

# CREDIT DOCUMENTATION PROCEDURES

	<b>FINANCE</b> <b>TREASURY PROCEDURE</b> <b>Credit Documentation Procedures</b>		
	<b>Owner:</b> Corporate Finance	<b>Issue Date:</b> 2021/01/11	<b>Next Review Date:</b> 2023/05/09
	<b>Approved By:</b> Chief Financial Officer or designate		

## 1.0. STANDARDS AND PROCEDURES

- 1.1. These Credit Documentation Standards and Procedures (the "**Procedures**") are governed by Finance in conjunction with, and under the authority of, the Credit Documentation Standards Policy (hereinafter the "**Policy**").
- 1.2. Any request(s) for credit from The City of Calgary (hereinafter "**The City**") including credit support in the form of loan guarantees where The City is asked to be guarantor, will be directed to Senior Leader, Corporate Finance - Credit or designate.

## 2.0. APPLICABILITY

- 2.1. Procedures apply to new Credit Documentation where The City signs as a lender or guarantor.
- 2.2. All existing Credit Documentation will be updated through ongoing negotiations and amendments to meet the Policy and Procedures.
- 2.3. Standards and Procedures apply to all Borrower/Guaranteed Parties unless otherwise directed and approved by Council, or if an exception has been approved per Section 4.0.

## 3.0. DEFINITIONS

- 3.1. "**Condition Precedent**": A stipulation or event that must come to pass before a specific contract is considered in effect or any obligations are expected of either party.
- 3.2. "**Credit Documentation**": means credit agreements and security agreements, required for loans and loan guarantees, including subsequent amendments and re-statements, or waivers and/or consents of said agreements, to which The City is a party to as a lender or guarantor.
- 3.3. "**Cross Default Provision**": An agreement that puts a borrower in default if the borrower defaults on another obligation, whether to The City or another lender.
- 3.4. "**Material Change**": any change to schedule A deemed material or in excess of ten percent (10%) of the greater of revenue or assets of the counterparty to any agreement under these Procedures.
- 3.5. "**Pari Passu**": means a financing arrangement that gives multiple creditors equal claim without preference to the assets or collateral used to secure a loan. In the event of default, the assets can be sold, and each lender receives an equal share of the proceeds at the same time.

## CREDIT DOCUMENTATION PROCEDURES

3.6. **“Specific Assets Pledge”**: An assurance of an asset(s) to be used as collateral on a loan, typically to be claimed and sold if the borrower defaults on payments (e.g., vehicle, building, investment account(s), etc.).

### 4.0. **EXCEPTIONS**

4.1. Any exceptions to the Standards and Procedures require approval by an authorized person, as outlined within Section 5.0.

4.2. The Corporate Finance team shall coordinate the exceptions process, including seeking approvals, providing supporting recommendations, and ensuring the creation and maintenance of appropriate documentation of such exceptions.

4.3. All exceptions under the Policy or Procedure must be documented in writing and retained by Corporate Finance – Credit for two years following full repayment of any loans or the expiration of a guarantee agreement.

4.4. The following is required to support any requests for exception:

4.4.1. Memorandum outlining each exception requested with supporting rationale detailing any negotiations leading to the request for an exception;

4.4.2. Annual summary of the prior year’s exception report within 120 days of The City’s fiscal year end.

### 5.0. **CONTENT AND FORM OF CREDIT DOCUMENTATION STANDARDS**

5.1. All Credit Documentation will contain, but not limited to, the following standard terms and conditions, unless a formal request to the contrary has been received and approved (section 4.0):

<b>Standard</b>	<b>Authority to approve Exceptions to Standards</b>	<b>Guidance</b>
The credit documentation shall include all applicable Events of Default (Schedule B)	Chief Financial Officer (CFO) or City Manager	
The credit documentation shall specify The City’s right to accelerate repayment, or demand payment in full, in the event of non-compliance or default	CFO or City Manager	Improves the City’s ability to proactively mitigate risk and/or restructure.

## CREDIT DOCUMENTATION PROCEDURES

Standard	Authority to approve Exceptions to Standards	Guidance
The credit documentation shall require financial reporting to be provided by the Borrower to The City annually.	CFO or City Manager	Enables City to consolidate and report its financial position in a timely manner.
The Credit Documentation shall provide The City, as Lender, rank ahead or pari passu with any other 3 <sup>rd</sup> party indebtedness.	CFO or City Manager	<p>Does not put City at a disadvantage in an event of default or demand by a 3<sup>rd</sup> party creditor.</p> <p>Maintains The City's ability to negotiate for Borrower's benefit.</p> <p>Specific Asset Pledges are permitted.</p>
<p>The Credit Documentation shall specify all security and/or collateral provided for the loan or guarantee (if applicable), including a specific charging clause for all security and/or collateral, in form and content acceptable to The City.</p> <p>Standard clauses may include, without the requirement for an exceptions process, a listing of permitted encumbrances and permitted indebtedness on security provided.</p>	CFO or City Manager	Outline available security to structure financial assistance for borrowers to maximize efficiency.
The Credit Documentation shall specify all credit facilities included under the credit agreement.	No exceptions permitted.	Permitted use of facilities along with terms and conditions enables optimal structuring to match purpose while providing flexibility to amend if/when warranted by conditions.

## CREDIT DOCUMENTATION PROCEDURES

Standard	Authority to approve Exceptions to Standards	Guidance
The Credit Documentation shall specify the timing and amounts of required repayments to The City.	CFO or City Manager	
<p>The Credit Documentation shall specify the interest rates and fees charged by The City or applicable third party.</p> <p>For loans, The City shall charge the same interest rate, plus administration fees and any required reimbursements, as its paid to a third party.</p> <p>Standard administration fees are 10 basis points on loan guarantees; and 25 basis points on direct borrowings. These administration fees are subject to change.</p>	<p>Interest rates: CFO or City Manager</p> <p>Administration Fees: City Manager, CFO, City Treasurer, Deputy Director, Corporate Finance or Treasury Manager</p>	
The Credit Documentation shall include an agreement that all costs incurred in the preparation of the Credit Documents will be recovered/paid in full by the Borrower/guaranteed party, including the costs of any external legal advisors required for the drafting, review, or provision of advice regarding the Credit Documentation.	City Manager, CFO, City Treasurer, Deputy Director, Corporate Finance or Treasury Manager	Borrower or Guaranteed Party will assume 100% of costs associated with the provision of credit facilities and/or guarantees for which they receive benefits.
The Credit Documentation shall specify the conditions that must be met before funds are disbursed by The City, including any conditions around advances on disbursement.	City Manager, CFO, City Treasurer, Deputy Director, Corporate Finance, Treasury Manager or Senior	

## CREDIT DOCUMENTATION PROCEDURES

Standard	Authority to approve Exceptions to Standards	Guidance
	Leader, Corporate Finance	
The Credit Documentation shall specify notice of any Cross Default.	City Manager, CFO, City Treasurer, Deputy Director, Corporate Finance, Treasury Manager or Senior Leader, Corporate Finance	Protection against 3 <sup>rd</sup> party creditors taking unilateral action against a Borrower without prior consultation with The City.
The Credit Documentation shall include those general terms and conditions provided in Schedule A.	City Manager, CFO, City Treasurer, Deputy Director, Corporate Finance, Treasury Manager, or Senior Leader, Corporate Finance	Detailed standard terms and conditions contained within Credit Documentation

### 6.0. **CREDIT AUTHORIZATION AND DOCUMENTATION PROCESS**

- 6.1. Approval of necessary loan, guarantee, and/or borrowing bylaws must be obtained by City Council in accordance with the MGA prior to any Credit Documentation.
- 6.2. After authorization of the above bylaw(s) by Council, Finance and Law & Legislative Services will initiate execution of required Credit Documentation.
- 6.3. Required Credit Documentation must be signed by all parties, security must be documented/registered, and all Conditions need to be met or waived by the appropriate authority prior to agreements going into effect (i.e. no monies will change hands until all conditions have been met).

### 7.0. **SIGNING AUTHORITIES**

- 7.1. Credit Documentation will not become effective until all required approvals for content, form, contract authorization, and execution by The City's duly authorized representative(s) have been obtained in accordance with Bylaw 43M99, as amended or replaced from time to time. Required approvals are specified below.
  - 7.1.1. No individual can provide more than one of the required approvals.

## CREDIT DOCUMENTATION PROCEDURES

Approval of:	Authorized Approver
Content	One of: <ul style="list-style-type: none"> <li>• City Treasurer,</li> <li>• Deputy Director, Corporate Finance,</li> <li>• Treasury Manager</li> <li>• Sr. Leader, Corporate Finance</li> <li>• Or their respective delegate(s)</li> </ul>
Form	City Solicitor or designate
Contracts/Agreements	One of: <ul style="list-style-type: none"> <li>• City Manager;</li> <li>• Chief Financial Officer</li> <li>• Or their respective Delegate(s);</li> </ul>
Execution per Bylaw 43M99	City Clerk or delegate

### 8.0. HISTORY

Policy Action	Date	Report Number	Description
Minor Revision	10-May-2023	n/a	Update job titles in sections 5 and 7
New	11-Jan-2021	ELT2021-0047	New policy approved by ELT

## CREDIT DOCUMENTATION PROCEDURES

### SCHEDULE A – Standard Terms and Conditions:

Terms and Conditions	Requirements/Guidance
Asset Disposal Limitations (excluding Change in Control)	<ul style="list-style-type: none"> <li>• Proceeds from the sale of any capital assets financed with any loan or loan guarantee provided by The City must first be applied to repay outstanding loan amounts and/or extinguish associated loan guarantees.</li> </ul>
Notification of Change in Control	<ul style="list-style-type: none"> <li>• Change in Control is defined as any transaction that would cause any change to the legal or organizational structure of the Borrower resulting in a change to the shareholder or shareholder group which has &gt;50% of the voting shares and/or Board control.</li> </ul>
Cross Default and Cross Acceleration	<ul style="list-style-type: none"> <li>• Means all obligations for borrowed money and all other contractual obligations capitalized as debt in accordance with applicable accounting standards.</li> <li>• It is acceptable if non-recourse debt is excluded.</li> </ul>
Material Adverse Change/Effect (MAC/MAE)	<ul style="list-style-type: none"> <li>• MAC/MAE may appear in the Representation and Warranties section, as an Event of Default, as a Condition Precedent, or as a separate, standalone clause.</li> <li>• The MAC/MAE must be worded in very general terms (e.g. should not be linked to any financial tests) but may exclude specific situations identified at execution of the credit agreement.</li> <li>• Where the reference point for the MAC/MAE is the most recent published set of financial statements, ensure this is the most recent set of financial statements before closing or initial drawdown.</li> <li>• With respect to deals involving acquisitions of other entities by the Borrower or its subsidiaries, it is acceptable that the MAC/MAE clause at closing in the credit agreement refers to the MAC/MAE clause in the purchase agreement related to that acquisition.</li> <li>• The MAC/MAE clause must continue throughout the life of the loan (i.e. appears in the agreement as a Covenant or Event of Default).</li> </ul>
Representations and Warranties	<p>The following clauses should be included:</p> <ul style="list-style-type: none"> <li>• Payment of taxes and other priority payables.</li> <li>• Corporate organization, structure and execution powers.</li> <li>• Obligations are legal, valid, binding &amp; enforceable.</li> </ul>

## CREDIT DOCUMENTATION PROCEDURES

	<ul style="list-style-type: none"> <li>• Material compliance with all other laws/regulations/orders, including Environmental (specific reference to Environmental may be omitted for Borrowers in industries where this is not a material concern). This representation extends beyond the financial obligations of the borrower to capture the business more broadly.</li> <li>• Absence of material litigation except as identified at closing of the credit agreement.</li> <li>• Continuing possession of necessary patents, trademarks, copyrights and other intellectual properties (if material to the business).</li> <li>• Conformity with applicable accounting standards and accuracy of financial information.</li> <li>• No default in any other agreement for loan or other debt instrument in excess of a threshold amount.</li> </ul> <p>Note: it is also acceptable if any of the above items and their repetition is not explicitly listed in the Representations &amp; Warranties but is satisfactorily covered in other clauses (e.g. Covenants).</p>
Reporting Covenants	<ul style="list-style-type: none"> <li>• Provision of quarterly unaudited financial statements within 60 days (if available).</li> <li>• Provision of annual audited financial statements within 120 days of each fiscal year end for all Borrowers and/or Guarantors. Audited financial statements must conform with applicable accounting standards. Review Engagements or Notice to Readers statements may be appropriate depending on the quantum of exposure and purpose of funds.</li> <li>• Borrowers are required to provide annual budget and/or business plan (if available).</li> <li>• Compliance certificate signed by a senior financial officer or other qualified officer of the Borrower.</li> <li>• Provision of other information as requested as deemed reasonable.</li> <li>• Prompt notification of default.</li> </ul>
Pari Passu Clause	<ul style="list-style-type: none"> <li>• This clause could be found as either a Covenant or a Representation &amp; Warranty or an Event of Default.</li> <li>• Not required if facility is fully and satisfactorily secured on tangible assets.</li> </ul>
Negative Pledge	<ul style="list-style-type: none"> <li>• Limitations on other indebtedness permitted in a Borrower's capital structure.</li> </ul>

## CREDIT DOCUMENTATION PROCEDURES

### SCHEDULE B: EVENTS OF DEFAULT

Events of Default	<ul style="list-style-type: none"><li>• Non-payment of principal.</li><li>• Non-payment of interest, fees and or other amounts.</li><li>• Breach of any of the credit agreement's terms, conditions or covenants.</li><li>• Making an incorrect or untrue Representation or Warranty.</li><li>• Any government approval required to conduct the Borrower's business or perform its obligations under the agreement is not obtained or is withdrawn or ceases to be in full force and effect, where materially significant to the running of the business. It is acceptable for this to be structured as a Representation &amp; Warranty rather than an Event of Default. It is acceptable for there to be no reference to government approvals, if they are not material to the business.</li><li>• A judgement in excess of a threshold amount as defined in the credit agreement. Typically, at least equal to the materiality threshold defined in section 3.3, is rendered and is either: being contested and has been outstanding for over 60 consecutive days without being stayed or satisfied; or enforcement proceedings have commenced.</li><li>• Any writ, execution, attachment or seizure issued or enforced against the Borrower or its assets.</li><li>• A third-party institutes proceedings of any kind including suspension or operations, reorganization under CCAA, bankruptcy, liquidation, etc.</li><li>• Borrower institutes proceedings of any kind including assignments for the benefit of creditors, suspension of operations, reorganization under CCAA, bankruptcy, liquidation, etc. or takes any corporate action approving any of the foregoing.</li></ul>
-------------------	--