

Letter of Credit Policy

Effective:	March 19, 2025	Supersedes:	N/A
Applicable to:	Council and Employees	Authority:	Commissioner of Finance and Treasurer

1.0 Overview

The Town of Whitchurch-Stouffville may require the submission of securities to guarantee financial and/or performance obligations as part of various approval processes and agreements between the Town and external parties seeking approval from the Town.

This policy establishes the minimum standards for the acceptance, management, and administration of Letters of Credit and other approved forms of security under this policy, ensuring consistency, transparency, and accountability in their handling.

2.0 Purpose

The purpose of this policy is to define requirements for the use of a Letter of Credit, including:

- Acceptable Letter of Credit format and content.
- Issuing financial institution requirements (including minimum credit rating and expectations).
- Acceptable security alternatives and,
- Town staff responsibilities.

3.0 Scope

This policy applies whenever a Letter of Credit is chosen as the form of security to guarantee the performance obligation to the Town. It should be read in conjunction with the Town’s Pay- on-Demand Surety Bond Policy No. AP-111.

4.0 Definitions

Applicant: The party that has tendered a Letter of Credit or Cash Security to the Town to secure the obligations with the Town. The Applicant should be the same as the Counterparty of an Agreement. If the Applicant is different than the Counterparty of an Agreement, a proof of association with the Counterparty is required, or the Letter of Credit should specify that the Applicant has tendered the Letter of Credit on behalf of the Counterparty.

Automatic Renewal: The condition which states that a Letter of Credit shall be automatically extended without formal amendment for a specified period beyond the stated expiration date.

Written notification must be received by the Town prior to expiration if automatic renewal is to be terminated.

Cash Security: Allowable forms of securities as provided in this Policy other than a Letter of Credit or a Pay-on-Demand Surety Bond.

Counterparty: The other party or parties to an agreement with the Town.

Draw: When the Beneficiary (the Town) makes a written demand to an issuing bank to release all or part of a Letter of Credit due to default fully or in part by an Applicant on their contractual obligations to the Beneficiary.

Irrevocable: A form of Letter of Credit that may not be revoked or amended without the mutual consent of the issuing bank and the beneficiary (the Town).

Letter of Credit: A form of financial security issued by a financial institution that guarantees payment or performance by one or more counterparties to a beneficiary (the Town). At any time, the beneficiary reserves the right to draw upon the security up to a specified total in the event of default or non-delivery.

Schedule I Banks: Domestic banks authorized under Schedule I of the *Bank Act* to accept deposits.

Schedule II Banks: Foreign bank subsidiaries authorized under Schedule II of the *Bank Act* to accept deposits. Foreign bank subsidiaries are controlled by eligible foreign institutions.

Standby: A form of Letter of Credit which only requires the presentation of an appropriate payment request to the issuing bank from the beneficiary (the Town) without further documentary evidence of obligation.

The Town: The Corporation of the Town of Whitchurch-Stouffville.

Treasurer: The Treasurer of the Town of Whitchurch-Stouffville, their successor, or delegate.

Unconditional: The Letter of Credit is payable on demand to the Beneficiary (the Town) without further documentary evidence of obligation, without enquiry by the issuing financial institution as to the Beneficiary's right to make the demand, and without recognizing any claim of the Applicant.

5.0 Procedure

5.1 Letter of Credit Amount

The minimum-security amount shall not be less than 100 per cent of the estimated cost of the works being secured.

5.2 Format

The Town shall employ the standard format for irrevocable Letters of Credit attached as **Appendix A**.

The submitted Letter of Credit must:

- Be printed on letterhead from the issuing financial institution.
- Comply with the International Standby Practices (ISP98) or its successor as published by the International Chamber of Commerce.
- Be issued in Canadian dollars in the amount requested by the Town.
- Be issued in favour of The Corporation of the Town of Whitchurch-Stouffville at the address as it appears on the standard format in **Appendix A**. No department name or person's name can be added.
- State the date of issue.
- State that it is unconditional and irrevocable.
- Describe the purpose for which the Letter of Credit is being provided i.e. agreement, property, legal description, Town file number or building permit number.
- Include the clause "partial drawings are permitted".
- State the expiration date which must be at least one year from date of issue.
- Include an automatic renewal clause for the expiry.
- Indicate that the Town will be given 30 days' notice by registered mail or courier if the Letter of Credit is not intended to be renewed. and,
- Conform to the intent of the standard format provided in **Appendix A**. Any deviation from the standard format will be subject to review by the Town and may be refused for non-compliance.

At the time of the passing of this policy, any Letters of Credit currently held by the Town and not meeting the standard Letter of Credit format requirements will continue to be held and automatically renewed annually. If any of these Letters of Credit are being reduced or exchanged, the Town shall review and require amendment to bring them into compliance with this Policy.

5.3 Financial Institutions

Letters of Credit conforming to the standard format requirements provided in **Appendix A** shall only be accepted by the Town from any of the following Schedule 1 Canadian Chartered Banks having a credit rating of a R-1 (Mid) or higher as provided by Dominion Bond Rating Service (DBRS), or an equivalent rating by the rating agencies Moody's Investor Service (Moody's) or Standard and Poor's (S&P):

- i) Bank of Montreal
- ii) Bank of Nova Scotia
- iii) Canadian Imperial Bank of Commerce
- iv) Royal Bank of Canada
- v) TD Canada Trust
- vi) National Bank

Schedule II Banks and other Schedule I Banks to the *Bank Act* (Canada) having a credit rating of a R-1 (Mid) or higher as provided by DBRS, or an equivalent rating by the rating agencies Moody's or S&P may only be accepted on the approval of the Treasurer.

Where an eligible financial institution fails to maintain the minimum credit rating described in this policy, the Town shall forward a replacement request to the Applicant and Counterparty, where different, to provide a substitute Letter of Credit from a financial institution that meets the minimum requirement as set out in this Policy. If a replacement Letter of Credit is not provided within 30 days of such demand, the Town reserves the right to draw upon the original Letter of Credit and hold the non-interest-bearing Cash Security in the same manner as the Letter of Credit. The financial institution issuing the Letter of Credit will not be party to the terms of any Legal Instrument(s) that are related to the provision of the security.

5.4 Other Allowable Forms of Security

Cash Security in an equal amount to the Letter of Credit may be accepted, to the satisfaction of the Treasurer, in the form of certified cheque, money order or bank draft. If an alternative form of security is provided in lieu of the requested Letter of Credit, the funds will be received and deposited by the Town and no interest shall accrue to the benefit of the Applicant.

When the financial and/or performance obligations have been met pursuant to this Policy and to the satisfaction of the Town, the Town will return the Cash Security deposit to the Applicant without any interest.

In some circumstances, multiple types of securities may be requested to guarantee financial and/or performance obligations under the same agreement.

A Letter of Guarantee shall not be accepted in lieu of a Letter of Credit, since Letters of Guarantee are less liquid and do not provide the same advantages as Letters of Credit.

Surety Bonds, in an equal amount to the Letter of Credit may be accepted, as per the Town's Pay-on-Demand Surety Bond Policy No. AP-111

5.5 Exchanges of Letter of Credits and other Cash securities

At any time, upon written request from the Applicant and the payment of the applicable fees in accordance with the Town's Fees By-Law, as amended from time to time, the Town may exchange a Letter of Credit or other allowable form of security for an alternate financial security, provided the replacement conforms to the applicable Town Policy, to the satisfaction of the Treasurer.

The Applicant shall provide the satisfactory replacement security prior to the release of the previous security. The Town will review the replacement security for conformity to the applicable Town Policy and release the previous security only if the replacement security has been deemed acceptable.

For the exchange of a Surety Bond, the provisions of the Town's Pay-on Demand Surety Bonds Policy No. AP-111 shall apply.

The Town will not accept a Surety Bond as a replacement for a Letter of Credit that was in place prior to the enactment of this policy.

5.6 Drawing Upon a Letter of Credit

In the event that an Applicant defaults on their contractual obligation to the Town, the Town retains the right to draw upon the associated Letter of Credit fully or partially, at any time, after providing written demand to the financial institution from which the Letter of Credit was issued.

5.7 Roles and Responsibilities

5.7.1 The Finance Services Commission shall be responsible for ensuring that Letters of Credit submitted meet the requirements of this policy, processing all Letter of Credit draws, reductions, replacements and returns.

5.7.2 The Treasurer shall be responsible for:

- Implementation of, and adherence to, this Policy; and,
- Reviews and, if deemed appropriate, approves deviations or exceptions to this Policy, including Letters of Credit submitted from financial institutions that do not meet the minimum requirements described herein.

5.7.3 All staff involved in the acceptance, evaluation and administration of Letters of Credit shall be responsible for:

- Read and abide by the requirements set out in this Policy; and,
- Forward any Letters of Credit received or retained at the department level to the Treasurer.

6.0 References

This policy should be read together with the Town's Pay-on-Demand Surety Bonds Policy No. AP-111

STANDARD LETTER OF CREDIT FORMAT

(insert bank letterhead)

Unconditional Irrevocable Letter of Credit

To: The Corporation of the
Town of Whitchurch-Stouffville
111 Sandiford Drive
Stouffville, ON L4A 0Z8

Date of Issue: _____
Letter of Credit No. _____

We hereby authorize you to draw on **(Bank's Name & Address)** for account of **(Applicant's Name & Address)** up to an aggregate amount of **(\$CAD and amount written in full)** available on demand as follows:

Pursuant to the request of our customer, the said **(Applicant's Name)**, we **(Bank's Name)**, _____ hereby establish and give to you an unconditional and irrevocable Standby Letter of Credit in your favour in the total amount of **(\$CAD and amount written in full)** which may be drawn on by you at any time and from time to time upon written demand for payment made upon us by you which demand we shall honour without enquiring whether you have a right as between yourself and our said customer to make such demand and without recognizing any claim of our said customer.

Provided, however, that you are to deliver to **(Bank's Name & Address)**, at such time as a written demand for payment is made upon us a statement signed by you stating that monies drawn pursuant to this Letter of Credit are to be retained and used to fulfill obligations in connection with:

Agreement No:
Party(ies) to Agreement:
Legal Description of the Subject Lands:
Development Application No.:
Development Name and Phase:

} *(as applicable)*

The amount of this Letter of Credit shall be reduced from time to time as advised by notice in writing given to us from time to time by you.

The drawings under this credit are to state that they are drawn under the **(Letter of Credit No.)**, issued by the **(Bank's Name & Address)**.

Partial drawings are permitted.

This Letter of Credit shall **automatically extend for one (1) year from the present or any future expiration date hereof, unless thirty (30) days prior to any such date we shall notify you in writing, by Registered Mail or courier**, that we elect not to consider this Letter of Credit renewed for any such additional period. Upon receipt by you of such notice, you may draw hereunder by means of your demand accompanied by your written certification that the amounts drawn will be retained and used to fulfill obligations incurred or to be incurred in connection with the above Agreement.



Appendix A

We hereby covenant with drawers, drawn upon and in accordance with the terms of this credit that the same will be duly honoured if drawn and negotiated on or before _____, 20____ or any automatically extended expiry date.

(Bank's Name)

Authorized Signature