



CHESTERMERE

Policy Name: Subdivision and Development Security Requirements

Policy Number: 327

Effective Date: June 11, 2024	Approved By: Council
Policies Amended / Rescinded:	Policy Type: Development Services

I. Purpose and Intent

This Policy establishes and clarifies the requirement that Developers provide adequate Security to secure their obligations under Development Agreements for projects within the City's boundaries.

II. Definition

1. **“CCC”** means Construction Completion Certificate;
2. **“City”** means the City of Chestermere;
3. **“Development Agreement”** means
 - a. an agreement pursuant to sections 650(1)(f) or 655(1)(b)(vi) of the Municipal Government Act;
 - b. a special improvements development agreement;
 - c. an indemnity agreement;
 - d. a development permit or subdivision approval;
 - e. a road right of way construction agreement; or
 - f. any other agreement in which the City determines it is necessary to take security from the developer;
4. **“Developer”** means the party entering into a Development Agreement with the City;
5. **“Development”** means development as defined in the Municipal Government Act;
6. **“FAC”** means Final Acceptance Certificate;



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7. **“Municipal Government Act”** means the Province of Alberta’s Municipal Government Act, RSA 2000, c M-26, as amended or replaced from time to time;
8. **“Pregrade Agreement”** means a Development Agreement which only contemplates stripping and grading of the subject site;
9. **“Private Infrastructure”** means service connections located within a parcel of land or other such infrastructure that does not transfer to City upon issuance of a CCC of a FAC;
10. **“Security”** means security provided to pursuant to a Development Agreement to secure the Developer’s obligations pursuant to that agreement; and
11. **“Subdivision”** means subdivision as defined in the Municipal Government Act

III. Scope

1. The City frequently enters into Development Agreements in which the Developer is required to provide security to secure compliance with those agreements.
2. This Policy is intended to guide the requirements for this Security in order to provide adequate protection to the City and to be fair, reasonable, and flexible with Developers.

IV. Policy Statement / Policy

1. Collecting Securities
 - a. The City collects Security as set out in the applicable Development Agreement and any applicable approval.
 - b. Work on the property that is the subject of the applicable Development Agreement, including clearing, stripping and grading, demolitions, and construction activity, must not commence until after the City receives the appropriate Security. If the Security is provided in the form of a certified cheque or any other form which requires time to clear, the City is not deemed to have received the appropriate Security until such payment has cleared.
 - c. For multi-phased projects, separate Security is required for each phase of the project. Security must not be transferred between phases of the project unless requested by the Developer and the City has determined that the Security from the previous phase is releasable in accordance with this Policy.



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2. Forms of Security

a. Acceptable forms of Security are:

- i. an irrevocable letter of credit that automatically renews for a minimum of 12 months;
- ii. a certified cheque to a maximum of \$75,000; or
- iii. a bank draft to a maximum of \$75,000.

b. Security is not accepted in any other forms. For clarity, this means that the following forms of payment are not acceptable:

- I. bonds;
- II. personal cheques;
- III. cash;
- IV. term deposits;
- V. lots in lieu
- VI. guaranteed investment certificates; or
- VII. any other form of security not included in the list of acceptable forms of security.

c. Interest accrued on deposited Security is retained by the City and is not payable to the Developer.

3. Waiver of Security Requirements

a. The City may, in the City's discretion, waive the Security requirement for Subdivisions or Developments associated with Private Infrastructure if the City is satisfied that:

- i. the infrastructure is truly private and will not impact City assets;
- ii. there is no future transfer of infrastructure to the City; and
- iii. the ongoing maintenance requirements for the Private Infrastructure will not pass to the City.

4. Amount of Security Required

a. Unless other specified in this Policy, the amount of Security required depends on the tier the Developer is placed in and the estimated construction costs.

b. Developers are placed in tiers as provided in Appendix A attached to and forming part of this Policy.



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- c. Estimated costs are based on certified engineering estimates prepared by the Developer's engineer for the completion of the work being secured and shall include soft costs for engineer, administration and testing at 13% of the estimated construction cost estimate.
- d. Upon request by the Developer, security may be reduced based on actual construction tender prices submitted by the Developer's engineer.
- e. At the City's discretion, construction estimates may be subject to third party review to ensure sound engineering judgements are followed and that industry prices and standards are utilized.
- f. If a Developer does not fulfill their obligations under the applicable Development Agreement or does not act requests from the City to remedy maintenance or safety concerns, then the City may use the Security collected in respect of that agreement to complete the outstanding obligations or maintenance or address maintenance of safety concerns to the satisfaction of the City.
- g. The Developer forfeits all remaining Security to the City after four years from the date the applicable Development Agreement has been executed, if in the sole opinion of the City, the Developer has not acted in a reasonable manner to complete remaining work pursuant to that Development Agreement, including the correction of deficiencies identified at the CCC or FAC stages.
- h. If the City draws on the Security to complete any outstanding obligations or maintenance or address maintenance or safety concerns, the City may require the Developer to top up the amount of Security to its original amount.

5. Security Releases

5.1 Partial Release Upon CCC Issuance

- a. Upon the issuance of all CCCs contemplated in a Development Agreement, or upon the issuance of all CCCs for a particular category of improvements contemplated in a Development Agreement, the City may partially release the unused Security for that work. The City will continue to hold:
 - i. The portions of the Security relating to any categories of work for which CCCs have not been issued; and
 - ii. Security in an amount not less than:



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50% of the actual cross construction costs of the constructed improvements; plus 200% of the estimated costs of deficiencies and remaining work for the constructed improvements to be fully completed.

- b.** Notwithstanding the above, the City will continue to hold no less than the minimum Security amount specified for the Developer's tier in Schedule "A" of this Policy.

5.2 Release of Security for Pregrade Agreements

- a.** If Security is held in respect of a Pregrade Agreement and a new Development Agreement respecting the subject site is executed which includes completion of the work described in the Pregrade Agreement, including but not limited to correction of any deficiencies, inspections and testing as may be required, and provision of any required reports, Security held under the Pregrade Agreement may be released as follows:
 - i.** If the new Development Agreement applies to the entire area that was subject of the Pregrade Agreement, the Security from the Pregrade Agreement may be fully released; and
 - ii.** If the new Development Agreement applies to a portion of the area that was the subject of the Pregrade Agreement, the City will continue to hold Security in the amount of 75% of the estimated cost to complete the following: haul and place loam; seed; provide all necessary erosion and sediment control for the remaining site area; and remove or otherwise address any stockpiles that remain.

5.3 Release Upon FAC Issuance

- a.** Upon the issuance of all FACs contemplated in a Development Agreement, the City may release all unused Security being held pursuant to that agreement. If all FACs for a particular category of improvements contemplated in a Development Agreement are issued, the City may release the portion of the Security relating to that work.

5.4 Other Development Agreements

- a.** If a Development Agreement does not include the CCC/FAC process:



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- i. the provisions of this Policy respecting release of Security at the time of CCC issuance will apply upon substantial performance of the work; and
- ii. the provisions of this Policy respecting release of Security at the time of FAC issuance will apply upon total completion of the work.



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APPENDIX A

Tier	Criteria	Security Requirement
1	Developer has successfully completed ¹ seven or more development agreements with the City OR Developer has entered into front-end agreements with the City totaling in excess of \$6,000,000.	15% of all estimated construction costs. Minimum security amount of \$200,000
2	Developer has successfully completed ¹ five or more development agreements with the City	25% of all estimated construction costs. Minimum security amount of \$300,000
3	Developer has successfully completed ¹ at least two development agreements with the City	50% of all estimated construction costs. Minimum security amount of \$300,000
4	Developer has not completed two development agreements with the City	100% of all estimated construction costs Minimum security amount of \$300,000
5	Developer has been involved in a major breach of the terms and conditions of a previous servicing agreements, municipal improvement agreements or development agreements with the City or other municipalities in the Southern Alberta Region	150% of all estimated construction costs Minimum security amount of \$500,000

¹ For the purposes of this policy, a development agreement is successfully completed if a complete set of Final Acceptance Certificates were issued for the project by the City and the Developer can provide proof of such.

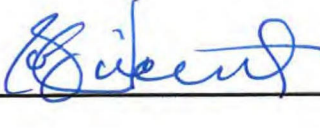


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