

## Request for Decision

<b>Title</b>	<b>Development Agreement Securities Policy</b>
<b>Proposed Motion</b>	That Council approve the Development Agreement Securities Policy as presented.
<b>Administrative Recommendation</b>	That Council approve the Development Agreement Securities Policy as proposed by Administration.
<b>Previous Council / Committee Direction</b>	None.
<b>Report</b>	<p><u>Background Information</u></p> <ul style="list-style-type: none"> <li>Sturgeon County continually explores options to showcase its “open for business” mentality, to reduce red tape, and to protect the interests of its residents.</li> <li>The County currently has no formal policy with respect to securities to be paid by a developer for municipal improvements that the developer is responsible for constructing as part of a Development Agreement. By not having a standard policy, each Development Agreement is subject to negotiation with the respective developer.</li> <li>A standardized policy approach has several potential benefits, including: <ul style="list-style-type: none"> <li>Greater certainty for developers wishing to conduct business or invest within the County;</li> <li>Reduction in the administrative resource requirement to assess or process security requirements;</li> <li>Reduced potential for allegation of administrative bias, unfairness, or favouritism; and</li> <li>Potential for new innovative elements, flexibilities, and criteria to be prescribed.</li> </ul> </li> <li>Administration currently requires developers to provide securities in the form of a Letter of Credit or cash for infrastructure requirements as detailed within a Development Agreement. This requires developers to outlay typically 25% or 125% (depending on whether the Development Agreement is the result of an approved subdivision or a development permit) of the construction costs as security. This security would then be</li> </ul>

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drawn upon by the County if needed to address outstanding development deficiencies.

- Recently, municipalities have also begun to consider another security option called development bonds, which is essentially a different type of security that takes the form of development insurance. Specific considerations for a development bond include:
  - A developer would purchase such a bond from a bond company that would assess risk and price the bond accordingly. Extensive prequalification of the developer by the bond company would be conducted: capacity, construction experience, development plan, character, financial position, etc., and ongoing monitoring of the project.
  - The bond covers performance but also covers performance of all work under the agreement; maintenance period; and payment of any amounts payable to the County.
  - The developer would not require a cash outlay, which is often favourable to the developer.
  - The municipality holds no securities from the developer but can customize the bond to ensure it is protected.
  - In the case of default / development deficiencies, a claim would be made, and the bond company would be compelled to provide the municipality with the amount of security required to address those deficiencies.
  - Development bonds stay in effect until one year after the maintenance period has ended and then expire. This means less administrative work and removal of the requirement to return any documents to the bank.
  - Development bonds are now widely used across the USA and Canada. Development bonds are becoming more common as an acceptable form of security within Alberta as well, with the Edmonton, Calgary, St. Albert, Strathcona County, Beaumont, Lacombe, Leduc, Airdrie, Red Deer, Sylvan Lake and other municipalities recently approving their use.
- Note that a “performance bond” is a different instrument than what was previously available, which were unappealing for municipalities as a form of security. These were default instruments in that the Obligee (municipality) was required to sufficiently prove that the Principal (developer) was in default to successfully claim on the performance bond.
- Today, the bond wording is a “pay on demand” instrument in that the County would simply have to make a demand for funds, and the surety would be obligated to provide those funds within the 7-day payment period stipulated on the bond form. Furthermore, the bond language states explicitly that the County has sole and absolute discretion to make such demand, and the surety expressly waives its right to deny or defend

	<p>against the demand. The bond wording is written in such a way to embody all the same key features of a Letter of Credit.</p> <ul style="list-style-type: none"> <li>• In either case, most municipalities have chosen to retain the option of Letters of Credit/cash as options for security, as not all developers will qualify/are interested in obtaining development bonds, and Letters of Credit/cash are secure in the case of developer default.</li> <li>• Administration consulted with legal counsel as well as a financial company that provides a development bond service to confirm the essentials of development bonds as a new form of security.</li> </ul> <p><b>Conclusion:</b></p> <ul style="list-style-type: none"> <li>• Overall, it would be a business-friendly service to the development community to offer an option between development bonds and Letters of Credit/cash securities, based on criteria specified via policy.</li> <li>• Development bonds can help reduce the capital outlay of a developer and “frees up” capital that could then be used to construct any improvements as detailed within the Development Agreement. Land development is very cash intensive, and surety bonds allow developers to finance the project without coming up against borrowing limits.</li> <li>• Specific criteria for security amounts are described in the proposed policy (see Attachment 1). The key difference in the percentage of securities required prior to subdivision endorsement and post-endorsement is that the County can use the subdivision endorsement process to ensure compliance to the construction schedule and adherence to the accepted engineering drawings as tabled in the approved Development Agreement. Once endorsement occurs, the County loses that “leverage”, hence the requirement for 125% securities in all other situations.</li> </ul> <p><u>External Communication</u></p> <ul style="list-style-type: none"> <li>• Administration will inform prospective developers of the policy criteria and additional security options.</li> </ul> <p><u>Relevant Policy/Legislation/Practices</u></p> <p>None.</p>
<p><b>Implication of Administrative Recommendation</b></p>	<p><u>Strategic Alignment:</u></p> <p><b>Collaborative Governance</b> - transparent and action-oriented decision making based on sound rationale.</p> <p><b>Operational Excellence</b> - Future focused thinking to proactively respond to emerging opportunities and challenges.</p> <p><u>Organizational:</u></p> <p>The new policy will provide more transparency and guidance to the public as well as Administration in administering the provision of securities.</p> <p><u>Financial:</u></p> <p>None.</p>

<b>Alternatives Considered</b>	Council can refuse to adopt the policy and make no change to the administration or provision of securities.
<b>Implications of Alternatives</b>	<u>Strategic Alignment</u> Shortcomings with the existing procedure will remain and the opportunity to improve and streamline operational processes will be missed.  <u>Organizational</u> None.  <u>Financial</u> None.
<b>Follow up Action</b>	1. Obtain Mayor and CAO signatures on the Policy (Legislative Services, February 2022). 2. Commence policy implementation, inform prospective developers (Planning and Development Services, February 2022).
<b>Attachment(s)</b>	1. Attachment 1: Proposed Development Agreement Security Policy
<b>Report Reviewed by:</b>	Bonnie McInnis, Manager, Planning and Development Services  Travis Peter, Director, Development and Strategic Services  Reegan McCullough, County Commissioner - CAO

## Strategic Alignment Checklist

**Vision:** *Offering a rich tapestry of historical, cultural, and natural experiences, Sturgeon County is a municipality that honours its rural roots and cultivates desirable communities. Uniquely situated to provide world-class agricultural, energy, and business investment opportunities, the County prioritizes responsible stewardship and dreaming big.*

**Guiding Principles:** Collaboration | Accountability | Flexibility | Excellence | Safety | Future Readiness | Affordability | Innovation

Community Outcome	Not consistent	Consistent	N/A
<b>Planned Growth</b>			
<ul style="list-style-type: none"> <li>Internationally competitive to attract, grow and sustain diverse businesses; tenacious focus on new growth and innovation</li> </ul>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<ul style="list-style-type: none"> <li>Modern broadband and digital capabilities</li> </ul>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<ul style="list-style-type: none"> <li>Low cost, minimal red-tape regulations</li> </ul>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<ul style="list-style-type: none"> <li>Reliable and effective infrastructure planning; comprehensive land use and infrastructure planning</li> </ul>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<b>Thriving Communities</b>			
<ul style="list-style-type: none"> <li>Beautiful, surprising places with high standards; integrated natural spaces &amp; trail systems; healthy and resilient</li> </ul>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<ul style="list-style-type: none"> <li>Engaging cultural, historical, and civic amenities; strong community identity and pride</li> </ul>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<ul style="list-style-type: none"> <li>Safe, welcoming, and diverse communities; small community feel and personal connection; commitment to high quality of life</li> </ul>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<b>Environmental Stewardship</b>			
<ul style="list-style-type: none"> <li>Clean air, land, and water; Carbon neutral municipal practices; circular economy opportunities</li> </ul>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<ul style="list-style-type: none"> <li>Conservation of natural areas and agricultural lands; enhanced greening and biodiversity; safekeeping ecosystems</li> </ul>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<ul style="list-style-type: none"> <li>Sustainable development; partnerships with industry and others to drive emission reductions</li> </ul>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<b>Collaborative Governance</b>			
<ul style="list-style-type: none"> <li>Predictable and stable external relationships; volunteer partnerships</li> </ul>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<ul style="list-style-type: none"> <li>Meaningful connections with Indigenous communities</li> </ul>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<ul style="list-style-type: none"> <li>Ongoing community consultation and engagement; transparent and action-oriented decision making based on sound rationale</li> </ul>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<ul style="list-style-type: none"> <li>Respectful and informed debate; clear and supportive governance processes</li> </ul>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<b>Operational Excellence</b>			
<ul style="list-style-type: none"> <li>Engaged and effective people – Council, Admin and Volunteers; continuous learning and improvement mindset; nimble and bold, with strong leadership</li> </ul>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
<ul style="list-style-type: none"> <li>Quality cost-effective service delivery; robust procurement and operational practices and policies; asset management and performance measurement; careful debt and reserve stewardship; long-term financial planning and sustainability</li> </ul>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<ul style="list-style-type: none"> <li>Future focused thinking to proactively respond to emerging opportunities and challenges</li> </ul>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<ul style="list-style-type: none"> <li>Alternative revenue generation and service delivery models integrated strategic and business planning</li> </ul>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>