request, as may be applicable;
- result of the financial due diligence/credit risk assessment; and
- recommended terms and conditions, and other measures, under which a potential City loan guarantee should be considered.

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### *Underlying Loan Defaults*

Reports to Council/Committee where a supported eligible entity defaults on its third-party loan repayment such that the City would be obligated to pay out all or a portion of its guarantee shall include:

- potential financial impact to the City; and
- identify a potential funding source within the responsible program area's budget for the current/applicable fiscal year.

### **Monitoring of Performance:**

Ongoing monitoring should be performed on entities and projects that are supported by City loan guarantees, to enable the City to identify potential signs of financial distress or default risk and take proactive measures to mitigate the City's credit risks.

The CFO is responsible for monitoring the entity's financial viability. Where program areas have direct oversight of the operations and capital projects of supported entities, those program areas are responsible for monitoring the performance of supported entities/capital projects.

For capital loan guarantees, the responsible program area shall assign a project manager, or qualified third party, to monitor construction progress and project financial status (i.e., actual versus budget) during construction, as may be deemed appropriate.

The entity is required to provide periodic reporting, verified by a qualified third-party as may be appropriate. The entity is required to provide a final report on the completion of construction, providing a copy to the appropriate Deputy City Manager and to the CFO.

### **Review of Policy:**

This policy should be reviewed at a minimum every three (3) year after adoption by Council or sooner as may be deemed appropriate by the CFO.