



**URBAN DEVELOPMENT INSTITUTE- OKANAGAN CHAPTER**

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January 31, 2020

City of Kelowna  
1435 Water Street  
Kelowna, BC, V1Y 1J4

**Attention: Ryan Smith, City of Kelowna**

**Subject: Surety Bonds as Alternative to Letter of Credit**

UDI Okanagan has been in communication with representatives of Marsh Canada and has been informed of a change in Bond forms from what people may be familiar with, namely that in a number of Canadian municipalities, Surety Bonds are now being accepted as an alternative form of security to a Letter of Credit for developments.

Calgary, Alberta announced the change in March of 2019. Airdrie, Alberta in January 2020, and now Edmonton plans to proceed with the Bond option in March 2020.

The Bond that is now being accepted by these municipalities has the following key characteristics.

- **Bond Structure:** The structure of this bond is different than most – it is a demand instrument. It clearly states that the principal is obligated under the Agreement for certain obligations and the surety is providing an irrevocable guarantee for these obligations.
- **Seven Day Payment Term:** The payment term is a very short window that gives the surety time to access funds and pay the obligation.
- **Cancellation Provision:** This bond uses forfeiture language. The surety, at any time, can give 90-day notice for cancellation but if replacement security isn't put in place within 60 days the City can claim on the bond. This puts the City in the same position if notice of non-renewal is given on a letter of credit – it is an evergreen instrument.
- **Form of Notice of Default / Statement of Claim:** This can be modified to include the wire transfer instructions for payment by the Surety to the City.
- **Surety's Waiver of Defense:** This is arguably the most important facet of a demand surety instrument. It specifically states that the surety must pay and waives its rights to defend against paying a bond claim.

As this type of Bond provides the municipality with the required security, we encourage the City of Kelowna to accept this form of Bond, providing additional options for developers to bring housing to the city.

We would appreciate the opportunity to discuss this option further with the City.

Thank you in advance for your consideration.

Sincerely,

**URBAN DEVELOPMENT INSTITUTE OKANAGAN CHAPTER**

Per: Rich Threlfall, Chair of UDI Okanagan

A handwritten signature in blue ink, appearing to read "R. Threlfall".