



Hamilton

INFORMATION REPORT

TO:	Chair and Members Open for Business Sub-Committee
COMMITTEE DATE:	October 26, 2023
SUBJECT/REPORT NO:	Development Agreement Surety Bonds – Case Study 29 (FCS23107) (City Wide)
WARD(S) AFFECTED:	City Wide
PREPARED BY:	Lindsay Gillies (905) 546-2424 Ext. 5491
SUBMITTED BY:	Brian McMullen Director, Financial Planning, Administration and Policy Corporate Services Department
SIGNATURE:	

COUNCIL DIRECTION

Not Applicable.

INFORMATION

Background

In response to a presentation and report by the Mayor’s Task Force on Economic Recovery regarding Item 8.1 presented to the General Issue Committee on December 9, 2020, a motion was put forward for Finance and Legal staff to report back to the Audit, Finance and Administration Committee on the potential use of surety bonds as financial security for development projects to secure municipal agreements.

Observations and Issues

A surety bond is a bond from a surety provider which guarantees the assumption of responsibility for payment of security in the event of default of a Development Agreement by a developer. Permitting the use of surety bonds is beneficial to both the developer and the municipality. Developers will have more options and greater flexibility as surety bonds would not restrict a developer’s capital the same way a letter of credit or cash security would. In turn, this tool can potentially enable developers to use their capital more efficiently than is possible with letters of credit or cash security. The municipality benefits because it promotes growth and provides protection against default. Prior to June 2021, the City of Hamilton only accepted letters of credit and / or certified funds as security for development agreements.

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OUR Mission: To provide high quality cost conscious public services that contribute to a healthy, safe and prosperous community, in a sustainable manner.

OUR Culture: Collective Ownership, Steadfast Integrity, Courageous Change, Sensational Service, Engaged Empowered Employees.

Outcome

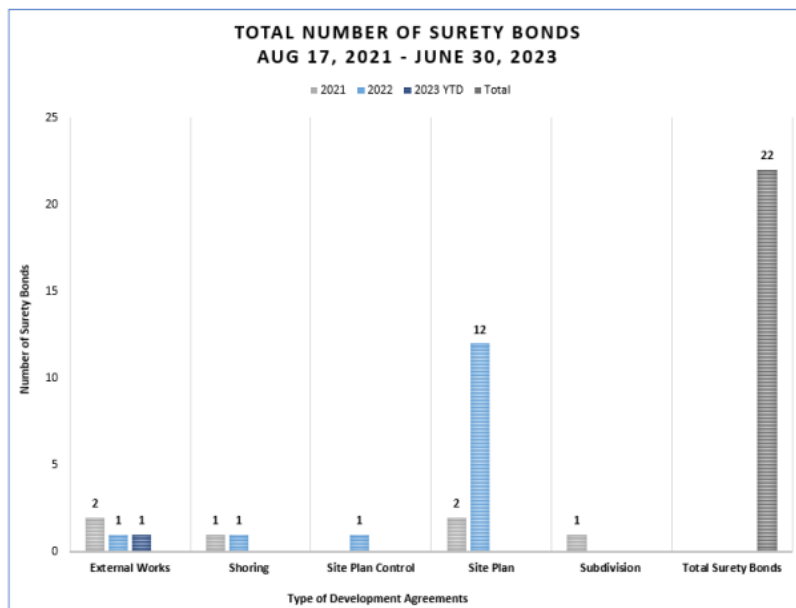
In June 2021, a Development Agreement Surety Bond Policy was approved by Council and language used in the Development Agreement template was updated to permit surety bonds as an acceptable form of security.

Since permitting the use of surety bonds:

- As of June 30, 2023, the City of Hamilton holds a total of 22 surety bonds from four providers since accepting its first surety bond on August 17, 2021.
- The aggregate value of all surety bonds, accepted as of June 30, 2023, totals \$13,919,312 with a current value of \$11,084,000 after reduction requests have been processed. The reduction request process has been working effectively without challenges.
- Six surety bonds were accepted in 2021, 15 in 2022 and one year-to-date in 2023.
- To date, none of the surety bonds accepted have been fully discharged, nor have any of the principals defaulted under the related Development Agreement.

For additional insight, Chart 1 shows the number of surety bonds held by the City of Hamilton based on the type of development agreement and Chart 2, the aggregate value (in dollars) of the total number of surety bonds held. The minimum original value of a surety bond accepted was \$15,000, the maximum was \$3,091,855.32 and the median value is \$207,000. Report FCS21056(a) provides the full Council directed update on the use of surety bonds at the City of Hamilton.

Chart 1
Total Number of Surety Bonds Held by
the City from August 17, 2021 – June 30, 2023

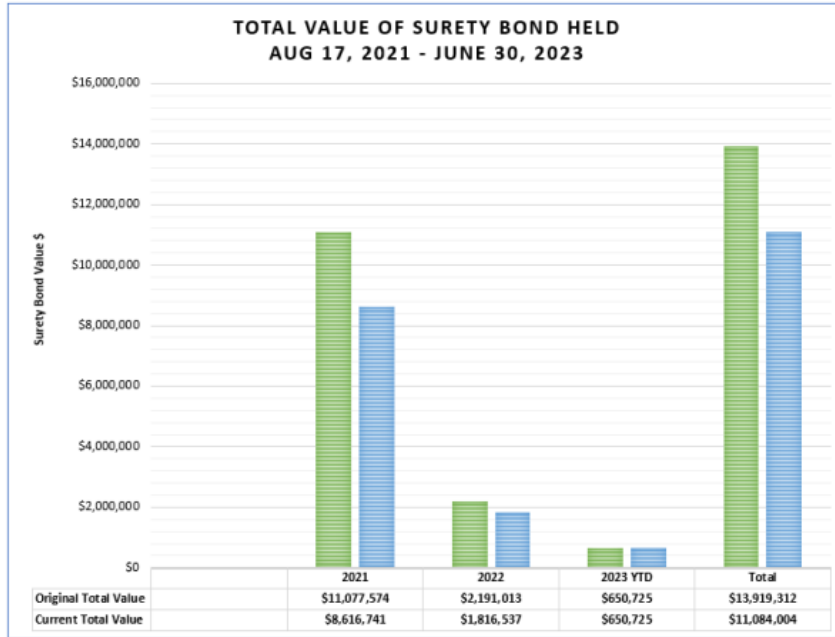


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Chart 2
Total Value of Surety Bonds held by
the City from August 17, 2021 – June 30, 2023



Acceptance of surety bonds was approved on a go-forward basis, which means existing development agreements did not have the option of switching from a letter of credit to surety bond. In Report FCS21056(a), presented on August 17, 2023, the Audit, Finance and Administration Committee directed staff to report back on a full cost recovery approach as it relates to the transference of Letters of Credit and cash securities to Surety bonds.

APPENDICES AND SCHEDULES ATTACHED

None

LG/dt