

TO:	CHAIR AND MEMBERS CORPORATE SERVICES COMMITTEE MEETING ON AUGUST 23, 2016
FROM:	MARTIN HAYWARD MANAGING DIRECTOR, CORPORATE SERVICES AND CITY TREASURER, CHIEF FINANCIAL OFFICER
SUBJECT:	AMENDMENTS TO COUNCIL POLICY MANUAL REVIEW AND UPDATE OF "CHAPTER 20 - REALTY SERVICES"

RECOMMENDATION

That, on the recommendation of the Managing Director, Corporate Services and City Treasurer, Chief Financial Officer, on the advice of the Manager of Realty Services, in order to update "Chapter 20 – Property" of the Council Policy Manual, the following actions be taken:

- a) the attached proposed by-law (Appendix "A") **BE INTRODUCED** at the Municipal Council meeting on August 30, 2016 to repeal and replace "Chapter 20 – Property" of the Council Policy Manual; and
- b) the attached proposed by-law (Appendix "B") **BE INTRODUCED** at the Municipal Council meeting on October 13, 2015 to repeal and replace Schedule "A" – Sale and Other Disposition of Land Policy to By-law No. A.-6151-17, being "A By-law to establish policies for the sale and other disposition of land, hiring of employees, procurement of goods and services, public notice, accountability and transparency, and delegation of powers and duties, as required under section 270(1) of the *Municipal Act, 2001*."

PREVIOUS REPORTS PERTINENT TO THIS MATTER

Corporate Services Committee – February 5, 2013 – Real Property Acquisition Policy

Strategic Priorities and Policy Committee – March 17, 2014 – Industrial Land Development Strategy Annual Monitoring and Pricing Report

BACKGROUND

"Chapter 20 – Property" of the Council Policy Manual includes various policies to establish and maintain a consistent and equitable framework for the administration of property matters, including the acquisition of real property interests that support Council-approved projects, programs, policies and strategic plans.

The policies contained in Chapter 20 engage many of the City's core principles, namely Good Government, Respect and Integrity, Community Engagement and Fiscal Responsibility. Those policies apply to real property rights acquired, managed, and disposed of by the City of London and include any right, interest or benefit in land including, but not limited to, fee simple acquisitions, leases, licenses, options, air rights, density transfers, permanent easements, rights-of-way, linear corridors, and other limited interests such as joint-use agreements, temporary working easements, permissions to enter and construct, and any other legal binding agreement related to the acquisition of real property rights. The policies contained in Chapter 20 apply to all City of London employees, any agents acting on behalf of the City and consultants authorized to acquire real property on behalf of the City.

Each of the property-related policies have been reviewed to ensure they:

- reflect current legislative requirements
- reflect the current governance and administrative models
- enable fair and transparent processes
- target resources based upon identified need
- meet the best interests of the municipality
- reflect best practices
- clearly define methods of acquisition
- provide for an adequate level of due diligence
- clearly define departmental responsibilities
- facilitate consistent delivery of realty services

Summary of Proposed Changes

In addition to the proposed change to the Chapter Title to “Realty Services”, which is in keeping with the general reference currently used in relation to the various matters covered in this Chapter, there are a number of other general housekeeping edits to reflect current titles of the Civic Administration, the current names of applicable Standing Committees of the Municipal Council, other corporate and legislative references, as well as minor wording changes for clarity purposes. It was also determined that the following more substantive changes should be made, based upon the rationale noted below, and the remaining policies should be renumbered accordingly:

- a) Policy 20(2) – Top soiling and Seeding Old Landfill Sites and 20(4) – Motorized Vehicles on City Lands relate more directly to the operations under the jurisdiction of the City Engineer. As such it is being recommended that these policies be deleted from Chapter 20 and instead be contained in Chapter 7 – Engineering Services.
- b) Policies 20(5) – Determination of Sale Price, 20(13) – Commissions for Industrial Land Sales, and 20(15) – Sale of Industrial Lands have been removed as they were previously rescinded.
- c) Policies 20(8) – Property for Capital Works Projects, 20(10), 20(18), 20(22), 20(27) - Protocol for Unapproved Aboriginal Burial Sites and Policy 20(29) Sale and Other Disposition of Land Policy have been reformatted so that the Policy is not contained in an Appendix, but can be found immediately beneath the Policy title, for ease of use.
- d) Policy 20(19) – Real Estate Services has been updated to reflect current requirements and processes.
- e) Policy 20(20) – New Major Facilities Reserve Fund has been deleted as this fund no longer exists.
- f) Policy 20(21) – Garden Plots has been deleted as this program is no longer administered by Realty Services. There are, however, other programs in place which are administered through Parks and Recreation Services.
- g) Policy 20(23) – Costs Under Municipal Tax Sales Act relates more directly to operations under the Revenue Division. As such it is recommended that this policy be deleted from Chapter 20 and instead be included in Chapter 26 – Taxes.
- h) Policy 20(24) – Sale of Surplus Property, Policy 20(25) – Pricing of Industrial Land, Policy 20(26) – Exchange of Lots in Trafalgar Woods Subdivision are being recommended for deletion as these Policies have been replaced by the Sale and Other Disposition of Land Policy.

For reference, a redlined copy showing the proposed changes to Chapter 20 is attached as Appendix “C”.

Conclusion

The recommended policy updates will further strengthen the delivery of transparent, fair and efficient Realty Services. It will provide a basis within which civic departments can work to provide superior service to the community at large.

Acknowledgements

This report was led by Bill Warner, Manager of Realty Services, in consultation with Bryan Baar, Manager II Realty Services, Adam Ostrowski, Manager I, Realty Services, David Munteer, Solicitor II, Charles Abromaitis, Senior Property Appraiser & Negotiator and Linda Rowe, Deputy City Clerk.

PREPARED BY:	PREPARED BY:
BRYAN BAAR MANAGER II, REALTY OPERATIONS	ADAM OSTROWSKI MANAGER I, REALTY SERVICES
SUBMITTED BY:	RECOMMENDED BY:
BILL WARNER MANAGER OF REALTY SERVICES	MARTIN HAYWARD MANAGING DIRECTOR, CORPORATE SERVICES AND CITY TREASURER, CHIEF FINANCIAL OFFICER

July 7, 2016

cc: David G. Munteer, Solicitor II

APPENDIX “A”

Bill No.

By-law No.

A by-law to repeal and replace Chapter 20 –
Property of the City Council Policy Manual.

WHEREAS section 5(3) of the *Municipal Act, 2001* S.O. 2001, c.25, as amended, provides that a municipal power shall be exercised by by-law;

AND WHEREAS section 9 of the *Municipal Act, 2001* provides that a municipality has the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority under this or any other Act;

NOW THEREFORE the Municipal Council of The Corporation of the City of London enacts as follows:

1. Chapter 20 – Property of the City Council Policy Manual is hereby repealed and replaced with a new Chapter 20 – Realty Services attached as Schedule “A” to this by-law.
2. This by-law shall come into force and effect on the day it is passed.

PASSED in Open Council on August 30, 2016.

Matt Brown
Mayor

Catharine Saunders
City Clerk

First Reading – August 30, 2016
Second Reading – August 30, 2016
Third Reading – August 30, 2016



20(1) Conveyance of Sanitary Filled Land

The City Solicitor shall ensure, wherever possible, that the conveyances of sanitary filled land in the City of London include a covenant to the effect that the land contains sanitary fill.

ADOPTED MAY 19, 1970 [20(1)]

20(2) Real Estate Service – MLS

When the City wishes to list properties for lease with the Real Estate brokerage community, the properties shall be listed with the London and St. Thomas Association of Realtors using the Multiple Listing Service.

ADOPTED SEPTEMBER 5, 1972 [20(3)]

20(3) Financing of Sales

The City of London shall not entertain requests for the provision of long term financing on the sale of City-owned land and/or buildings as it is not a function of the Municipality to provide mortgage funds.

ADOPTED SEPTEMBER 5, 1973 [20(6)]

20(4) Transactions Involving Elected Officials

In those instances where property transactions involve Elected Officials:

- (a) the Manager of Realty Services shall obtain an independent third party fee appraisal and review this to ascertain if the report contains the information required and that the value arrived at is supported by pertinent facts;
- (b) the Manager of Realty Services shall be authorized to encourage the individual involved to obtain his/her own independent third party fee appraisal from a recognized appraiser; and
- (c) the Manager of Realty Services shall be authorized to negotiate to determine a fair compensation using the two values so obtained.

ADOPTED OCTOBER 1, 1973 [20(7)]

20(5) Property for Capital Works Projects

- (1) The Manager of Realty Services, at the request of the City Engineer, will provide the City Engineer with an in-house estimate of property cost for all capital works projects at the preliminary engineering stage; it being noted that the validity of such estimates will be restricted to a specific time frame, based on an evaluation of property market conditions by the Realty Services Division.
- (2) The initiating report on a capital works project will contain a recommendation that expropriation procedures be initiated by the Realty Services Division if, in the opinion of the Realty Services Division, such action is necessary following approval by Council of the initiating report. The Civic Administration in this event



is automatically authorized to take all administrative action required to carry out the expropriation.

- (3) As soon as possible after the City Council approves the initiating report, the Environmental & Engineering Services Department will supply the Realty Services Division with the following:
 - (a) a Property Request Plan and Property Request Form; a property plan (registered deposit plan) prepared by an Ontario Land Surveyor and registered--details of shape; size; measurements; bearings; R.P. lot no.; registered owner; instrument number; area in square feet and acres, of land required;
 - (b) a project conceptual plan prepared by the Environmental & Engineering Services Department or consultant containing present property lines and improvements; the exact location of trees, hedges, fences, driveways, buildings, fire hydrants, hydro poles; proposed new property lines and improvements;
 - (c) a schematic drawing of structures to be erected on or adjacent to private property; and
 - (d) a proposed project schedule containing the timetable for property acquisition, tender call, start and completion of the project.
- (4) On receipt of the property plans from the City Engineer, the Realty Services Division will prepare a project property report for submission "in camera" to the appropriate Standing Committee, listing all properties required with an estimate of the value of each property. When all property is acquired, a completed project property report will be submitted "in camera" to the appropriate Standing Committee, giving the estimated and actual price paid for each property and an explanation of any major variance.
- (5) On receipt of the required information from the City Engineer, the Realty Services Division will contact all property owners involved and attempt to negotiate a fair settlement in the form of an Agreement of Purchase and Sale executed by the registered owner.

Agreements of Purchase Sale shall be subject to the following:

- (a) the Agreement shall name the Solicitor acting on behalf of the Offeror;
- (b) a deposit of \$2.00 will be paid, and a receipt given at the time of the execution of the document;

- (c) all acceptable conditions will be included and will form part of the Agreement;
 - (d) all subsequent changes to an Agreement shall be initialed by all parties;
 - (e) the acceptance time of an Agreement shall cover a minimum of two City Council meetings; and
 - (f) all signatures shall be sealed and witnessed at the time of assignment.
- (6) All Agreements as received will be processed in keeping with applicable legislation through the appropriate Standing Committee and City Council, and shall be accompanied by the following:
- (a) the approval of the Realty Services Division and/or the City Solicitor as to the form of the Agreement;
 - (b) the approval of the Environmental & Engineering Services Department with regard to conditions relative to engineering matters; and
 - (c) a letter to the appropriate Standing Committee from the City Treasurer, containing a clear recommendation, plus the following background material: - project title; account number; availability of funds; assessment and current taxes, where practical; legal description; size; conditions of sale; registered owners; R.D.P. and Part No.; municipal no. and location; file no.; building description and the estimate of property value prepared by the Realty Services Division or by an independent third party fee appraisal.
- (7) Following the initial contact with all registered owners, and after consultation with the Environmental & Engineering Services Department, the Realty Services Division will initiate expropriation procedures, if required, and advise the appropriate Standing Committee and the City Engineer of the estimated effect on property costs and project scheduling of this action.
- The initiation of expropriation procedure will not preclude further negotiations by the Realty Services Division to acquire the property.
- (8) Copies of the City Council's resolution and the accepted Agreement signed by the Mayor and the City Clerk shall be forwarded to the City Solicitor for closing of the transaction. The Realty Services Division will maintain liaison with the City Solicitor and if Agreements are not closed within the prescribed time limit, both parties to the Agreement will record an agreement to extend the time of closing and the City Solicitor will advise the Realty Services Division of such time extension.



- (9) On completion of a capital works project, the Realty Services Division shall review all land surplus to the project requirement and if the enquiry procedure carried out by the Realty Services Division indicates no further public use for such land, the Realty Services Division will attempt to dispose of the land in accordance with the prescribed policy.
- (10) A monthly meeting will be held by the Realty Services Division and/or the City Solicitor's Office staff to review the monthly Property Status Report and ensure adequate liaison on all property matters affecting Capital Works Projects.

ADOPTED SEPTEMBER 3, 1974 [20(8)]

20(6) Internal Review of Property Sales

That a policy be established such that no City-owned property, unless covered by a specific policy, be offered for sale or long-term lease until an internal review of that property is carried out by the Administration and a recommendation as to its designation is formulated and approved by the appropriate Standing Committee and City Council.

ADOPTED OCTOBER 21, 1974 [20(9)]

20(7) City-Owned Residential Properties

- (1) Inspection and Repair of Premises:
 - (a) Immediately on acquisition of land that includes a residential building the Realty Services Division will carry out an inspection of the property and complete a Property Inspection Report.
 - (b) On the termination of any existing tenancy the Realty Services Division will carry out an immediate inspection of the property; but in any event all city-owned residential premises will be inspected once per year.
 - (c) Upon acquisition of property or the termination of an existing tenancy, the Realty Services Division will examine the premises and secure, adjust, or make safe, all electrical, heating, gas, oil and water systems.
 - (d) If repairs are indicated from the inspection, the Realty Services Division shall obtain an estimate of the cost of such repairs.
 - (e) Where repairs are required and the estimate is reasonable in view of the continuing viability of the property, the Realty Services Division will issue a work order with the cost to be charged to the Maintenance of Rented Property Account. In the event the property is considered in poor condition, with a low future anticipated income, and repair costs are economically prohibitive, the Realty Services Division will recommend to



Council that the premises be sold for removal from the land or demolished.

(2) Renting Procedure:

- (a) After inspection of a new residential property and the completion of improvements the Realty Services Division will establish a monthly rent comparable to the existing market conditions for residential units in the City.
- (b) On termination of any existing tenancy the Realty Services Division will review the monthly rent; but in any event the rents charged on all City-owned residential property will be reviewed once per year.
- (c) Upon receiving vacant possession of a residential property in adequate condition to rent, the Realty Services Division will publicly advertise the property.
- (d) Applicants for rental accommodation shall submit a rental application and the Realty Services Division will carry out any enquiries deemed necessary with the references indicated by the applicant, inclusive of a credit check.
- (e) Unless otherwise approved by City Council, no residential lease will be for more than one year, and satisfactory applicants will be required to sign a Rental Agreement Form witnessed by a member of the Realty Services Division and accompanied by payment of the first and last months' rent, before being allowed to enter the premises.
- (f) A copy of the Rental Agreement will be retained by the Realty Services Division, which will be responsible for recording, collecting and following up on all rents.
- (g) In the case of non-payment of rent, the Realty Services Division will:
 - (i) After 15 days a reminder notice will be sent;
 - (ii) After 30 days of original due date a final notice will be sent requesting immediate payment or notice of termination of lease will be forthcoming;
 - (iii) After 45 days of the original due date the City Solicitor will be notified and requested to proceed to terminate the lease and



undertake eviction proceedings if necessary, in accordance with applicable legislation. A copy of this correspondence shall be filed with the Realty Services Division.

- (3) Disposal or Demolition of Buildings:
- (a) Where it is the opinion of the Realty Services Division that the cost of maintaining a property suitable for renting is economically prohibitive the Realty Services Division shall recommend to City Council:
 - (i) Where there is a possibility of removing the buildings from the land, that the Purchasing Agent be authorized to call tenders for the sale of the building;
 - (ii) Where conditions warrant demolition that the Purchasing Agent be authorized to request bids for the demolition of the buildings where warranted under the prescribed delegated authority and associated limits.
 - (b) Before making a recommendation to City Council on the disposal or demolition of a building, the Realty Services Division will carry out an enquiry procedure with relevant departments, boards and commissions to ascertain any alternative use for the building.
 - (c) Where the building has been advertised for sale and no bids are forthcoming, the Purchasing Agent is authorized to proceed to call tenders for demolition.

ADOPTED OCTOBER 21, 1974 [20(10)]

20(8) Property Enquiries to Board of Education

Local Boards of Education shall be allowed a period of 90 days to reply to any property enquiries forwarded to it by the City of London as a reciprocal arrangement in view of the fact that the local Boards of Education presently allow the City of London a similar period of time to reply to their enquiries, as required by Ontario Regulation 444/98 of the *Education Act*.

ADOPTED MAY 20, 1975 [20(12)]



20(9) Demolitions of Buildings on Flood Plain Lands

That the following policy be established with regard to the demolition of buildings on flood plain lands:

- (a) should an inspection reveal a City-owned structure on Flood Plain to be in need of major repairs, the Realty Services Division will request an estimate for adequate repairs from the Facilities or an independent contractor;
- (b) upon receipt of this estimate, and noting the economic feasibility of retaining the subject building, the Realty Services Division will prepare a report for to the appropriate Standing Committee, including a property description, cost of repairs and a recommendation with respect to possible demolition.

ADOPTED NOVEMBER 15, 1976 [20(14)]

20(10) Rental of Lands for Billboards

The rental of City-owned properties for billboards and all other properties in the City of London, shall be subject to the following guidelines::

- (a) Such use should be in conformity with the Zoning By-law and should respect the height and setback regulations for structures.
- (b) Such use should be in conformity with the Official Plan policies which relate to billboards.
- (a) Such use should be in conformity with the Sign By-law.
- (c) Billboard locations which were in conformity with the Zoning By-law when originally leased but which are now not in conformity with the Zoning By-law or the Official Plan shall be phased out at the termination of the lease so that the billboard industry can adjust to the situation and make alternate plans. Open space areas in City ownership generally should not be leased for billboards but such use could be considered where the open space area lacks natural amenity and will not be put into developed parkland in the near future or where the billboard can be considered to screen unsightly industrial or commercial uses.
- (d) Special consideration should be given to billboards at the major approaches to the Central Business District and in the "Forks Area". It is desirable to eliminate the billboards from such locations particularly where they are obscuring a desirable vista or view. They may be considered permissible where they are compatible with adjacent uses and do not interfere with any vista.

ADOPTED SEPTEMBER 5, 1978 [20(17)]

20(11) Leasing and Licencing of City-Owned Land

VACANT CITY-OWNED LANDS

1. When an application has been received, the Realty Services Division initiates action to rent vacant City-owned and/or controlled lands for other than agricultural purposes, the Legal Services Department, through its Realty Services Division, will ascertain if there are any restrictions or conditions on renting that may be imposed by any City Department, Board or Commission, and further confirm that the intended use is permitted under the existing Zoning By-laws with due consideration being given to the Official Plan.
2. If there are no objections from the Administration, the Legal Services Department, through its Realty Services Division, will contact the abutting property owner(s) where possible, and advise them that the City intends to rent the lands and of the proposed use.
3. If there are no objections from the abutting owner(s), and providing the term is for one year or less, with a 60 day cancellation clause, the Legal Services Department, through its Realty Services Division, will estimate market rent and after giving the abutting owner(s) an opportunity to rent on those terms and if not accepted by the abutting owner(s), advertise the property for rent.
4. Should objections be received from the abutting owner(s), the Legal Services Department, through its Realty Services Division, will first contact the objectors and attempt to answer the objections and failing that, forward its recommendations with the objections to the Board of Control for consideration.
5. If authority is then received to rent, advertising will commence to rent the property in accordance with Board of Control's instructions with all Offers to Rent received, delivered to the Board of Control through the City Manager's Office, with recommendation of the General Manager of Legal Services & City Solicitor.
6. Where a prospective Lessee requests a term of more than one year, the Legal Services Department will prepare a lease and forward the same lease along with its recommendations through the City Manager to Board of Control and Council for their consideration.
7. Collection of revenue and Policy regarding non-payment of rent will follow existing policy.



RENTING OF VACANT CITY-OWNED LANDS FOR AGRICULTURAL PURPOSES

1. When an application has been received, the Realty Services Division initiates action to rent vacant City-owned and/or controlled lands for other than agricultural purposes. The Realty Services Division will ascertain if there are any restrictions or conditions on renting that may be imposed by any City Department, Board or Commission, and further confirm that the intended use is permitted under the existing Zoning By-laws with due consideration being given to the Official Plan.
2. If there are no objections from the Administration on renting the lands, the Realty Services Division, will prepare specifications and recommend to City Council that the Manager of Purchasing be authorized to call tenders for the rental of the property, with such bids to indicate the price, terms and the intended crop or use.
3. Upon the opening of the tenders the Manager of Purchasing shall forward them to the Realty Services Division for recommendation.
4. Collection of revenue and steps for non-payment of rent will follow existing Policy.
5. Persons renting City-owned farm land shall pay to the City 100% of the annual rental fee at the time of the signing of the lease/rental agreement.

20(12) Real Estate Brokerage Services

At the discretion of the Manager, Realty Services, real estate services, where required, will utilize the established Broker of Record where practical to do so. Should a Broker of Record not be established, on the recommendation of the Manager, Realty Services an alternate service provider may be selected. The services to be provided include listing surplus properties currently offered by the City of London, strategic advisory and consulting, transaction management, research and analysis and project management. Brokerage fees associated with the services commissioned will be negotiated by the Manager, Realty Services, subject to existing agreements in compliance with the City's prescriptive delegation of authority provisions.

20(13) Lands for Public Works Projects

The following Frequently Asked Questions (FAQs) shall be provided by the Civic Administration in connection with the acquisition of properties required for public works projects:

1. DOES THE CITY DO ANYTHING BEFORE IT EXPROPRIATES PROPERTY?

Yes it does. The City makes every effort to negotiate a fair agreement of purchase and sale with a property owner before resorting to expropriation. The City's objective is to ensure that individual rights are respected and protected and to provide fair compensation for any property acquired within the framework of the *Expropriations Act*. When a project is to be constructed in phases, the City will generally try to acquire those properties that are needed first, but will nonetheless negotiate for property in any phase if the owner wishes to sell.

This is typically how it's done. A City Realty Services representative contacts the owner to discuss acquisition terms after the City has had an independent appraisal firm appraise the agreement. The owner has the option to obtain another independent appraisal to assist them in assessing the offer of compensation, as well. (See Questions 2 and 12 below regarding owner costs).

2. WHAT HAPPENS IF AN AGREEMENT IS REACHED?

The owner is usually then asked to execute an "Agreement of Purchase and Sale" offering to sell their property to the City, which is then recommended to City Council for acceptance. In some extenuating situations, the City may make an offer to purchase. In either case, once the offer is accepted, a binding agreement of purchase and sale exists between the owner and the City. When a mutually acceptable agreement is reached, it is the City's practice to pay the owner's reasonable legal and appraisal costs after the completion of the transaction.

3. WHAT CAN I EXPECT TO BE PAID FOR?

The amount that an owner receives covers such things as:

- . the market value of the land,
- . damages due to disturbance,
- . damages for injurious affection, and
- . any special difficulties in relocating.

4. WHAT IS MEANT BY "MARKET VALUE"?

"Market value" is the amount that might be expected if the property were sold in the open market by a willing seller to a willing buyer. An additional allowance may be considered for improvements, the value of which may not be reflected in the property's market value, such as trees and landscaping.

5. WHAT DOES "DAMAGES DUE TO DISTURBANCE" INCLUDE?

Where the owner resides on the property, "damages attributable to disturbance" include:

- . any reasonable costs that naturally and reasonably result from the City's acquiring the property;
- . an allowance for inconvenience;
- . an allowance (up to 5 % of the property's market value) toward the cost of finding another residence, provided the property is not already being offered for sale when the City acquires it.

6. WHEN ARE "DAMAGES FOR INJURIOUS AFFECTION" PAID?

Where only a portion of the property is acquired rather than everything, "damages for injurious affection" are based upon the reduction in the market value of the remaining property after the partial property purchase.

7. WHAT IS INCLUDED IN "RELOCATION COSTS"?

"Relocation costs" are usually only paid when the entire property is acquired. This may include reasonable moving, legal, survey and other non-recoverable expenses incurred in the property owner acquiring other premises.

8. WHAT CAN AN OWNER DO WHO DOESN'T FEEL EXPROPRIATION IS JUSTIFIED?

If following every effort to negotiate a fair agreement, it is necessary for the City expropriate a property, a "notice of intention to expropriate" is sent to the owner. Within 30 days, the owner may request a hearing of necessity into whether the taking of the property is "fair, sound and reasonably necessary" to achieve the City's objectives. The owner can appear alone or with a lawyer before the inquiry which is conducted by a provincially-appointed inquiry officer. The inquiry officer does not have authority to deal with the property's value but he/she must give the City Council a written opinion with reasons as to whether the expropriation is justified. After considering the report, City Council decides whether to go ahead with expropriation.

9. IN AN EXPROPRIATION, WHEN DOES THE CITY OWN AND OCCUPY THE PROPERTY?

The City takes title to the property by registering an expropriation plan in the Land Registry Office. Within 30 days after that, the City serves the owner with an expropriation notice. Although the City, or its appointed appraiser, can inspect the property to appraise its value, the City cannot actually take possession until the owner has been given at least three months' advance notice. Court



proceedings are available to the owner to postpone the possession date and to the City to overcome resistance to allowing possession.

10. **DOES THE CITY MAKE ANY FURTHER OFFER OF MONEY FOR THE PROPERTY?**

Within three months of registering the expropriation plan and before taking possession, the City must offer the owner an amount in full compensation together with the appraisal report upon which the offer is based. If the owner agrees with the amount offered, the matter can be settled at this point. If not, the owner can still have the money paid to them and have the value established by the Board of Negotiation or the Ontario Municipal Board.

11. **HOW DOES THE QUESTION OF COMPENSATION GET BEFORE THE ONTARIO MUNICIPAL BOARD?**

Two separate boards exist to deal with property value: the Board of Negotiation and the Ontario Municipal Board. Either the owner or the City can apply to either board. The Board of Negotiation meets with the owner and a City representative at the property and attempts in an informal way to negotiate a complete settlement. The Board of Negotiation recommendation is not binding on either part. If a settlement is not reached at the Board of Negotiation hearing, the Ontario Municipal Board can arbitrate the dispute. The matter can go directly to the Ontario Municipal board, but only if the owner and the City agree to by-pass the Board of Negotiation. The OMB decision is binding, unless appealed by either party to the Divisional Court.

12. **WHO PAYS THE OWNER'S COSTS IN HAVING COMPENSATION DETERMINED?**

If the amount determined by the Ontario Municipal Board represents 85 per cent or more of the amount offered by the City before expropriation, the owner is entitled to be reimbursed for reasonable legal, appraisal and other costs actually incurred for determining compensation. The owner is also entitled to be paid interest on any outstanding difference between the Board's award and any payment made previously by the City.

NOTE: This brochure answers the most common questions an owner may have whose property is affected by a public works project. Because this has been prepared for information and convenience only, it is not intended to be an authoritative digest of expropriation law or of the City's policies and procedures. A lawyer should be consulted for specific legal advice; however any further questions you may have about this subject may be directed to:

Manager of Realty Services
Realty Services Division



The Corporation of the City of London
P.O. Box 5035
London, Ontario N6A 4L9
(519) 661-5442

ADOPTED JUNE 20, 1983 [20(22) AUG 2003]

20(14) Protocol for Unapproved Aboriginal Burial Sites

PROTOCOL STATEMENT:

The City of London encourages consultation with First Nations communities, recognizing and respecting traditional First Nations customs.

PROTOCOL PURPOSE:

It is the goal of this protocol to establish a protocol available to private land owners in the City of London and First Nations communities as options for stewardship of unapproved aboriginal burial sites discovered on land within the boundary of the City of London.

SCOPE:

Traditional First Nations' customs should be accommodated and consultations between First Nations communities and private/public land owners should be encouraged.

APPLICATION:

The protocol is available as a framework for negotiations towards an agreement for stewardship of an unapproved aboriginal burial site.

BACKGROUND:



As the urban development of the City of London has expanded, human burial sites have been discovered in land that had previously been natural or used for agricultural purposes. Some of these burial sites include remains of aboriginal persons; some of the burial sites include the remains of persons who were settlers in the area.

The Province of Ontario enacted legislation for the protection of discovered unapproved burial sites including unapproved aboriginal burial sites: the *Cemeteries Act (Revised)*, R.S.O. 1990, c. C.4, as amended (the “*Cemeteries Act (Revised)*” or the “Act”) and its regulations. The Act and the regulations provide procedures for the identification of sites as “unapproved aboriginal peoples’ cemetery”, the representation of the people whose remains are located, for either establishing the lands either as a cemetery or for entering into a site disposition agreement between the land owner and the representative, and a dispute resolution mechanism.

The Act and its regulations also expressly provide that, unless consent is given by a representative of the person whose remains were discovered, the remains shall not be removed from the site nor shall scientific analysis of the remains or associated artifacts be conducted.

Historically, when human remains, regardless of cultural origin, have been discovered in the municipal boundaries of the City of London during urban development, the remains were typically removed to local approved cemeteries (and in the case of aboriginal remains, may have been removed to a an aboriginal cemetery located within the municipal boundaries of the City of London or a cemetery located on a nearby first nations reserve).

Traditional practices and customs with respect to the stewardship of burial sites may vary depending on the First Nations community involved. The protocol seeks to engage the parties in notifying potential modern representatives of the find and providing them with any evidence regarding the culture of the interred persons.

One stewardship option available to the private land owner and the representative of the aboriginal person whose remains have been discovered is the participation of the City of London



in a joint ownership programme with the representative with respect to those burial sites located within the boundaries of the City of London.

Recognizing that the private land owner is entitled to a number of rights and remedies available to him/her/it under the *Cemeteries Act (Revised)* as described above, this protocol is available to private land owners as a guide to resolving a site disposition agreement between the relevant parties.

Two of the highlights of this protocol are:

- (1) it acknowledges that, depending on the nominee, there may be a question as to legal capacity nominee of the representative of the aboriginal person whose remains have been discovered, in respect of conveying title. One of the options of stewardship is joint ownership of the burial site between the City of London and the representative. In the joint ownership option, in the event that future title of the lands should ever fail for any reason, title to the lands would revert to the City of London and the lands will remain as a burial site for the aboriginal person whose remains were discovered; and
- (2) the protocol requires the consensus and participation of all parties including the private land owner, the representative of the aboriginal person whose remains have been discovered, and, where relevant to the stewardship option chosen, the City.

THE PROTOCOL:

The protocol is generally a non-binding framework intended to guide private land owners who discover remains on their property. The roles and responsibilities are to be interpreted in the context of the framework's underlying principles of consultation, accommodation, and negotiation.



Nothing in this protocol is intended to abrogate the rights or obligations of any party under the *Cemeteries Act (Revised)*.

If the site is identified as an unapproved aboriginal peoples' cemetery, and if the private land owner wishes to invoke this protocol, the private land owner may enter into negotiations with the representative of the person whose remains have been discovered (and the City if a joint ownership option is pursued) for a site disposition agreement that may include the following matters:

- (a) for the delivery of a copy of any documents connected with or related to investigations conducted in accordance with the *Cemeteries Act (Revised)* if requested by the parties to the agreement;
- (b) in addition to any notice requirements under the *Cemeteries Act (Revised)*, to send notice to potentially interested parties of the discovery of the human remains that are of aboriginal origin;
- (c) for delivery of a copy any notices given under this protocol, including any responses, if requested by the parties to the agreement;
- (f) for the cost of rezoning, if necessary, of the subject lands to a zone that is appropriate for cemetery use;
- (f) for obtaining an up to date survey of the lands that are the subject of the burial site;
- (g) for the preparation and registration of a reference plan showing the lands that is the subject of the site disposition agreement;
- (h) for providing reasonable and appropriate landscaping of the burial site and to allocate the cost of such landscaping;
- (i) for providing for the manner in which the human remains may be disinterred and reinterred;
- (j) for conveying title to the burial including but not limited to conveying title to the Corporation of the City of London in joint ownership with the representative of the person whose remains have been discovered;
- (k) for providing for future stewardship of the burial site.



A sample draft agreement is set out at Appendix "A" attached for the joint ownership option.

If the joint ownership option is pursued, then title to the lands shall be transferred from the private land owner to the Corporation of the City of London, and then transferred from the Corporation of the City of London to the nominee of the representative and the Corporation jointly.

In so far as the City has the power to do so, will treat the lands as exempt from taxation pursuant to sections 3(2) and 3(9) of the *Assessment Act*, R.S.O. 1990, c. A.31 as amended, and any other enabling successor legislation or regulation.

If the parties wish to amend the draft form of site disposition agreement as attached as Appendix "A", any and all amendments shall be on the consent of all parties to the agreement.

If the parties are unable to resolve the draft form of site disposition agreement, the parties shall be entitled to the arbitration remedies available under the *Cemeteries Act (Revised)*.

APPENDIX "A"

Sample Draft Site Disposition Agreement

This site disposition agreement was made this _____ day of _____, 200_ between [name of private land owner] as Owner, [name of the representative] as the representative of the aboriginal person(s) whose remains are interred, as the Representative, and the Corporation of the City of London as the City.

WHEREAS the Owner has uncovered the remains of a person or persons whose cultural identity has determined upon investigation as an aboriginal person with a close cultural affinity to the Representative;

AND WHEREAS the Representative is willing to act as a representative in defined by the *Cemeteries Act (Revised)*, R.S.O. 1990, c. C.4, as amended;

AND WHEREAS the Representative desires to have the remains of the person interred left in proximity to where they are interred and the Owner can accommodate such an intention;

AND WHEREAS the City and the Representative have agreed to take title in the subject lands identified below jointly;

AND IN CONSIDERATION of the payment of two dollars (\$2.00) by the Owner each to the City and the Representative, in addition to other consideration, the receipt and sufficiency of which is hereby acknowledged;

THE PARTIES AGREE as follows:

1. LEGAL DESCRIPTION OF THE LANDS

[insert legal description]

2. MANNER IN WHICH THE REMAINS ARE TO BE DISINTERRED AND REINTERRED

[insert agreement as to internment]

3. PROVISIONS FOR FUTURE MAINTENANCE

The Representative shall assume the stewardship of the burial area and shall ensure that the area continues to be protected, respected, and used in ways that are consistent with the dignity and integrity of a burial ground.

4. ALLOCATION OF COSTS

The parties agree that costs shall be allocated on the following basis:

- (a) the Owner shall bear the costs of:
 - (i) obtaining a survey of the lands;
 - (ii) preparing and registering a reference plan that shows the lands that are the subject of this agreement;
 - (iii) obtaining rezoning of the lands;
 - (iv) providing for the disinterment and reinterment of the person(s) whose remains are interred on the lands, as set out in paragraph 2 above, including any landscaping as agreed by the parties; and
 - (v) preparation, execution and delivery of all documents necessary to convey title in the subject lands from the Owner to the Corporation of the City of London.

- (b) the Representative shall bear the costs of: stewardship and future maintenance of the subject site.



- (c) the City shall bear the costs of:
 - (i) preparation, execution and delivery of all documents necessary to convey title in the subject lands from the City to the Representative and the Corporation of the City of London jointly; and
 - (ii) registration of this site disposition agreement with the Registrar as provided below.

Following transfer of the lands from the Owner to the City, in so far as the City has the power to do so, the City will treat the lands as exempt from taxation pursuant to sections 3(2) and 3(9) of the *Assessment Act*, R.S.O. 1990, c. A.31 as amended, and any other enabling successor legislation or regulation.

5. OTHER MATTERS

The parties further agree as follows:

- (a) The agreement is a site disposition agreement as contemplated by *Cemeteries Act (Revised)*, R.S.O. 1990, c. C.4 as amended and O.Reg 133/92 (Burial Sites), or any successor legislation, and shall be filed with the Registrar;
- (b) The parties acknowledge that the Owner intends to develop the lands adjoining or abutting the subject lands for the purposes of [type of use]. Subject to final approval of the development by the necessary authorities including the City and the Ontario Municipal Board, the Representative shall not object to the said development;
- (c) This agreement is binding on the parties and their successors;
- (d) This agreement cannot be assigned by any party without the written consent of the other parties;
- (e) Notice pursuant to this agreement shall be delivered in writing by registered lettermail to the following addresses:



[name of representative]

[address of representative]

[name of land owner]

[address of land owner]

The Corporation of the City of London

300 Dufferin Avenue

P.O. Box 5035

London, Ontario

N6A 4L9

Attention: Legal Services Department

Service of any notice shall be effective five (5) business days after the date of mailing.

IN WITNESS WHEREOF the undersigned have hereunto executed this agreement by representatives duly authorized and affixing their seals,

[witness] _____ [signature of land owner]
[typed name of land owner]

[witness] _____ [signature of representative]
[typed name of representative]

[witness] _____ [signature of Mayor]

[witness] _____ [signature of City Clerk]

The Corporation of the City of London

ADOPTED APRIL 7, 2003

20(15) Donation of Land and Buildings to the City

The following guidelines shall be applied in the event of a significant donation of land and/or buildings to the City:

- (a) The Civic Administration is to submit an initial report to Council through the appropriate Standing Committee at the outset of contact and discussion with the potential property donor. This initial report will, among other things, indicate the nature of any further studies or investigations recommended and provide preliminary estimates of the cost of obtaining outside experts/consultants in assessing the building/property condition. This initial report will be on a confidential basis unless consent for disclosure is received from the potential property donor.
- (b) Based on this initial report, Council may authorize the Civic Administration either to proceed with further discussions and evaluation or to decline the donation.
- (c) Where the Civic Administration is authorized to proceed, the Civic Administration is to evaluate the proposal including:
 - (i) developing a financial model which estimates capital costs and identifies secured revenues, forecasts future operating costs, explores potential use, and any recommended model for restoration/repair where appropriate;

- (ii) preparing a condition study/building audit for any structures on the subject property, undertaken "in house" by qualified City staff or obtained from a qualified outside consultant;
 - (iii) where appropriate, undertaking a risk assessment analysis and estimated contingency allowance for any forecast expenditures, where the ability to conduct a comprehensive building audit is constrained (i.e. because of existing tenants or third party occupancy);
 - (iv) undertaking a review, if available, of previously obtained building audits, plans and studies completed by the property donor, including historical data on any renovations, alterations, expansions, etc., that have been undertaken;
 - (v) in the case of proposed land donations, where appropriate, preparing "in house" by qualified City staff or obtaining from an outside qualified consultant a Phase I environmental audit and where appropriate a Phase II environmental study report (soil testing and geotechnical investigation); and
 - (vi) where the donated property contains buildings which are recommended for demolition, formulating, where possible, an estimate of the costs of removal of any structures from the property proposed for donation.
- (d) The Civic Administration is to report its evaluation to the Municipal Council with its recommendation for approval or otherwise.
 - (e) Where the Municipal Council authorizes proceeding with accepting the donation, the Civic Administration is to obtain and review an independent market value appraisal of the donated property to be completed in accordance with the current regulations of Revenue Canada for the purposes of issuing an income tax receipt.
 - (f) It is recognized that this policy may have limited application, if any, to a significant bequest of property to the City under the will of a deceased individual, because of the unique nature of a bequest. The City is not obligated in law to accept a bequest, and the City's acceptance or not of a bequest will be determined on a case-by-case basis.

ADOPTED SEPTEMBER 2, 2003

20(16) Sale and Other Disposition of Land Policy

PART 1 - APPLICATION

This policy applies to the sale or other disposal of land by The Corporation of the City of London (the City).



This policy does not apply to the sale or other disposition of land by the City to the Housing Development Corporation, London.

PART 2 - POLICY STATEMENT

The City will dispose of surplus land in an open and transparent process to ensure that the consideration for such disposal is fair, reasonable and in the best interest of the City.

PART 3 - DEFINITIONS

In this policy, the following terms shall have this meaning ascribed to them:

“appraisal” means a fair market valuation of the land that is satisfactory to the Manager of Realty Services.

“disposition” means the sale, transfer, conveyance or exchange of the fee simple interest in land or the granting of a lease for a term of twenty-one (21) years or longer, and does not include the granting of an easement or right of way, and “disposal” shall have a similar meaning;

“land” means real property owned by the City;

“surplus” means property that the City no longer requires to meet its current or future needs;

PART 4 - PROCEDURES

The following procedures shall apply to the disposal of real property by the City. Prior to the disposal of any real property by the City of London which has the potential for development as affordable housing, the Housing Development Corporation will be provided with the opportunity to advise Council if the property should be retained by the City or transferred to the Housing Development Corporation for affordable housing purposes.

1. Declaration of Surplus Property

a) Prior to the disposal of land by the City, the Municipal Council shall declare the land to be surplus in the following manner:

- i) the City Treasurer, upon the advice of the Manager of Realty Services will submit a report to the appropriate Standing Committee recommending that the land in question be declared surplus to the needs of the City;
- ii) where the appropriate Standing Committee deems it advisable to adopt the recommendation of the City Treasurer with respect to declaring any land owned by the City to be surplus, the Standing Committee will submit a recommendation to the Municipal Council recommending that the land in question be declared surplus to the needs of the City;



- iii) where the Municipal Council deems it advisable to adopt any recommendation from the Standing Committee with respect to declaring any land owned by the City surplus;
- iv) the Municipal Council will, in a meeting open to the public, pass a resolution declaring any such land surplus to the needs of the City.

b) Notwithstanding the foregoing, the following classes of land are exempt from the requirement to declare such land surplus prior to its disposal:

- i) all land owned by the City that is zoned for industrial uses;
- ii) all cemetery plots owned by the City;
- iii) any land transferred to the City for security or for temporary roads or other works in connection with any agreement to which the City is a party under the *Planning Act*, R.S.O. 1990, c. P. 13 as amended.

2. Appraisal

a) The City, before disposing of land, shall obtain at least one appraisal of the land to be disposed of.

b) Notwithstanding the foregoing, the following classes of land are exempt from the requirement to obtain an appraisal prior to its disposal:

- i) land 0.3 metres or less in width acquired in connection with an approval or decision under the *Planning Act*;
- ii) closed highways, road and road allowances;
- iii) land formerly used for railway branch lines if sold to an owner of land abutting the former railway land;
- iv) land that does not have direct access to a highway if sold to the owner of land abutting that land;
- v) land repurchased by an owner in accordance with Section 42 of the *Expropriations Act*;
- vi) land to be used for sites for the establishment and carrying on of industries and of industrial operations and incidental uses;
- vii) cemetery plots;



- viii) disposal to a local board as defined in the *Municipal Affairs Act*;
- ix) disposal to an authority under the *Conservation Authorities Act*; and
- x) disposal to the Crown in Right of Ontario or of Canada and their agencies.

3. Notice

a) Upon the Municipal Council having declared land surplus to the needs of the City but before any such land is disposed of by the City, the City Clerk will give notice to the public of the intention of the City to dispose of the land in question.

b) Where the land to be disposed of is, in the opinion of the Manager of Realty Services, developable as a separate parcel of land, the notice referred to in paragraph 3 a) shall be in the following forms:

- i) publication once of an advertisement in a newspaper of general circulation;
- ii) the posting of a "For Sale" sign on the land in question; and
- iii) posting a notice on the City of London "Web Site".

c) Where the land being disposed of is, in the opinion of the Manager of Realty Services, not developable except in conjunction with other adjacent land, the notice referred to in paragraph 3 a) may be in one or more of the forms identified in paragraph 3 b) of this Policy.

d) Notwithstanding the foregoing, no notice to the public of the proposed disposal of any land zoned for industrial uses is required, other than the general marketing of such land by the Manager of Realty Services.

4. Methods of Sale

Depending on the nature of the land, various methods may be employed for the disposal of land including, public auction; tender process; listing through the Multiple Listing Service, direct advertising; through direct negotiations with an abutting property owner; or through other direct negotiations when authorized by Municipal Council. The City Treasurer, upon the advice of the Manager of Realty Services, shall be responsible for determining the appropriate method of sale.

5. Procedures for Disposal of Industrial Land



a) In addition to the requirements set out in Parts 1 to 6 inclusive of this policy, the disposal of serviced industrial land owned by the City will be undertaken in accordance with the applicable part or parts of the Sale of Land Procedures set out in Attachment "A" of the policy.

b) The sale price for serviced industrial land as adopted by Municipal Council is as set out in Attachment "B" of this policy.

c) The fee to be paid to Real Estate Agents properly involved in the disposition of City-owned industrial land shall be as set out in Attachment "C" of this policy.

6. Procedures for Disposal of Proposal Call

In addition to the requirements set out in Parts 1 to 6 inclusive of this policy, the disposal of land by proposal call shall be in accordance with the procedures set out in Attachment "D" of the policy.

7. Procedures for Disposal of Public Tender

In addition to the requirements set out in Parts 1 to 6 inclusive of this policy, the disposal of land by public tender shall be in accordance with the procedures set out in Attachment "E" of the policy.

8. Procedures for Disposal by Direct Negotiation

In addition to the requirements set out in Parts 1 to 6 inclusive of this policy, the disposal of land by direct negotiation shall be in accordance with the procedures set out in Attachment "F" of this policy.

9. Procedure for Disposal by Public Auction

In addition to the requirements set out in Parts 1 to 6 inclusive of this policy, the disposal of land by public auction shall be in accordance with the procedures set out in Attachment "G" of this policy.

ATTACHMENT "A"

Disposal of Industrial Land Procedures

1. The purpose of this policy is to establish the terms upon which City-owned serviced industrial land is to be sold and transferred.
2. This policy is to be read and applied fairly and beneficially with such variations as circumstances or the nature of the subject matter require provided the general purpose, intent, meaning and spirit of the policy are maintained.

3. In this policy,
 - (a) Commencement of construction means the date upon which a building permit is issued by the City;
 - (b) Completion of construction is reached when the building or structure or a substantial part thereof is ready for use or is being used for the purpose intended, and;
 - (c) Coverage has the meaning ascribed to it under the applicable zoning by-law

CLASS 1 SALE

4. A class 1 sale is a sale of a land for the purpose of the construction thereon of a building or structure for a detached industrial use.
5. A class 1 sale shall be subject to the following conditions:
 - (a) The purchaser shall commence construction within one year of the registration of the deed or transfer and shall diligently complete construction of the building or structure, in default of which the purchaser shall in the sole discretion of the City reconvey the land to the City in accordance with Section 18 of this policy and free and clear of all encumbrances, easements, restrictions or covenants except as to those originally assumed by the purchaser from the City.
 - (b) The minimum coverage of the building or structure shall be 15 per cent, provided however that, where the maximum coverage permitted under the applicable zoning by-law is 15 percent or less, the maximum coverage under the zoning by-law shall be deemed to be the minimum coverage required by this condition.
 - (c) The purchaser shall not within 10 years of the registration of the deed or transfer convey any vacant part of the land by deed, transfer, grant, assignment, appointment, mortgage, charge, lease or sub-lease (Planning Act, R.S.O. 1990, Chapter P .13), without first notifying the City and, where it has been so notified, the City may either grant its consent (which shall not be unreasonably withheld) to the conveyance or application or may in its sole discretion require the purchaser to reconvey the vacant part to the City in accordance with Section 18 of this policy and free and clear of all encumbrances, easements, restrictions or covenants except as to those originally assumed by the purchaser from the City.
 - (d) The purchaser shall pay local improvement charges and any other special levies assessed at any time against the land on and after completion of the purchase.



6. The Manager of Realty Services may grant one or more extensions (which in total shall not exceed two years) of the time set out in paragraph 5 (a) of Section 5 of this policy within which construction of a building or structure is to be commenced provided the purchaser has filed a written request with the Manager of Realty Services for the extension.
7. A purchaser wishing to notify the City under condition 5 (c) of this policy shall file a written request with the Manager of Realty Services who shall submit a recommendation thereon to Council through Board of Control.

CLASS 2 SALE

8. A class 2 sale is a sale of a land for the purpose of the extension or enlargement of a building or structure erected or to be erected upon land of the purchaser abutting the land.
9. A class 2 sale shall be subject to conditions (c) and (d) of Section 5 of this policy and the further condition that the land shall not be used for any purpose other than the extension or enlargement of a building or structure erected or to be erected upon lands of the purchaser abutting the land.

CLASS 3 SALE

10. A class 3 sale is a sale that is not a class 1 or class 2 sale and that is a sale of a land for the purpose of a use ancillary to a building or structure erected or to be erected upon land of the purchaser abutting the parcel.
11. A class 3 sale shall be subject to conditions (c) and (d) of Section 5 of this policy and the further condition that the land shall not be used for any purpose other than a use ancillary to a building or structure erected or to be erected upon land of the purchaser abutting the parcel.

GENERAL

12. At least annually, the Manager of Realty Services shall review the pricing of industrial land and if a change in pricing is recommended, shall make a recommendation to Board of Control as to the price per acre at which land should be offered for sale during the ensuing year.
13. Pending receipt of an offer to purchase from a prospective purchaser, land may be



reserved for a period of 30 days, provided however that, if during the reserve period the City receives an offer to purchase the same land in accordance with this policy from another prospective purchaser, the first prospective purchaser shall be allowed 5 days after notification within which to submit an offer to purchase at the same price and on the same terms; otherwise the City shall be at liberty to accept the second offer to purchase.

14. A prospective purchaser shall complete and execute an offer to purchase in the form provided by the City accompanied by a deposit payable to the City Treasurer by cash or certified cheque equal to 10 per cent of the total purchase price, and the balance shall be payable subject to usual adjustments upon completion of the transaction.
15. The Manager of Realty Services may submit an offer to purchase for acceptance by the City.
16. The transaction shall be completed within 90 days of the passing of the by-law accepting the offer to purchase or within such further period as may be agreed to between the City Solicitor and the purchaser's solicitor in the best interests of the City.
17. Where, in the City's opinion, land is properly sold through a real estate agent, the City shall pay a fee to the agent not exceeding the scale established by the City upon completion of the transaction but no fee shall be payable if the purchaser is permitted to withdraw from the agreement of purchase and sale prior to the completion of the transaction.
18. Where the whole or any part of land is reconveyed by the purchaser to the City pursuant to a condition of sale or otherwise, the amount payable upon the reconveyance shall be 90 per cent of either the original purchase price (exclusive of interest thereon), if the whole land is reconveyed, or the portion thereof that is in the same ratio as the area of the reconveyed part is to the whole land, subject to adjustments as of the date of reconveyance for taxes, local improvements and other rates and subject, where the City considers necessary, to the City's withholding until a new purchaser is found, an amount sufficient to compensate the City for the cost of restoring the land to its original condition if so required by the new purchaser.
19. The development of the property will be subject to the requirements of the Architectural Control Guidelines as published by the City of London from time to time and the purchaser acknowledges the contents thereof and agrees to conform to those Guidelines.
20. The cost of service connections from the main to the property line is the responsibility of the purchaser.
21. The purchaser accepts the current condition of the site and the cost of removal of topsoil from the site if required is the responsibility of the purchaser.



ATTACHMENT "B"

The current pricing levels of all other City industrial parks be established effective June 23, 2016, as follows:

Pricing for serviced industrial land in Innovation Park, Skyway Industrial Park, River Road Industrial Park, and Cuddy Boulevard Parcels:

Lots up to 3.99 acres	\$75,000.00 per acre
4.00 acres and up	\$65,000.00 per acre

Pricing for serviced industrial land in Trafalgar Industrial Park:

All lot sizes - \$55,000.00 per acre.

Surcharges to be added as follows:

Highway 401 Exposure – 15%;
Veteran's Memorial Parkway Exposure – 5%; and

The cost of service connections from the main to the property line being the responsibility of the purchaser.

Industrial lots are sold on a where is, as is basis, with grading; stripping and removal of excess topsoil being the purchaser's responsibility and cost. The City will strive to provide grading of the municipal industrial parks on a level-graded basis. Site specific final grading is the responsibility of a purchaser.

ATTACHMENT "C"

Real Estate Commissions for Industrial Land

The fee payable to Real Estate Agents properly involved in the disposal of City owned industrial land be as follows:

- (a) Transactions up to \$100,000 - 5%
- (b) Transactions up to \$200,000 - 5% for the first \$100,000
3% above \$100,000 to \$200,000
- (c) Transactions over \$200,000 - 5% for the first \$100,000
3% above \$100,000 to \$200,000
2% above \$200,000 for remainder

ATTACHMENT "D"

Disposal of Land – Proposal Call Procedure

1. Where land, in the opinion of the Manager of Realty Services, may be suitable for major redevelopment, the General Manager of Finance and Corporate Services will recommend that proposal call documents be drafted.
2. When the document has been prepared, notice of the proposal call will be in accordance with the notice provisions of this policy.
3. Sealed proposal calls will be opened at the appointed time in accordance with the City's tendering policy and referred to the Civic Administration for its consideration and recommendation through the General Manager of Finance and Corporate Services to Board of Control.
4. Further direct negotiations with proponents will be at the direction of Board of Control and Municipal Council.

ATTACHMENT "E"

Disposal of Land – Public Tender Procedure

1. The Realty Services Division will forward inquiries to each City Department, local Board or Commission, requesting their opinions as to the potential sale of the land.
2. Where, subject to the inquiry procedure, land is deemed to be surplus to City requirements, the Realty Services Division will suggest a market value for the land and recommend through the City Treasurer to the appropriate Standing Committee that the Manager of Purchasing be authorized to call tenders for the sale of the land.
3. Notice of the tender call will be in accordance with the notice provisions of this policy.
4. Offers to Purchase will be opened at the appointed time in accordance with the City's tendering policy.
5. The terms of sale of such properties will be a deposit of 10% in the form of a certified cheque and/or cash to accompany the offer and cash on closing.
6. The offers will be referred to the Realty Services Division for review and recommendation through the City Treasurer to the appropriate Standing Committee.
7. If the successful tenderer is introduced to the land by a realtor, a commission may be payable if appropriate as follows:
 - (i) transactions up to \$100,000 - 5%

- (ii) transactions up to \$200,000 - 5% first \$100,000
3% between \$100,000 and \$200,000
 - (iii) transactions over \$200,000- 5% first \$100,000
3% between \$100,000 and \$200,000
2% all amounts above \$200,000, or
 - (iv) as otherwise approved by Municipal Council.
8. The payment of commission as provided for in paragraph 8 be payable only in the event that the realtor has:
- (i) completed and deposited with the Manager of Realty Services, the Realtor Registration Form approved by the City not prior to the calling of each tender and not later than the closing of each tender;
 - (ii) obtained the signature of the proposed tenderer on the Realtor Registration Form approved by the City as an acknowledgement of the registration and on the understanding that the payment of the real estate commission may lower the net amount payable to the City which may result in the tender not being accepted;

ATTACHMENT "F"

Disposal of Land – Direct Negotiation Procedure

1. The Realty Services Division will send the appropriate inquiries to each relevant City Department, local Board or Commission, regarding their opinions as to the potential sale of the land.
2. When it has been established through the inquiry procedure that a land is surplus to City requirements and when, in the opinion of the Manager of Realty Services, considering the current market value of the land as well as the value of the said lands to the abutting land owners or other prospective purchasers, it is advisable to dispose of the land through direct negotiations, the Realty Services Division will conduct direct negotiations with the abutting owner(s) or other prospective purchasers and report the results and recommendations to the appropriate Standing Committee through the City Treasurer.

ATTACHMENT "G"

Disposal of Land – Public Auction Procedure



1. Where, in the opinion of the Manager of Realty Services, it is advisable to dispose of real property through a public auction, the following procedures shall apply
2. The Manager of Realty Services shall be authorized to retain a licenced real estate auctioneer to conduct the auction
3. All costs of advertising being borne by the City on the understanding that the method and format of advertising will be agreed to by the auctioneer and approved by the Manager of Realty Services, prior to publication.
4. The City shall maintain the right to establish a reserve bid based on the results of an internal appraisal on the subject land by City staff, or an external appraisal carried out by an independent appraiser assigned by the City, and on the understanding that the reserve bid will remain confidential until the conclusion of the auction.
5. The conditions of sale being established, in each case, by the City, in conjunction with the Manager of Realty Services and the City Treasurer.
6. The Manager of Realty Services shall report the results of the auction to the appropriate Standing Committee.

ADOPTED DECEMBER 17, 2007

20(17) Real Property Acquisition Policy

1.0 POLICY STATEMENT

The City of London acquires real property rights, as required, for municipal purposes consistent with City mandated programs, projects, policies and strategic plans. The general direction for this Policy is set out in Policy 19.11: Land Acquisition, City of London Official Plan (2006). The City of London will acquire real property rights in a transparent, fair and competitive process to ensure the best interest of the City are met.

2.0 PURPOSE

The purpose of this Policy is to establish and maintain a consistent and equitable framework for the acquisition of real property interests that support Council approved projects, programs, policies and strategic plans.

3.0 GOVERNING PRINCIPLES

The Policy is based on the City of London governing principles:

- Good Government
- Respect and Integrity



- Community Engagement
- Fiscal Responsibility

4.0 APPLICATION

This Policy applies where real property rights are acquired by the City of London and includes any right, interest or benefit in land including, but not limited to fee simple acquisitions, leases, licenses, options, air rights, density transfers, permanent easements, rights-of-way, linear corridors, and other limited interests such as joint-use agreements, temporary working easements, access easements, permissions to enter and construct, and any other legal binding agreement related to the acquisition of real property rights. This Policy applies to all City of London employees, and any agents acting on behalf of the City and consultants authorized to acquire real property on behalf of the City.

Real property such as road dedications and easements that are acquired pursuant to the provisions of the *Planning Act* and any regulations there under will continue to be dealt with as part of that process. Real property acquired through the expropriation process will continue to be dealt with as part of that process and in accordance with the *Expropriations Act*.

In addition, the following municipal and provincial legislation relate to the acquisition of interests of real property:

- *Municipal Act, 2001*, s. 6, s.8 and s.11
- *City of London Act, 1999*, s.12.3 (1) and s.12.5 (1)
- *Housing Development Act, 1990*, c. H.18, s. 17
- *Ontario Heritage Act, 2005*, s. 36 (1),36 (2) and s. 45
- By-Law No. A-1-11012, February 28, 2011, City of London
- By-Law No. CP-9, January 1, 2011, City of London
- *Municipal Conflict of Interest Act*
- City of London Official Plan, 2006
- City of London Property Policy (Chapter 20)

5.0 POLICY REQUIREMENTS

The City of London, Realty Services, shall undertake the acquisition of real property interests in conformity with this Policy, unless otherwise directed by the City Council (Council).

6.0 SERVICE AREA NEEDS ASSESSMENT

Prior to initiating an acquisition of any real property rights as defined in Schedule A, the client department will prepare on its behalf, or on behalf of a partner agency, a service area acquisition needs assessment. The needs assessment shall:

- a) provide justification and rationale for the proposed acquisition;



- b) state the municipal need or issue the acquisition will satisfy;
- c) evaluate the total cost of ownership including the impact of on-going operating and estimated capital expenditures over the life cycle of the asset;
- d) discuss the risks and benefits of the acquisition;
- e) identify, if any, options to asset acquisition;
- f) evaluate, if required, the lease term and proposed conditions compared to the market;
- g) prepare a Net Present Value analysis (NPV) that considers the financial costs and benefits of these options; and
- h) identify, if any, unique factors that are applicable to the acquisition, including applicable policies, plans or strategies of the City.

All assessments shall be vetted through the Realty Services and Finance in collaboration with the client service area to determine whether the City's existing real property inventory, or any capital works initiatives, may fulfill the client's requirements and determine the impact, if any, on the remainder of the City's real estate portfolio. In the case of leased property, this process shall apply to all potential leased premises and shall be evaluated by Realty Services.

6.1 Service Areas Needs Assessment Exemptions

For real property rights required for infrastructure, environmental acquisition, emergency scenarios and other municipal purposes at the discretion of Realty Services, a service area needs assessment shall not be required prior to completing the transaction.

7.0 COUNCIL APPROVAL

City Council approval of a project shall include authority for the appropriate person(s) or body to initiate and undertake legal surveys, appraisals, environmental assessments, heritage, archaeology, negotiations, expropriations, legal and other such related activities or reports, as may be required. A budget item must be approved for the program or project, including the costs of acquiring a real property and operational budget impacts, before action is taken to acquire property.

8.0 FUNDING

A source of funding for the acquisition of real property, life cycle costs, including ongoing annualized operating costs of the asset, must be identified through a Council approved budget item, specific to the program, project or policy defining the need, or allocated from an approved service area budget, with approval of the City Treasurer.

9.0 METHODS OF ACQUISITION

Realty Services shall make a determination of the most appropriate method of acquisition, taking into account the needs of the City mandated programs, projects, policies and strategic plans and the best interests of the City and the public interest to achieve these objectives in a timely, fiscally responsible manner, adhering to existing policies and procedures, legislation and applicable Council direction, as amended, from time to time.



9.1 Negotiation

Negotiation is the preferred method of obtaining all types of real property rights and interests through a fair and equitable agreement mutually acceptable to all parties. Compensation may be provided as though acquisition was pursuant to the *Expropriations Act*. Negotiations may be conducted with a specific property owner as a result of a direct interest in a particular property or in an emergency situation. Negotiations may originate from a request for proposal with multiple proponents initially, until one is selected for completion of a transaction. Realty staff may negotiate directly with other levels of government, utility companies or other agencies, for direct acquisitions.

9.2 Unsolicited Proposals

Unsolicited proposals relating to real property matters, including either requesting the City to acquire a specific property or enter into a lease agreement, shall be:

- a) subject to the principles of the *Procurement of Goods and Services Policy*;
- b) in compliance with Section 9.14 of this Policy with respect to Emergency Acquisitions;
- c) in compliance with the Delegation By-laws for approval and execution for Sole Source and Single Source; and
- d) in all circumstances, immediately referred to Realty Services for review.

In addition to a service area needs assessment as identified in Section 6.0 of this Policy, all unsolicited proposals under consideration and review by Realty Services must aim to:

- a) stimulate or support the economic development and growth for the City;
- b) illustrate the benefit of acting upon a limited or single opportunity; and
- c) identify budget resources for the acquisition including ongoing annualized operating costs of the asset.

Upon review by Realty Services, a report shall be forwarded to Council.

9.3 Request for Proposal (RFP)

The City of London may initiate the acquisition of a fee simple or lease interest in real property through a request for proposal process. The RFP process shall comply with the *Procurement of Goods and Services Policy*. The City shall not be obligated to enter into negotiations and complete a transaction under this process.

9.4 Expropriation

Where project requirements must be met in a timely manner, or where negotiation is unsuccessful, expropriation may be considered.



The City of London has the authority to expropriate land in accordance with the provisions of the *Expropriations Act*. Expropriation will be used as a last resort for acquisition purposes. Where necessary, service area departments should allow for a minimum of 18 months to 24 months lead time in their project planning, in anticipation that real property acquisition by expropriation may be required.

9.5 Charitable Donations

The City may acquire real property through gifts or donations, subject to Council approval, or that of its delegated authority. Before accepting a gift of real property, an analysis to determine the conditions of the gift, existing restrictions or encumbrances and assumption of liabilities or any tax implications, shall be carried out. A charitable donation receipt may be issued in the amount of the appraised market value of the donated real property. An independent appraisal shall determine the market value of any donated real property. A satisfactory Phase I Environmental Site Assessment will also be required.

9.6 Development Approval Process

This Policy does not apply to acquisitions of real property rights such as parkland dedications, road widening or easements obtained through pursuant to approvals under the *Planning Act* including conditions of final approval for subdivisions, site plans or consents.

9.7 Tax Sales – Vesting in Municipality

The municipality may acquire real property, pursuant to Part XI of the *Municipal Act*, (Sale of Land for Tax Arrears) by registering a Notice of Vesting. Procedures on the Treatment of Properties That Do Not Sell at Municipal Tax Sales are outlined in Schedule B.

9.8 Land Exchanges

When an acquisition is contemplated in support of the natural heritage system, as provided for in the London Official Plan or the City's parks and open space system or other municipal purposes, and it is determined that an exchange of City-owned surplus real property is in the best interests of the City, negotiation shall be initiated based on the market value of the respective real properties, pursuant to the *Sale and Other Disposition of Land Policy* as set out in Schedule "A" of By-law No. 6151-17. Land Exchanges may be considered for other acquisitions of real property in accordance with a departmental needs assessment.

9.9 Public Private Partnerships (P3)

The City of London may acquire or dispose of an interest in real property as part of a Public-Private Partnership (P3) to provide infrastructure, municipal capital facilities and related services that would benefit the municipality, the private sector and City residents.



9.10 Other Agencies

The City of London may acquire interests in real property as the result of a transfer of jurisdiction from one level of government to another, such as transfer of highways.

9.11 Other Levels of Government and Institutions

The City of London may take advantage of its preferred position as a government agency to acquire interests in real property, prior to property being available on the open market, from other levels of government, school boards and conservation authorities.

9.12 Land Assembly

The City may acquire property with the intent of a land assembly to satisfy a City mandate, policy, project or strategic plan that supports long term economic growth and be in the public interest.

9.13 Acquisition of Real Property by Lease/License

The City of London may, for a specified time period, acquire real property in the form of a lease or license agreement. Leases and licenses may be short or long term, and on terms and conditions satisfactory to Realty Services and the client service area. Lease hold interests may be acquired for a nominal sum from other levels of government or at market value. Leases can be entered into under the following situations:

- In the form of a long term land lease in conjunction with a P3;
- A commercial lease for accommodation for a specific client service area to fulfill a municipal requirement;
- An option to secure a future fee simple acquisition;
- Emergency situations;
- Where no fee simple acquisition is available and a current municipal project is approved;
- As an interim use; and
- As deemed appropriate by Realty Services and the client service area as an alternative to fee simple acquisition that would meet the municipal and City residents requirements without a capital expenditure.



The lease or license agreement shall be in form and content satisfactory to the City Solicitor and Realty Services. Leasehold interests must be obtained through a transparent, fair and competitive process and should include consideration of a RFP procedure.

All lease or license agreements must be in compliance with all aspects of this Policy.

9.14 Emergency Acquisitions

The City of London Realty Services, is authorized, to acquire any interest in real property in an emergency situation for the purposes of this Policy, an emergency situation shall be any unforeseen circumstances identified in Section 14.2 of the *Procurement of Goods and Services Policy*. In these situations, Realty Services shall provide an information report to Council, including source of financing, as soon as possible after the acquisition.

10.0 SPECIAL ACQUISITIONS

10.1 Heritage Properties

Chapter 13 of the City of London Official Plan provides the policy rationale for the acquisition of properties of heritage value and interest. When acquiring real property that may have a heritage designation or historical value, a comprehensive analysis of that property shall be conducted involving Realty Services and appropriate City service areas. The analysis will include:

- Identification of the heritage designation or historical value of the real property (*This should include both buildings and cultural heritage landscapes and "natural heritage"*);
- Confirmation of the City of London program(s) to be implemented at this heritage property;
- Identification of the heritage value of the real property after consultation with the London Advisory Committee on Heritage;
- Identification of the desired long-term use or protection of the real property;
- Assessment of the impact of the operational costs of the real property on the City; and
- Development of an asset management plan, which forecasts the capital renewal and re-investment requirements, to preserve the heritage property.

Prior to the acquisition of a heritage property, Realty Services requires confirmation that the client service area and/or City Council have provided the funding and approval for the acquisition.

10.2 Parkland Acquisition

The City of London may acquire real property to ensure the sustainability of its natural heritage system and the connectivity of its parks and open space system, as outlined under Policies 8A2.5 and 16.3 of the Official Plan. The acquisition of parkland to achieve the objectives of this section may occur through purchase, donation, bequest, expropriation, or through dedication as provided for under the *Planning Act*.



A combination of the various methods of acquisition may be required by the City in order to deliver on a specific mandate, policy or plan or to capitalize on an opportunity for the benefit of the City that can be illustrated in the service area needs assessment.

The Parkland Conveyance & Levy By-law, CP-9 effective January 1, 2011 sets out conveyance, levy, and calculation procedures along with prescribed valuation as a condition of development or redevelopment for residential purposes of any land within the city.

11.0 DUE DILIGENCE ACTIVITIES

11.1 Appraisal – Fee Simple or Partial Interest

An appraisal is a formal, written, impartial estimate or opinion of value of an adequately described property, as of a specific date, and supported by the presentation and analysis of relevant data.

All real property acquisitions shall be supported with a current market value appraisal. An appraisal shall be no more than twelve months old or some shorter time-frame at the discretion of the Manager of Realty Services. An appraisal will be completed and the appraisal report executed by an independent real estate professional who is accredited with the Appraisal Institute of Canada or by a qualified City staff appraiser. Where the estimated market value is \$750,000 or greater, a second appraisal will be required, one of which will be undertaken by an independent real estate professional.

Appraisal reports will be based on the “Highest and Best Use” of the property in accordance with current standards of practice within the real estate industry and within the guidelines of the Appraisal Institute of Canada, which may be amended, from time to time.

11.2 Appraisal – Leasehold Interests

Prior to entering into a lease agreement, a market rent study shall be completed by an independent real estate professional or a qualified City staff appraiser at the discretion of the Manager of Realty Services. For the purposes of this Policy market rent is defined as what a willing landlord might reasonably expect to receive, and a willing tenant might reasonably expect to pay for the tenancy, in comparison with rent levels for similar properties in similar areas, if offered in the competitive market.

11.3 Acquisition at Market Value

Real property rights shall be acquired on the basis of market value, and where applicable, entitlements, as defined by the *Expropriations Act*, unless other considerations are included in the transaction and approved by City Council. Where there is a variance between the appraised value and the acquisition price, that variance shall be explained in the approval report.



11.4 Environmental Due Diligence

The City of London shall complete a pre-screening on all real property to be acquired to identify potential contamination issues associated with real property e.g., Historical Land Use Inventory (HLUI). When an acquisition involves the entire fee simple interest (total buyout), or where it is deemed necessary by the client service area, for the acquisition of a lesser interest, a Phase I Environmental Site Assessment (ESA) shall be completed.

All such ESAs shall be completed in accordance with the Canadian Standards Association (CSA) and site remediation criteria, as set out by provincial regulations. Whenever possible or appropriate, acquisition agreements may provide for the indemnification of the City of London by the vendor for environmental conditions.

11.5 Compliance with Section 106 of the *Municipal Act*

Section 106 of the *Municipal Act, 2001* states that the City “shall not assist directly or indirectly any manufacturing business or other industrial or commercial enterprise through the granting of bonuses for that purpose.” The municipality shall not grant assistance by:

- a) giving or lending any property of the municipality, including money;
- b) guaranteeing borrowing;
- c) leasing or selling property of the municipality at below fair market value; or
- d) giving a total or partial exemption from any levy, charge or fee.

The acquisition of any real property rights shall comply with Section 106 of the *Municipal Act, 2011*.

12.0 ROLES AND RESPONSIBILITIES

12.1 City Council

Unless otherwise provided for by By-law, City Council approval is required for the acquisition of real property right in accordance with the provisions of this Policy and any and all applicable By-laws and Legislation. In accordance with the approval authority, executing authority is then delegated to the appropriate City officials.

Elected officials, appointed officers and employees shall not knowingly cause or permit anything to be done or communicated to anyone in a manner which is likely to cause any person to have an unfair advantage or disadvantage in obtaining a contract for the acquisition of real property from the City. This also includes a contract with any other municipality, local board or public body involved in the purchase of real property rights either jointly or in co-operation with the City. Council Members shall operate within the conflict of interest guidelines as set out in this Policy and under the *Municipal Conflict of Interest Act*.



Elected officials shall separate themselves from the procurement process and have no involvement whatsoever in specific procurements. Elected officials should not see any documents or receive any information related to a particular procurement while the procurement process is ongoing. Elected officials who receive inquiries from suppliers related to any specific procurement shall immediately direct those inquiries to the Manager of Realty Services, or the City Treasurer.

12.2 Realty Services

Realty Services is responsible for:

- a) Servicing the real estate needs of the client service area and agencies, boards and commissions identified in this Policy which can include real estate acquisitions and consulting services or advice on any real estate matters;
- b) Negotiating and representing the City on behalf of all service areas with perspective buyers, sellers, landlords, tenants and any other business partners with respect to any real property right proposed transaction whether it be a fee simple, partial acquisition, disposition or lease as defined in Schedule A;
- c) Coordinating with the client service area and Finance to review property inventory, prepare a service area needs assessment and conduct all real estate activity related to an acquisition;
- d) Reporting to Committee and Council on real estate transactions, subject to the provisions of this Policy; and
- e) Ensuring completion of real estate transactions and monitoring executed lease agreements to ensure all terms and conditions are adhered to.

12.3 City Solicitor

The City Solicitor or his designate shall act as legal counsel to service areas and advise Council on real property transactions. The City Solicitor has authority to undertake all legal actions required to complete a real property transaction, including expropriation proceedings.

12.4 Client Service Area

The Client Service Area is responsible for:

- a) Requesting the services of the Realty Services when becoming aware of a real property requirement for acquisition of a fee simple, leasehold or partial interest as further defined in Schedule A or consulting purposes;
- b) Reviewing the existing real property inventory and other acquisition initiatives, in consultation through its Realty Services and Finance, to determine if real property needs



can be met through current inventory or initiatives, prior to the initiation of an acquisition;

- c) Ensuring that the asset rationalization effort and confirmation that the acquisition requirement satisfies its City-mandated program, that includes participation in the preparation of the service area needs assessment;
- d) Providing confirmation to Realty Services that Capital and Operating Budgets to support an acquisition of real property is available prior to any site search or negotiations are undertaken by Realty Services; and
- e) Referring all third party inquiries on real estate acquisition to Realty Service.

12.5 Finance

Finance is responsible for:

- a) Ensuring any and all payments required under a real estate transaction, including leases/licenses are paid in accordance with the terms of the agreement to ensure no potential penalties to the City;
- b) Providing financial analysis and comment in a departmental needs assessment for property acquisitions in collaboration with the client service areas and Realty Services;
- c) Ensuring, in collaboration with the client service areas, that no existing corporate asset will meet the current property initiative;
- d) Identifying sources of funding for any proposed initiative;
- e) Providing leadership for RFP process as required by this Policy; and
- f) Engaging the Purchasing Office to support negotiations, as required.

12.6 Conflict of Interest

No elected official, appointed officer or employee of the City, agency, board or commission, shall have any interest either directly or indirectly of the real property to be acquired or considered for acquisition and must comply with the *Municipal Conflict of Interest Act*. Once known, any interest must be disclosed to Realty Services, Corporate Asset Management. No party having a Conflict of Interest, even once disclosed, shall have any authority to negotiate the transaction. Direct or indirect interest shall include, but not limited to, being an owner, or partial owner, of the property or a party to financing the asset.

12.7 Monitoring/Contraventions

Realty Services will administer the application of this Policy to ensure that all policy requirements are met.



REFERENCES

City of London Policy Manual, Chapter 20 Property
Sale and Other Disposition of Land Policy
Council Policy 17

Legislative and Administrative Authorities

City of London Delegation of Authority By-law A-1-101007
City of London Execution of Certain Documents By-law A-1-11012
City of London Capital Budget
City of London Official Plan, 2006
Expropriations Act, 1990
Environmental Assessment Act, 1976
Heritage Act, 1975
Housing Development Act, 1990
Municipal Act, 2001
Municipal Tax Sales Act, 1984
Municipal Board Act, 1975
Planning Act, 1990
By-Law CP-9 Parkland Conveyance & Levy By-Law

SCHEDULE "A"

Definitions

Appraisal – An appraisal is a formal, written, impartial estimate or opinion of value of an adequately described property, as of a specific date, and supported by the presentation and analysis of relevant data.

Asset Rationalization – a process to support decision-making related to the acquisition, remediation or disposal of real property, in a cost effective manner, while assuring that essential program and service delivery objectives are not compromised.

Capital Projects – have funding or budgets in place and are included in the City's Capital Budget.

City Mandated Programs – support City of London initiatives, as reflected in the Official Plan or Capital Program.

Client Department – a City department that is a client of Realty Services and requires a real property for an approved program or project.

Conflict of Interest - a situation in which the personal interests of officers, Council Members and key staff members come into conflict, or appear to come into conflict, with the interests of the City.

Council Approval Report – a report to Council recommending approval of an acquisition by the City of London.

Delegated Authority – authority to approve pursuant to the Delegation of Authority By-law No. A-1-01007, as amended.

Delegated Authority Approval Report – a report to the City Manager, Managing Director - Corporate Asset Management, Manager of Realty Services, and/or, recommending the approval of an acquisition of real property in accordance with the provisions of the Delegation of Authority By-law No. A-1-01007, as amended from time to time.

Service Area Needs Assessment – a client service area's report documenting the need for and purpose of acquiring real property.

Due Diligence – any activities required prior or during the acquisition of real property that will effectively assist in the decision making process of the acquisition and will provide a thorough understanding of the potential asset.



Easement – a partial interest in real property that is registered on title. An easement reflects the acquisition of property rights either on the surface, above or below ground and can be permanent or temporary and identifies a specific use.

Expropriation – acquiring real property without the consent of the owner, by an expropriating authority in the exercise of its statutory powers.

Highest and Best Use – that use, which, at the time of the appraisal, is most likely to produce the greatest net return, in money or amenities, over a given period of time.

Lease - a legal and binding agreement between two or more parties that specifies a specific property interest, for a specific term, for the right of a specific purpose of use, for a stated consideration and executed by the parties to the agreement.

Market Rent – what a willing landlord might reasonably expect to receive, and a willing tenant might reasonably expect to pay for the tenancy, in comparison with rent levels for similar properties in similar areas, if offered in the competitive market.

Market Value – the most probable price, as of a specified date, in cash, or in terms equivalent to cash, or in other precisely revealed terms, for which the specified property rights should sell after reasonable exposure in a competitive market under all conditions requisite to fair sale, with the buyer and seller each acting prudently, knowledgeably, and for self-interest, and assuming that neither is under undue duress.

Public–Private Partnerships (P3) – legal agreements between government and private sector entities, for the purpose of providing public infrastructure, community facilities and related municipal services.

Real Estate Professional – an individual or firm qualified to provide, in accordance with the City's current standing offer(s), appraisal and/or real estate consulting services.

Real Property - real property includes land, buildings, anything that is erected or growing on or affixed to the surface of the land, minerals and anything subsurface, and all rights issuing out of, annexed to, and exercisable without or about land such as leases, licenses, mortgages, air rights, easements and rights of access.

Request for Proposal (RFP) – a process where a need is identified, but the method by which it will be achieved is not prescribed at the outset. This process allows prospective suppliers to propose solutions or methods to arrive at a desired result.

Real Property Rights - any right, interest or benefit in land, but is not limited to, fee simple acquisitions, leases, licenses, options, permits, air rights, density transfers, permanent easements, rights-of-way, linear corridors, and other limited interests such as joint-use agreements, temporary working easements, access easements, permissions to enter and



construct, and any other legal binding agreement related to the acquisition of property rights for the City of London.

Enquiries

For more information on this Policy, contact:
Manager, Realty Services
The Corporation of the City of London
300 Dufferin Avenue, London ON, N6B 1Z2
Tel: 519-661-2500, ext. 5445

SCHEDULE "B"

Procedures on the Treatment of Properties That Do Not Sell at Municipal Tax Sales

- 1) After a failed tax sale, circulate the property to internal departments and external agencies in accordance with City Policy for the sale of City owned properties in order to determine if they have any interest in the property should the City vest the property; (If there is internal or agency interest in a property this interest will be presented to the appropriate Standing Committee of Council and Council for a decision as to whether or not to take ownership for the department or agency after conducting a Phase 1 and Phase 2 ESA as considered appropriate).
- 2) Conduct a Phase 1 Environmental Site Assessment (ESA).
- 3) Conduct a Phase 2 Environmental Site Assessment where appropriate as indicated by the Phase 1 ESA.
- 4) Report to the Finance and Administration Committee and if there is no internal department or external agency interest in the property, market the property by issuing a Request for Proposal which shall include an evaluation criteria with weighted scoring and a draft Agreement of Purchase and Sale.
- 5) Evaluate the submissions received from the Request for Proposal and prepare a recommendation report for the Standing Committee for the Proponent with the highest technical combined score for the property acquisition.
- 6) Vest property and convey to purchaser after approval of sale agreement by the Standing Committee and Council.
- 7) Apply the proceeds of the sale against the tax arrears, deem any remaining tax arrears uncollectible and write off the remaining tax arrears upon registration of the notice of vesting of the property by the City.



NOTES:

- A) Clauses in a form satisfactory to the City Solicitor will be included in the Agreement of Purchase and Sale to clarify that the property is being sold by the City on an as is, where is basis and that the purchaser acknowledges that the City has regulatory liability limitation from MOE orders under the EPA for the time that it owns the property (for up to five (5) years).
- B) Where encumbrances of the Federal or Provincial Governments or their agencies exist City staff will attempt to negotiate a resolution of the interest as part of or prior to Step 4.
- C) Where it is determined that a property has no environmental risks or liabilities or where the estimated market value will exceed the estimated costs of clean up, City staff may vest the property at any time and follow standard procedures for the designation and sale of surplus City land.
- D) Where it is determined that environmental risks or liabilities are so severe with respect to a property that the City should not vest a property even for the purposes of immediate transfer then a recommendation to take no action with respect to the property will be provided to Council by staff.

APPENDIX "B"

Bill No.

By-law No.

A by-law to amend By-law No. A.-6151-17, being "A by-law to establish policies for the sale and other disposition of land, hiring of employees, procurement of goods and services, public notice, accountability and transparency, and delegation of powers and duties, as required under section 270(1) of the *Municipal Act, 2001*" by repealing and replacing Schedule "A" to By-law No. A.-6151-17.

WHEREAS section 5(3) of the *Municipal Act, 2001* S.O. 2001, c.25, as amended, provides that a municipal power shall be exercised by by-law;

AND WHEREAS section 9 of the *Municipal Act, 2001* provides that a municipality has the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority under this or any other Act;

AND WHEREAS the Municipal Council wishes to amend By-law No. A.-6151-17, being "A by-law to establish policies for the sale and other disposition of land, hiring of employees, procurement of goods and services, public notice, accountability and transparency, and delegation of powers and duties, as required under section 270(1) of the *Municipal Act, 2001*" by repealing and replacing Schedule "A" – Sale & Disposition of Land Policy, to that by-law;

NOW THEREFORE the Municipal Council of The Corporation of the City of London enacts as follows:

1. Schedule "A" to By-law No. A.-6151-17, being "A by-law to establish policies for the sale and other disposition of land, hiring of employees, procurement of goods and services, public notice, accountability and transparency, and delegation of powers and duties, as required under section 270(1) of the *Municipal Act, 2001*" is hereby repealed and replaced with a new Schedule "A" – Sale and Disposition of Land Policy, attached hereto as Schedule "A".
2. This by-law shall come into force and effect on the day it is passed.

PASSED in Open Council on August 30, 2016.

Matt Brown
Mayor

Catharine Saunders
City Clerk

First Reading – August 30, 2016
Second Reading – August 30, 2016
Third Reading – August 30, 2016

SCHEDULE "A"

SALE AND OTHER DISPOSITION OF LAND POLICY

PART 1 - APPLICATION

This policy applies to the sale or other disposal of land by The Corporation of the City of London (the City).

This policy does not apply to the sale or other disposition of land by the City to the Housing Development Corporation, London.

PART 2 - POLICY STATEMENT

The City will dispose of surplus land in an open and transparent process to ensure that the consideration for such disposal is fair, reasonable and in the best interest of the City.

PART 3 - DEFINITIONS

In this policy, the following terms shall have this meaning ascribed to them:

"appraisal" means a fair market valuation of the land that is satisfactory to the Manager of Realty Services.

"disposition" means the sale, transfer, conveyance or exchange of the fee simple interest in land or the granting of a lease for a term of twenty-one (21) years or longer, and does not include the granting of an easement or right of way, and "disposal" shall have a similar meaning;

"land" means real property owned by the City;

"surplus" means property that the City no longer requires to meet its current or future needs;

PART 4 - PROCEDURES

The following procedures shall apply to the disposal of real property by the City. Prior to the disposal of any real property by the City of London which has the potential for development as affordable housing, the Housing Development Corporation will be provided with the opportunity to advise Council if the property should be retained by the City or transferred to the Housing Development Corporation for affordable housing purposes.

1. Declaration of Surplus Property

a) Prior to the disposal of land by the City, the Municipal Council shall declare the land to be surplus in the following manner:

- i) the City Treasurer, upon the advice of the Manager of Realty Services will submit a report to the appropriate Standing Committee recommending that the land in question be declared surplus to the needs of the City;

- ii) where the appropriate Standing Committee deems it advisable to adopt the recommendation of the City Treasurer with respect to declaring any land owned by the City to be surplus, the Standing Committee will submit a recommendation to the Municipal Council recommending that the land in question be declared surplus to the needs of the City;
- iii) where the Municipal Council deems it advisable to adopt any recommendation from the Standing Committee with respect to declaring any land owned by the City surplus;
- iv) the Municipal Council will, in a meeting open to the public, pass a resolution declaring any such land surplus to the needs of the City.

b) Notwithstanding the foregoing, the following classes of land are exempt from the requirement to declare such land surplus prior to its disposal:

- i) all land owned by the City that is zoned for industrial uses;
- ii) all cemetery plots owned by the City;
- iii) any land transferred to the City for security or for temporary roads or other works in connection with any agreement to which the City is a party under the *Planning Act*, R.S.O. 1990, c. P. 13 as amended.

2. Appraisal

a) The City, before disposing of land, shall obtain at least one appraisal of the land to be disposed of.

b) Notwithstanding the foregoing, the following classes of land are exempt from the requirement to obtain an appraisal prior to its disposal:

- i) land 0.3 metres or less in width acquired in connection with an approval or decision under the *Planning Act*;
- ii) closed highways, road and road allowances;
- iii) land formerly used for railway branch lines if sold to an owner of land abutting the former railway land;
- iv) land that does not have direct access to a highway if sold to the owner of land abutting that land;
- v) land repurchased by an owner in accordance with Section 42 of the *Expropriations Act*;
- vi) land to be used for sites for the establishment and carrying on of industries and of industrial operations and incidental uses;
- vii) cemetery plots;

- viii) disposal to a local board as defined in the *Municipal Affairs Act*;
- ix) disposal to an authority under the *Conservation Authorities Act*; and
- x) disposal to the Crown in Right of Ontario or of Canada and their agencies.

3. Notice

a) Upon the Municipal Council having declared land surplus to the needs of the City but before any such land is disposed of by the City, the City Clerk will give notice to the public of the intention of the City to dispose of the land in question.

b) Where the land to be disposed of is, in the opinion of the Manager of Realty Services, developable as a separate parcel of land, the notice referred to in paragraph 3 a) shall be in the following forms:

- i) publication once of an advertisement in a newspaper of general circulation;
- ii) the posting of a "For Sale" sign on the land in question; and
- iii) posting a notice on the City of London "Web Site".

c) Where the land being disposed of is, in the opinion of the Manager of Realty Services, not developable except in conjunction with other adjacent land, the notice referred to in paragraph 3 a) may be in one or more of the forms identified in paragraph 3 b) of this Policy.

d) Notwithstanding the foregoing, no notice to the public of the proposed disposal of any land zoned for industrial uses is required, other than the general marketing of such land by the Manager of Realty Services.

4. Methods of Sale

Depending on the nature of the land, various methods may be employed for the disposal of land including, public auction; tender process; listing through the Multiple Listing Service, direct advertising; through direct negotiations with an abutting property owner; or through other direct negotiations when authorized by Municipal Council. The City Treasurer, upon the advice of the Manager of Realty Services, shall be responsible for determining the appropriate method of sale.

5. Procedures for Disposal of Industrial Land

a) In addition to the requirements set out in Parts 1 to 6 inclusive of this policy, the disposal of serviced industrial land owned by the City will be undertaken in accordance with the applicable part or parts of the Sale of Land Procedures set out in Attachment "A" of the policy.

b) The sale price for serviced industrial land as adopted by Municipal Council is as set out in Attachment "B" of this policy.

c) The fee to be paid to Real Estate Agents properly involved in the disposition of City-owned industrial land shall be as set out in Attachment "C" of this policy.

6. Procedures for Disposal of Proposal Call

In addition to the requirements set out in Parts 1 to 6 inclusive of this policy, the disposal of land by proposal call shall be in accordance with the procedures set out in Attachment "D" of the policy.

7. Procedures for Disposal of Public Tender

In addition to the requirements set out in Parts 1 to 6 inclusive of this policy, the disposal of land by public tender shall be in accordance with the procedures set out in Attachment "E" of the policy.

8. Procedures for Disposal by Direct Negotiation

In addition to the requirements set out in Parts 1 to 6 inclusive of this policy, the disposal of land by direct negotiation shall be in accordance with the procedures set out in Attachment "F" of this policy.

9. Procedure for Disposal by Public Auction

In addition to the requirements set out in Parts 1 to 6 inclusive of this policy, the disposal of land by public auction shall be in accordance with the procedures set out in Attachment "G" of this policy.

ATTACHMENT "A"

Disposal of Industrial Land Procedures

1. The purpose of this policy is to establish the terms upon which City-owned serviced industrial land is to be sold and transferred.
2. This policy is to be read and applied fairly and beneficially with such variations as circumstances or the nature of the subject matter require provided the general purpose, intent, meaning and spirit of the policy are maintained.
3. In this policy,
 - (a) Commencement of construction means the date upon which a building permit is issued by the City;
 - (b) Completion of construction is reached when the building or structure or a substantial part thereof is ready for use or is being used for the purpose intended, and;
 - (c) Coverage has the meaning ascribed to it under the applicable zoning by-law

CLASS 1 SALE

4. A class 1 sale is a sale of a land for the purpose of the construction thereon of a building or structure for a detached industrial use.
5. A class 1 sale shall be subject to the following conditions:
 - (a) The purchaser shall commence construction within one year of the registration of the deed or transfer and shall diligently complete construction of the building or structure, in default of which the purchaser shall in the sole discretion of the City reconvey the land to the City in accordance with Section 18 of this policy and free and clear of all encumbrances, easements, restrictions or covenants except as to those originally assumed by the purchaser from the City.
 - (b) The minimum coverage of the building or structure shall be 15 per cent, provided however that, where the maximum coverage permitted under the applicable zoning by-law is 15 percent or less, the maximum coverage under the zoning by-law shall be deemed to be the minimum coverage required by this condition.
 - (c) The purchaser shall not within 10 years of the registration of the deed or transfer convey any vacant part of the land by deed, transfer, grant, assignment, appointment, mortgage, charge, lease or sub-lease (Planning Act, R.S.O. 1990, Chapter P .13), without first notifying the City and, where it has been so notified, the City may either grant its consent (which shall not be unreasonably withheld) to the conveyance or application or may in its sole discretion require the purchaser to reconvey the vacant part to the City in accordance with Section 18 of this policy and free and clear of all encumbrances, easements, restrictions or covenants except as to those originally assumed by the purchaser from the City.
 - (d) The purchaser shall pay local improvement charges and any other special levies assessed at any time against the land on and after completion of the purchase.
6. The Manager of Realty Services may grant one or more extensions (which in total shall not exceed two years) of the time set out in paragraph 5 (a) of Section 5 of this policy within which construction of a building or structure is to be commenced provided the purchaser has filed a written request with the Manager of Realty Services for the extension.
7. A purchaser wishing to notify the City under condition 5 (c) of this policy shall file a written request with the Manager of Realty Services who shall submit a recommendation thereon to Council through Board of Control.

CLASS 2 SALE

8. A class 2 sale is a sale of a land for the purpose of the extension or enlargement of a building or structure erected or to be erected upon land of the purchaser abutting the land.

9. A class 2 sale shall be subject to conditions (c) and (d) of Section 5 of this policy and the further condition that the land shall not be used for any purpose other than the extension or enlargement of a building or structure erected or to be erected upon lands of the purchaser abutting the land.

CLASS 3 SALE

10. A class 3 sale is a sale that is not a class 1 or class 2 sale and that is a sale of a land for the purpose of a use ancillary to a building or structure erected or to be erected upon land of the purchaser abutting the parcel.
11. A class 3 sale shall be subject to conditions (c) and (d) of Section 5 of this policy and the further condition that the land shall not be used for any purpose other than a use ancillary to a building or structure erected or to be erected upon land of the purchaser abutting the parcel.

GENERAL

12. At least annually, the Manager of Realty Services shall review the pricing of industrial land and if a change in pricing is recommended, shall make a recommendation to Board of Control as to the price per acre at which land should be offered for sale during the ensuing year.
13. Pending receipt of an offer to purchase from a prospective purchaser, land may be reserved for a period of 30 days, provided however that, if during the reserve period the City receives an offer to purchase the same land in accordance with this policy from another prospective purchaser, the first prospective purchaser shall be allowed 5 days after notification within which to submit an offer to purchase at the same price and on the same terms; otherwise the City shall be at liberty to accept the second offer to purchase.
14. A prospective purchaser shall complete and execute an offer to purchase in the form provided by the City accompanied by a deposit payable to the City Treasurer by cash or certified cheque equal to 10 per cent of the total purchase price, and the balance shall be payable subject to usual adjustments upon completion of the transaction.
15. The Manager of Realty Services may submit an offer to purchase for acceptance by the City.
16. The transaction shall be completed within 90 days of the passing of the by-law accepting the offer to purchase or within such further period as may be agreed to between the City Solicitor and the purchaser's solicitor in the best interests of the City.
17. Where, in the City's opinion, land is properly sold through a real estate agent, the City shall pay a fee to the agent not exceeding the scale established by the City upon completion of the transaction but no fee shall be payable if the purchaser is permitted

to withdraw from the agreement of purchase and sale prior to the completion of the transaction.

18. Where the whole or any part of land is reconveyed by the purchaser to the City pursuant to a condition of sale or otherwise, the amount payable upon the reconveyance shall be 90 per cent of either the original purchase price (exclusive of interest thereon), if the whole land is reconveyed, or the portion thereof that is in the same ratio as the area of the reconveyed part is to the whole land, subject to adjustments as of the date of reconveyance for taxes, local improvements and other rates and subject, where the City considers necessary, to the City's withholding until a new purchaser is found, an amount sufficient to compensate the City for the cost of restoring the land to its original condition if so required by the new purchaser.
19. The development of the property will be subject to the requirements of the Architectural Control Guidelines as published by the City of London from time to time and the purchaser acknowledges the contents thereof and agrees to conform to those Guidelines.
20. The cost of service connections from the main to the property line is the responsibility of the purchaser.
21. The purchaser accepts the current condition of the site and the cost of removal of topsoil from the site if required is the responsibility of the purchaser.

ATTACHMENT "B"

The current pricing levels of all other City industrial parks be established effective June 23, 2016, as follows:

Pricing for serviced industrial land in Innovation Park, Skyway Industrial Park, River Road Industrial Park, and Cuddy Boulevard Parcels:

Lots up to 3.99 acres	\$75,000.00 per acre
4.00 acres and up	\$65,000.00 per acre

Pricing for serviced industrial land in Trafalgar Industrial Park:

All lot sizes - \$55,000.00 per acre.

Surcharges to be added as follows:

Highway 401 Exposure – 15%;
Veteran's Memorial Parkway Exposure – 5%; and

The cost of service connections from the main to the property line being the responsibility of the purchaser.

Industrial lots are sold on a where is, as is basis, with grading, stripping and removal of excess topsoil being the purchaser's responsibility and cost. The City will strive to provide

grading of the municipal industrial parks on a level-graded basis. Site specific final grading is the responsibility of a purchaser.

ATTACHMENT "C"

Real Estate Commissions for Industrial Land

The fee payable to Real Estate Agents properly involved in the disposal of City owned industrial land be as follows:

- (a) Transactions up to \$100,000 - 5%
- (b) Transactions up to \$200,000 - 5% for the first \$100,000
3% above \$100,000 to \$200,000
- (c) Transactions over \$200,000 - 5% for the first \$100,000
3% above \$100,000 to \$200,000
2% above \$200,000 for remainder

ATTACHMENT "D"

Disposal of Land – Proposal Call Procedure

1. Where land, in the opinion of the Manager of Realty Services, may be suitable for major redevelopment, the General Manager of Finance and Corporate Services will recommend that proposal call documents be drafted.
2. When the document has been prepared, notice of the proposal call will be in accordance with the notice provisions of this policy.
3. Sealed proposal calls will be opened at the appointed time in accordance with the City's tendering policy and referred to the Civic Administration for its consideration and recommendation through the General Manager of Finance and Corporate Services to Board of Control.
4. Further direct negotiations with proponents will be at the direction of Board of Control and Municipal Council.

ATTACHMENT "E"

Disposal of Land – Public Tender Procedure

1. The Realty Services Division will forward inquiries to each City Department, local Board or Commission, requesting their opinions as to the potential sale of the land.
2. Where, subject to the inquiry procedure, land is deemed to be surplus to City requirements, the Realty Services Division will suggest a market value for the land and recommend through the City Treasurer to the appropriate Standing Committee that the Manager of Purchasing be authorized to call tenders for the sale of the land.
3. Notice of the tender call will be in accordance with the notice provisions of this policy.

4. Offers to Purchase will be opened at the appointed time in accordance with the City's tendering policy.
5. The terms of sale of such properties will be a deposit of 10% in the form of a certified cheque and/or cash to accompany the offer and cash on closing.
6. The offers will be referred to the Realty Services Division for review and recommendation through the City Treasurer to the appropriate Standing Committee.
7. If the successful tenderer is introduced to the land by a realtor, a commission may be payable if appropriate as follows:
 - (i) transactions up to \$100,000 - 5%
 - (ii) transactions up to \$200,000 - 5% first \$100,000
3% between \$100,000 and \$200,000
 - (iii) transactions over \$200,000- 5% first \$100,000
3% between \$100,000 and \$200,000
2% all amounts above \$200,000, or
 - (iv) as otherwise approved by Municipal Council.
8. The payment of commission as provided for in paragraph 8 be payable only in the event that the realtor has:
 - (i) completed and deposited with the Manager of Realty Services, the Realtor Registration Form approved by the City not prior to the calling of each tender and not later than the closing of each tender;
 - (ii) obtained the signature of the proposed tenderer on the Realtor Registration Form approved by the City as an acknowledgement of the registration and on the understanding that the payment of the real estate commission may lower the net amount payable to the City which may result in the tender not being accepted;

ATTACHMENT "F"

Disposal of Land – Direct Negotiation Procedure

1. The Realty Services Division will send the appropriate inquiries to each relevant City Department, local Board or Commission, regarding their opinions as to the potential sale of the land.
2. When it has been established through the inquiry procedure that a land is surplus to City requirements and when, in the opinion of the Manager of Realty Services, considering the current market value of the land as well as the value of the said lands to the abutting land owners or other prospective purchasers, it is advisable to dispose of the land through direct negotiations, the Realty Services Division will conduct direct negotiations with the abutting owner(s) or other prospective purchasers and report the

results and recommendations to the appropriate Standing Committee through the City Treasurer.

ATTACHMENT "G"

Disposal of Land – Public Auction Procedure

1. Where, in the opinion of the Manager of Realty Services, it is advisable to dispose of real property through a public auction, the following procedures shall apply
2. The Manager of Realty Services shall be authorized to retain a licenced real estate auctioneer to conduct the auction
3. All costs of advertising being borne by the City on the understanding that the method and format of advertising will be agreed to by the auctioneer and approved by the Manager of Realty Services, prior to publication.
4. The City shall maintain the right to establish a reserve bid based on the results of an internal appraisal on the subject land by City staff, or an external appraisal carried out by an independent appraiser assigned by the City, and on the understanding that the reserve bid will remain confidential until the conclusion of the auction.
5. The conditions of sale being established, in each case, by the City, in conjunction with the Manager of Realty Services and the City Treasurer.
6. The Manager of Realty Services shall report the results of the auction to the appropriate Standing Committee.

20(1) Conveyance of Sanitary Filled Land

The City Solicitor shall ensure, wherever possible, that the conveyances of sanitary filled land in the City of London include a covenant to the effect that the land contains sanitary fill.

ADOPTED MAY 19, 1970 [20(1)]

****Move to Chapter 7 – Engineering Services****

20(2) Real Estate Service – MLS

When the City wishes to list properties for lease with the Real Estate brokerage community, the properties shall be listed with the London and St. Thomas Association of Realtors using the Multiple Listing Service.

ADOPTED SEPTEMBER 5, 1972 [20(3)]

****Move to Chapter 7 – Engineering Services****

20(3) Financing of Sales

The City of London shall not entertain requests for the provision of long term financing on the sale of City-owned land and/or buildings as it is not a function of the Municipality to provide mortgage funds.

ADOPTED SEPTEMBER 5, 1973 [20(6)]

20(4) Transactions Involving Elected Officials

In those instances where property transactions involve Elected Officials;

- (a) the Manager of Realty Services shall obtain an independent third party fee appraisal and review this to ascertain if the report contains the information required and that the value arrived at is supported by pertinent facts;
- (b) the Manager of Realty Services shall be authorized to encourage the individual involved to obtain his/her own independent third party fee appraisal from a recognized appraiser; and
- (c) the Manager of Realty Services shall be authorized to negotiate to determine a fair compensation using the two values so obtained.

ADOPTED OCTOBER 1, 1973 [20(7)]

20(5) Property for Capital Works Projects

- (1) The Manager of Realty Services, at the request of the City Engineer, will provide the City Engineer with an in-house estimate of property cost for all capital works projects at the preliminary engineering stage; it being noted that the validity of such estimates will be restricted to a specific time frame, based on an evaluation of property market conditions by the Realty Services Division.
- (2) The initiating report on a capital works project will contain a recommendation that expropriation procedures be initiated by the Realty Services Division if, in the opinion of the Realty Services Division, such action is necessary following approval by Council of the initiating report. The Civic Administration in this event is automatically authorized to take all administrative action required to carry out the expropriation.

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¶ That specifications for topsolling and seeding of old sanitary landfill sites be established as set out in Appendix 20(2A) and that the General Manager of Environmental Services & City Engineer undertake a programme of planting trees and shrubs on the sites, based on the individual requirements of the sites.¶

ADOPTED MAY 15, 1972 [20(2)]¶

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¶ That the following policy be established with respect to the prohibition of motorized vehicles on City-owned and/or controlled lands, namely:¶

¶

<#>the prohibition of the use of motorized vehicles on City-owned land be ordered on ¶

the authority of the Environment and Transportation Committee¶

¶

(b) when such prohibition is authorized by the Environment and Transportation Committee, the General Manager of Environmental Services & City Engineer be authorized to erect signs in accordance with the recommendation of the Chief of Police, at intervals of not less than 350 feet along the entire street frontage of the lands in question;¶

¶

(c) upon the erection of such signs by the General Manager of Environmental Services & City Engineer, the Chief of Police, and the General Manager of Legal Services & City Solicitor be provided with a sketch of the property so posted, showing the limits of the City-owned lands and the location of the signs, together with the date on which the signs were erected;¶

¶

¶

(d) the City's Surveyor in the Environmental Services Department be appointed to administer this policy and to be responsible for providing evidence in Court, if so require... [1]

Deleted: 20(5) Determination of Sale Price - RESCINDED¶

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(3) As soon as possible after the City Council approves the initiating report, the Environmental & Engineering Services Department will supply the Realty Services Division with the following:

- (a) a Property Request Plan and Property Request Form; a property plan (registered deposit plan) prepared by an Ontario Land Surveyor and registered—details of shape; size; measurements; bearings; R.P. lot no.; registered owner; instrument number; area in square feet and acres, of land required;
- (b) a project conceptual plan prepared by the Environmental & Engineering Services Department or consultant containing present property lines and improvements; the exact location of trees, hedges, fences, driveways, buildings, fire hydrants, hydro poles; proposed new property lines and improvements;
- (c) a schematic drawing of structures to be erected on or adjacent to private property; and
- (d) a proposed project schedule containing the timetable for property acquisition, tender call, start and completion of the project.

(4) On receipt of the property plans from the City Engineer, the Realty Services Division will prepare a project property report for submission "in camera" to the appropriate Standing Committee, listing all properties required with an estimate of the value of each property. When all property is acquired, a completed project property report will be submitted "in camera" to the appropriate Standing Committee, giving the estimated and actual price paid for each property and an explanation of any major variance.

(5) On receipt of the required information from the City Engineer, the Realty Services Division will contact all property owners involved and attempt to negotiate a fair settlement in the form of an Agreement of Purchase and Sale executed by the registered owner.

Agreements of Purchase Sale shall be subject to the following:

- (a) the Agreement shall name the Solicitor acting on behalf of the Offeror;
- (b) a deposit of \$2.00 will be paid, and a receipt given at the time of the execution of the document;
- (c) all acceptable conditions will be included and will form part of the Agreement;
- (d) all subsequent changes to an Agreement shall be initialed by all parties;
- (e) the acceptance time of an Agreement shall cover a minimum of two City Council meetings; and
- (f) all signatures shall be sealed and witnessed at the time of assignment.

(6) All Agreements as received will be processed in keeping with applicable legislation through the appropriate Standing Committee and City Council, and shall be accompanied by the following:

- (a) the approval of the Realty Services Division and/or the City Solicitor as to the form of the Agreement;
- (b) the approval of the Environmental & Engineering Services Department with regard to conditions relative to engineering matters; and

(c) a letter to the appropriate Standing Committee from the City Treasurer, containing a clear recommendation, plus the following background material: - project title; account number; availability of funds; assessment and current taxes, where practical; legal description; size; conditions of sale; registered owners; R.D.P. and Part No.; municipal no. and location; file no.; building description and the estimate of property value prepared by the Realty Services Division or by an independent third party fee appraisal.

(7) Following the initial contact with all registered owners, and after consultation with the Environmental & Engineering Services Department, the Realty Services Division will initiate expropriation procedures, if required, and advise the appropriate Standing Committee and the City Engineer of the estimated effect on property costs and project scheduling of this action.

The initiation of expropriation procedure will not preclude further negotiations by the Realty Services Division to acquire the property.

(8) Copies of the City Council's resolution and the accepted Agreement signed by the Mayor and the City Clerk shall be forwarded to the City Solicitor for closing of the transaction. The Realty Services Division will maintain liaison with the City Solicitor and if Agreements are not closed within the prescribed time limit, both parties to the Agreement will record an agreement to extend the time of closing and the City Solicitor will advise the Realty Services Division of such time extension.

(9) On completion of a capital works project, the Realty Services Division shall review all land surplus to the project requirement and if the enquiry procedure carried out by the Realty Services Division indicates no further public use for such land, the Realty Services Division will attempt to dispose of the land in accordance with the prescribed policy.

(10) A monthly meeting will be held by the Realty Services Division and/or the City Solicitor's Office staff to review the monthly Property Status Report and ensure adequate liaison on all property matters affecting Capital Works Projects.

ADOPTED SEPTEMBER 3, 1974 [20(8)]

Deleted: That a policy with respect to the acquisition of property for capital works projects as set out in [Appendix 20\(8A\)](#) be established.¶

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20(6) Internal Review of Property Sales

That a policy be established such that no City-owned property, unless covered by a specific policy, be offered for sale or long-term lease until an internal review of that property is carried out by the Administration and a recommendation as to its designation is formulated and approved by the appropriate Standing Committee and City Council.

ADOPTED OCTOBER 21, 1974 [20(9)]

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20(7) City-Owned Residential Properties

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(1) Inspection and Repair of Premises:

(a) Immediately on acquisition of land that includes a residential building the Realty Services Division will carry out an inspection of the property and complete a Property Inspection Report.

(b) On the termination of any existing tenancy the Realty Services Division will carry out an immediate inspection of the property; but in any event all city-owned residential premises will be inspected once per year.

(c) Upon acquisition of property or the termination of an existing tenancy, the Realty Services Division will examine the premises and secure, adjust, or make safe, all electrical, heating, gas, oil and water systems.

- (d) If repairs are indicated from the inspection, the Realty Services Division shall obtain an estimate of the cost of such repairs.
- (e) Where repairs are required and the estimate is reasonable in view of the continuing viability of the property, the Realty Services Division will issue a work order with the cost to be charged to the Maintenance of Rented Property Account. In the event the property is considered in poor condition, with a low future anticipated income, and repair costs are economically prohibitive, the Realty Services Division will recommend to Council that the premises be sold for removal from the land or demolished.

(i) _____

(ii) _____

(2) Renting Procedure:

- (a) After inspection of a new residential property and the completion of improvements the Realty Services Division will establish a monthly rent comparable to the existing market conditions for residential units in the City.
- (b) On termination of any existing tenancy the Realty Services Division will review the monthly rent; but in any event the rents charged on all City-owned residential property will be reviewed once per year.
- (c) Upon receiving vacant possession of a residential property in adequate condition to rent, the Realty Services Division will publicly advertise the property.
- (d) Applicants for rental accommodation shall submit a rental application and the Realty Services Division will carry out any enquiries deemed necessary with the references indicated by the applicant, inclusive of a credit check.
- (e) Unless otherwise approved by City Council, no residential lease will be for more than one year, and satisfactory applicants will be required to sign a Rental Agreement Form witnessed by a member of the Realty Services Division and accompanied by payment of the first and last months' rent, before being allowed to enter the premises.
- (f) A copy of the Rental Agreement will be retained by the Realty Services Division, which will be responsible for recording, collecting and following up on all rents.
- (g) In the case of non-payment of rent, the Realty Services Division will:

(i) After 15 days a reminder notice will be sent;

(ii) After 30 days of original due date a final notice will be sent requesting immediate payment or notice of termination of lease will be forthcoming;

(iii) After 45 days of the original due date the City Solicitor will be notified and requested to proceed to terminate the lease and undertake eviction proceedings if necessary, in accordance with applicable legislation. A copy of this correspondence shall be filed with the Realty Services Division.

(3) Disposal or Demolition of Buildings:

- (a) Where it is the opinion of the Realty Services Division that the cost of maintaining a property suitable for renting is economically prohibitive the Realty Services Division shall recommend to City Council:
- (i) Where there is a possibility of removing the buildings from the land, that the Purchasing Agent be authorized to call tenders for the sale of the building;
- (ii) Where conditions warrant demolition that the Purchasing Agent be authorized to request bids for the demolition of the buildings where warranted under the prescribed delegated authority and associated limits.
- (b) Before making a recommendation to City Council on the disposal or demolition of a building, the Realty Services Division will carry out an enquiry procedure with relevant departments, boards and commissions to ascertain any alternative use for the building.
- (c) Where the building has been advertised for sale and no bids are forthcoming, the Purchasing Agent is authorized to proceed to call tenders for demolition.

ADOPTED OCTOBER 21, 1974 [20(10)]

****Now incorporated in Policy 20(30) Real Property Acquisition Policy****

20(8) Property Enquiries to Board of Education

Local Boards of Education shall be allowed a period of 90 days to reply to any property enquiries forwarded to it by the City of London as a reciprocal arrangement in view of the fact that the local Boards of Education presently allow the City of London a similar period of time to reply to their enquiries, as required by Ontario Regulation 444/98 of the Education Act.

ADOPTED MAY 20, 1975 [20(12)]

20(9) Demolitions of Buildings on Flood Plain Lands

That the following policy be established with regard to the demolition of buildings on flood plain lands:

- (a) should an inspection reveal a City-owned structure on Flood Plain to be in need of major repairs, the Realty Services Division will request an estimate for adequate repairs from the Facilities, or an independent contractor;
- (b) upon receipt of this estimate, and noting the economic feasibility of retaining the subject building, the Realty Services Division will prepare a report for to the appropriate Standing Committee, including a property description, cost of repairs and a recommendation with respect to possible demolition.

ADOPTED NOVEMBER 15, 1976 [20(14)]

****Delete – Redundant – Captured in Other Policies****

20(10) Rental of Lands for Billboards

Deleted: That a policy be established on the management of City-owned residential property as outlined in Appendix 20(10A).

Deleted: 20(11) Flood Plain, Conservation and Greenbelt Lands

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¶ That the policy and procedures for flood plain lands, conservation lands and greenbelt acquisition be established as outlined in Appendix 20(11A).¶

Deleted: ADOPTED FEBRUARY 17, 1975 [20(11)]

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¶ That the following time frame be established to permit the City of London to consider purchasing surplus Board property, subject to the right of other institutions or organizations which may have prior right of purchase:¶

¶ (a) The Board of Education declares property surplus and available for sale.¶

¶ (b) The City must advise notice of interest to purchase within three months.¶

¶ (c) After the City gives notice of interest to purchase, then it has a further three months to state it will purchase.¶

¶ (d) The City will take possession of the property and complete the transaction by June 30 in the year following action taken in (c) above.¶

¶ (e) During the time when the City states it will purchase to the closing date, the City and Board of Education may negotiate a fair market price and sign a legal offer to purchase.¶

¶ (f) Should the City not advise the Board of its intent in any of the above steps then the Board of Education will consider that the City has no interest in the property.¶

¶ Notwithstanding the foregoing, the Board may dispose of surplus property when, and in such a manner, as deemed necessary by the Board.¶

20(13) Commissions for Industrial Land Sales - RESCINDED¶

¶ Replaced by Sale and Other Disposition of Land Policy 20(29)¶

¶ ADOPTED DECEMBER 1, 1975 [20(13)], RESCINDED January 1, 2008 (By-law No. 6151-17)

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¶ Replaced by Sale and Other Disposition of Land Policy 20(29)¶

¶ ... [5]

Deleted: 20(16) Leases for Tenants

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The rental of City-owned properties for billboards and, all other properties in the City of London, shall be subject to the following guidelines:

- (a) Such use should be in conformity with the Zoning By-law and should respect the height and setback regulations for structures.
- (b) Such use should be in conformity with the Official Plan policies which relate to billboards.
- ~~(a) Such use should be in conformity with the Sign By-law.~~
- (c) Billboard locations which were in conformity with the Zoning By-law when originally leased but which are now not in conformity with the Zoning By-law or the Official Plan shall be phased out at the termination of the lease so that the billboard industry can adjust to the situation and make alternate plans. Open space areas in City ownership generally should not be leased for billboards but such use could be considered where the open space area lacks natural amenity and will not be put into developed parkland in the near future or where the billboard can be considered to screen unsightly industrial or commercial uses.
- (d) Special consideration should be given to billboards at the major approaches to the Central Business District and in the "Forks Area". It is desirable to eliminate the billboards from such locations particularly where they are obscuring a desirable vista or view. They may be considered permissible where they are compatible with adjacent uses and do not interfere with any vista.

ADOPTED SEPTEMBER 5, 1978 [20(17)]

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20(11) Leasing and Licencing of City-Owned Land

VACANT CITY-OWNED LANDS

- ~~1. When an application has been received, the Realty Services Division initiates action to rent vacant City-owned and/or controlled lands for other than agricultural purposes, the Legal Services Department, through its Realty Services Division, will ascertain if there are any restrictions or conditions on renting that may be imposed by any City Department, Board or Commission, and further confirm that the intended use is permitted under the existing Zoning By-laws with due consideration being given to the Official Plan.~~
- ~~2. If there are no objections from the Administration, the Legal Services Department, through its Realty Services Division, will contact the abutting property owner(s) where possible, and advise them that the City intends to rent the lands and of the proposed use.~~
- ~~3. If there are no objections from the abutting owner(s), and providing the term is for one year or less, with a 60 day cancellation clause, the Legal Services Department, through its Realty Services Division, will estimate market rent and after giving the abutting owner(s) an opportunity to rent on those terms and if not accepted by the abutting owner(s), advertise the property for rent.~~
- ~~4. Should objections be received from the abutting owner(s), the Legal Services Department, through its Realty Services Division, will first contact the objectors and attempt to answer the objections and failing that, forward its recommendations with the objections to the Board of Control for consideration.~~
- ~~5. If authority is then received to rent, advertising will commence to rent the property in accordance with Board of Control's instructions with all Offers to Rent received, delivered to the Board of Control through the City Manager's Office, with recommendation of the General Manager of Legal Services & City Solicitor.~~
- ~~6. Where a prospective Lessee requests a term of more than one year, the Legal Services Department will prepare a lease and forward the same lease along with~~

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- ~~Deleted: or Sale of~~
- ~~Deleted: That the policies with respect to the leasing or sale of City-owned properties, as outlined on Appendix 20(18A), be established.¶~~
- ~~ADOPTED AUGUST 8, 1978; AMENDED SEPTEMBER 7, 1982; SEPTEMBER 17, 1984; NOVEMBER 7, 1988 ¶~~
- ~~[20(18)]¶~~
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its recommendations through the City Manager to Board of Control and Council for their consideration.

7. Collection of revenue and Policy regarding non-payment of rent will follow existing policy.

RENTING OF VACANT CITY-OWNED LANDS FOR AGRICULTURAL PURPOSES

1. When an application has been received, the Realty Services Division initiates action to rent vacant City-owned and/or controlled lands for other than agricultural purposes. The Realty Services Division will ascertain if there are any restrictions or conditions on renting that may be imposed by any City Department, Board or Commission, and further confirm that the intended use is permitted under the existing Zoning By-laws with due consideration being given to the Official Plan.
2. If there are no objections from the Administration on renting the lands, the Realty Services Division, will prepare specifications and recommend to City Council that the Manager of Purchasing be authorized to call tenders for the rental of the property, with such bids to indicate the price, terms and the intended crop or use.
3. Upon the opening of the tenders the Manager of Purchasing shall forward them to the Realty Services Division for recommendation.
4. Collection of revenue and steps for non-payment of rent will follow existing Policy.
5. Persons renting City-owned farm land shall pay to the City 100% of the annual rental fee at the time of the signing of the lease/rental agreement.

20(12) Real Estate Brokerage Services

At the discretion of the Manager, Realty Services, real estate services, where required, will utilize the established Broker of Record where practical to do so. Should a Broker of Record not be established, on the recommendation of the Manager, Realty Services an alternate service provider may be selected. The services to be provided include listing surplus properties currently offered by the City of London, strategic advisory and consulting, transaction management, research and analysis and project management. Brokerage fees associated with the services commissioned will be negotiated by the Manager, Realty Services, subject to existing agreements in compliance with the City's prescriptive delegation of authority provisions.

20(14) Lands for Public Works Projects

The following Frequently Asked Questions (FAQs) shall be provided by the Civic Administration in connection with the acquisition of properties required for public works projects:

1. DOES THE CITY DO ANYTHING BEFORE IT EXPROPRIATES PROPERTY?

Yes it does. The City makes every effort to negotiate a fair agreement of purchase and sale with a property owner before resorting to expropriation. The

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Deleted: That a policy be established such that In the event a property deemed to be surplus to the Municipality's needs is not disposed of either through negotiations or the tendering process or the public auction process as dictated by Council policy, the Manager of Realty Services shall arrange for the listing of the property through the multiple listing service of the London and St. Thomas Real Estate Board without the signing of a listing and on the condition that the property will be left on the market for a minimum period of 90 days with the total commission, not to exceed 5%, being payable to the selling office upon acceptance of an Offer by the City and the closing of the transactions, with a further 90 day waiting period during which the commission would be paid to the selling office in the event a property were sold to a client who was introduced to the property through the Board's listing system. During the listing period, the City will be able to accept an Offer to Purchase a listed property provided that the prospective purchaser was not introduced to it through the Board's listing system. The Real Estate Board will register, with the Manager of Realty Services, prospective purchasers who have been introduced to each property through the Board's listing system.¶ ADOPTED APRIL 8, 1980; AMENDED JULY 4, 1983 [20(19)] ¶
Deleted: 20(1320) New Major Facilities Reserve Fund¶
¶ That the following policies The following provisions with respect shall apply to the administration and management of the New Major Facilities Reserve Fund, be established:¶
¶ (a) drawdowns from the Fund shall be limited to the funding of the design and construction of municipal buildings and additions and extensions thereto, such as the Centennial Hall, Fire Halls and Homes for the Aged;¶
¶ (b) as part of the annual Capital Budget submission to Board of Control and City Council, the City Manager will make recommendations with respect to the building projects to be included in the five-year forecast; and¶
¶ (c) annual contributions to the Fund will be limited to those amounts which, together with accrued interest, will provide sufficient funding in accordance with the timetable for the implementation of the project(s).¶ ADOPTED OCTOBER 18, 1982 [20(20)] ¶
Deleted: 20(21) Garden Plots¶
¶ That a policy be established to lease garden plots which may consist of portions of unopened street allowances, or portions of greenbelt, or open space areas not immediately required for recreational or other Municipal purposes, at a nominal rental of \$30.00 per annum per plot.¶ ADOPTED MARCH 21, 1983 [20(21)] ¶
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City's objective is to ensure that individual rights are respected and protected and to provide fair compensation for any property acquired within the framework of the Expropriations Act. When a project is to be constructed in phases, the City will generally try to acquire those properties that are needed first, but will nonetheless negotiate for property in any phase if the owner wishes to sell.

This is typically how it's done. A City Realty Services representative contacts the owner to discuss acquisition terms after the City has had an independent appraisal firm appraise the agreement. The owner has the option to obtain another independent appraisal to assist them in assessing the offer of compensation, as well. (See Questions 2 and 12 below regarding owner costs).

2. WHAT HAPPENS IF AN AGREEMENT IS REACHED?

The owner is usually then asked to execute an "Agreement of Purchase and Sale" offering to sell their property to the City, which is then recommended to City Council for acceptance. In some extenuating situations, the City may make an offer to purchase. In either case, once the offer is accepted, a binding agreement of purchase and sale exists between the owner and the City. When a mutually acceptable agreement is reached, it is the City's practice to pay the owner's reasonable legal and appraisal costs after the completion of the transaction.

3. WHAT CAN I EXPECT TO BE PAID FOR?

The amount that an owner receives covers such things as:

- the market value of the land,
- damages due to disturbance,
- damages for injurious affection, and
- any special difficulties in relocating.

4. WHAT IS MEANT BY "MARKET VALUE"?

"Market value" is the amount that might be expected if the property were sold in the open market by a willing seller to a willing buyer. An additional allowance may be considered for improvements, the value of which may not be reflected in the property's market value, such as trees and landscaping.

5. WHAT DOES "DAMAGES DUE TO DISTURBANCE" INCLUDE?

Where the owner resides on the property, "damages attributable to disturbance" include:

- any reasonable costs that naturally and reasonably result from the City's acquiring the property;
- an allowance for inconvenience;
- an allowance (up to 5 % of the property's market value) toward the cost of finding another residence, provided the property is not already being offered for sale when the City acquires it.

6. WHEN ARE "DAMAGES FOR INJURIOUS AFFECTION" PAID?

Where only a portion of the property is acquired rather than everything, "damages for injurious affection" are based upon the reduction in the market value of the remaining property after the partial property purchase.

7. WHAT IS INCLUDED IN "RELOCATION COSTS"?

"Relocation costs" are usually only paid when the entire property is acquired. This may include reasonable moving, legal, survey and other non-recoverable expenses incurred in the property owner acquiring other premises.

8. WHAT CAN AN OWNER DO WHO DOESN'T FEEL EXPROPRIATION IS JUSTIFIED?

If following every effort to negotiate a fair agreement, it is necessary for the City expropriate a property, a "notice of intention to expropriate" is sent to the owner. Within 30 days, the owner may request a hearing of necessity into whether the taking of the property is "fair, sound and reasonably necessary" to achieve the City's objectives. The owner can appear alone or with a lawyer before the inquiry which is conducted by a provincially-appointed inquiry officer. The inquiry officer does not have authority to deal with the property's value but he/she must give the City Council a written opinion with reasons as to whether the expropriation is justified. After considering the report, City Council decides whether to go ahead with expropriation.

9. IN AN EXPROPRIATION, WHEN DOES THE CITY OWN AND OCCUPY THE PROPERTY?

The City takes title to the property by registering an expropriation plan in the Land Registry Office. Within 30 days after that, the City serves the owner with an expropriation notice. Although the City, or its appointed appraiser, can inspect the property to appraise its value, the City cannot actually take possession until the owner has been given at least three months' advance notice. Court proceedings are available to the owner to postpone the possession date and to the City to overcome resistance to allowing possession.

10. DOES THE CITY MAKE ANY FURTHER OFFER OF MONEY FOR THE PROPERTY?

Within three months of registering the expropriation plan and before taking possession, the City must offer the owner an amount in full compensation together with the appraisal report upon which the offer is based. If the owner agrees with the amount offered, the matter can be settled at this point. If not, the owner can still have the money paid to them and have the value established by the Board of Negotiation or the Ontario Municipal Board.

11. HOW DOES THE QUESTION OF COMPENSATION GET BEFORE THE ONTARIO MUNICIPAL BOARD?

Two separate boards exist to deal with property value: the Board of Negotiation and the Ontario Municipal Board. Either the owner or the City can apply to either board. The Board of Negotiation meets with the owner and a City representative at the property and attempts in an informal way to negotiate a complete settlement. The Board of Negotiation recommendation is not binding on either part. If a settlement is not reached at the Board of Negotiation hearing, the Ontario Municipal Board can arbitrate the dispute. The matter can go directly to the Ontario Municipal board, but only if the owner and the City agree to by-pass the Board of Negotiation. The OMB decision is binding, unless appealed by either party to the Divisional Court.

12. WHO PAYS THE OWNER'S COSTS IN HAVING COMPENSATION DETERMINED?

If the amount determined by the Ontario Municipal Board represents 85 per cent or more of the amount offered by the City before expropriation, the owner is entitled to be reimbursed for reasonable legal, appraisal and other costs actually incurred for determining compensation. The owner is also entitled to be paid interest on any outstanding difference between the Board's award and any payment made previously by the City.

NOTE: This brochure answers the most common questions an owner may have whose property is affected by a public works project. Because this has been prepared for information and convenience only, it is not intended to be an authoritative digest of expropriation law or of the City's policies and procedures. A lawyer should be consulted



for specific legal advice; however any further questions you may have about this subject may be directed to:

Manager of Realty Services
Realty Services Division
The Corporation of the City of London
P.O. Box 5035
London, Ontario N6A 4L9
(519) 661-5442

ADOPTED JUNE 20, 1983 [20(22) AUG 2003]

****Move to Chapter 26 – Taxes****

****Incorporated in Sale and Other Disposition of Land Policy**
****Incorporated into Sale and Other Disposition of Land Policy******

20(15) Protocol for Unapproved Aboriginal Burial Sites

PROTOCOL STATEMENT:

The City of London encourages consultation with First Nations communities, recognizing and respecting traditional First Nations customs.

PROTOCOL PURPOSE:

It is the goal of this protocol to establish a protocol available to private land owners in the City of London and First Nations communities as options for stewardship of unapproved aboriginal burial sites discovered on land within the boundary of the City of London.

SCOPE:

Traditional First Nations' customs should be accommodated and consultations between First Nations communities and private/public land owners should be encouraged.

APPLICATION:

The protocol is available as a framework for negotiations towards an agreement for stewardship of an unapproved aboriginal burial site.

BACKGROUND:

As the urban development of the City of London has expanded, human burial sites have been discovered in land that had previously been natural or used for agricultural purposes. Some of these burial sites include remains of aboriginal persons; some of the burial sites include the remains of persons who were settlers in the area.

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¶
That a policy be adopted to establish an administrative charge of \$300.00 with respect to costs incurred for each property involved in the application of procedures authorized in the *Municipal Tax Sales Act*, R.S.O. 1990, Chapter M.60. These costs will be recovered as part of the "cancellation price".
ADOPTED MARCH 18, 1985 [20(23)]

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20(24) Sale of Surplus Property

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That the policy concerning the disposal of surplus property be established, namely:¶
¶
(a) the present practice of tendering the sale of developable surplus property be continued, on the understanding that if the successful tenderer is introduced to the property by a realtor, a commission will be payable in accordance with the provisions of section (b) as follows:¶
¶
(i) Transactions up to \$100,000 - 5%¶
(ii) Transactions up to \$200,000 - 5% first \$100,000¶
3% between \$100,000 and \$200,000¶
(iii) Transactions over \$200,000 - 5% first \$100,000¶
3% between \$100,000 and \$200,000¶
2% all amounts above \$200,000¶
¶
(b) the payment of commission as provided for in part (a) be payable only in the event that the realtor has:¶
¶
(i) completed and deposited with the Manager of Realty Services, the Realtor Registration Form approved by the City not prior to the calling of each tender and not later than the closing of each tender;¶
¶
(ii) obtained the signature of the proposed tenderer on the Realtor Registration Form approved by the City as an acknowledgment of the registration and on the understanding that the payment of the real estate commission may lower the net amount payable to the City which may result in the tender not being accepted;¶
¶
(c) the London and St. Thomas Real Estate Board be advised of all tender calls and be supplied with the approved Realtor Registration Forms as required; and¶
¶
(d) "For Sale" signs be erected on properties that are the subject of tender calls, directing inquiries to either the Realty Services Division or to the realtor of their choice.¶
ADOPTED MAY 7, 1990 [20(24)]

20(25) Pricing of Industrial Land

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Replaced by the Sale and Other Disposition of Land Policy 20(29).¶
¶
ADOPTED MAY 7, 1990 AMENDED JULY 2, 2002, SEPT 17, 2007[20(25)], RESCINDED January 1, 2008 (By-law No. 6151-17)¶

20(26) Exchange of Lots in Trafalgar Woods Subdivision

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Replaced by the Sale and Other Disposition of Land Policy 20(29).¶
¶
ADOPTED MARCH 26, 1997; AMENDED MAY 5, 1997 [20(26)], RESCINDED January 1, 2008 (By-law No. 6151-17)¶

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The Province of Ontario enacted legislation for the protection of discovered unapproved burial sites including unapproved aboriginal burial sites: the *Cemeteries Act (Revised)*, R.S.O. 1990, c. C.4, as amended (the "*Cemeteries Act (Revised)*" or the "Act") and its regulations. The Act and the regulations provide procedures for the identification of sites as "unapproved aboriginal peoples' cemetery", the representation of the people whose remains are located, for either establishing the lands either as a cemetery or for entering into a site disposition agreement between the land owner and the representative, and a dispute resolution mechanism.

The Act and its regulations also expressly provide that, unless consent is given by a representative of the person whose remains were discovered, the remains shall not be removed from the site nor shall scientific analysis of the remains or associated artifacts be conducted.

Historically, when human remains, regardless of cultural origin, have been discovered in the municipal boundaries of the City of London during urban development, the remains were typically removed to local approved cemeteries (and in the case of aboriginal remains, may have been removed to a an aboriginal cemetery located within the municipal boundaries of the City of London or a cemetery located on a nearby Indian reserve).

Traditional practices and customs with respect to the stewardship of burial sites may vary depending on the First Nations community involved. The protocol seeks to engage the parties in notifying potential modern representatives of the find and providing them with any evidence regarding the culture of the interred persons.

One stewardship option available to the private land owner and the representative of the aboriginal person whose remains have been discovered is the participation of the City of London in a joint ownership programme with the representative with respect to those burial sites located within the boundaries of the City of London.

Recognizing that the private land owner is entitled to a number of rights and remedies available to him/her/it under the *Cemeteries Act (Revised)* as described above, this protocol is available to private land owners as a guide to resolving a site disposition agreement between the relevant parties.

Two of the highlights of this protocol are:

(1) it acknowledges that, depending on the nominee, there may be a question as to legal capacity nominee of the representative of the aboriginal person whose remains have been discovered, in respect of conveying title. One of the options of stewardship is joint ownership of the burial site between the City of London and the representative. In the joint ownership option, in the event that future title of the lands should ever fail for any reason, title to the lands would revert to the City of London and the lands will remain as a burial site for the aboriginal person whose remains were discovered; and



(2) the protocol requires the consensus and participation of all parties including the private land owner, the representative of the aboriginal person whose remains have been discovered, and, where relevant to the stewardship option chosen, the City.

THE PROTOCOL:

The protocol is generally a non-binding framework intended to guide private land owners who discover remains on their property. The roles and responsibilities are to be interpreted in the context of the framework's underlying principles of consultation, accommodation, and negotiation.

Nothing in this protocol is intended to abrogate the rights or obligations of any party under the *Cemeteries Act (Revised)*.

If the site is identified as an unapproved aboriginal peoples' cemetery, and if the private land owner wishes to invoke this protocol, the private land owner may enter into negotiations with the representative of the person whose remains have been discovered (and the City if a joint ownership option is pursued) for a site disposition agreement that may include the following matters:

(a) for the delivery of a copy of any documents connected with or related to investigations conducted in accordance with the *Cemeteries Act (Revised)* if requested by the parties to the agreement;

(b) in addition to any notice requirements under the *Cemeteries Act (Revised)*, to send notice to potentially interested parties of the discovery of the human remains that are of aboriginal origin;

(c) for delivery of a copy any notices given under this protocol, including any responses, if requested by the parties to the agreement;

(f) for the cost of rezoning, if necessary, of the subject lands to a zone that is appropriate for cemetery use;

(f) for obtaining an up to date survey of the lands that are the subject of the burial site;

(g) for the preparation and registration of a reference plan showing the lands that is the subject of the site disposition agreement;

(h) for providing reasonable and appropriate landscaping of the burial site and to allocate the cost of such landscaping;

(i) for providing for the manner in which the human remains may be disinterred and reinterred;



- (j) for conveying title to the burial including but not limited to conveying title to the Corporation of the City of London in joint ownership with the representative of the person whose remains have been discovered;
- (k) for providing for future stewardship of the burial site.

A sample draft agreement is set out at Appendix "A" attached for the joint ownership option.

If the joint ownership option is pursued, then title to the lands shall be transferred from the private land owner to the Corporation of the City of London, and then transferred from the Corporation of the City of London to the nominee of the representative and the Corporation jointly.

In so far as the City has the power to do so, will treat the lands as exempt from taxation pursuant to sections 3(2) and 3(9) of the *Assessment Act*, R.S.O. 1990, c. A.31 as amended, and any other enabling successor legislation or regulation.

If the parties wish to amend the draft form of site disposition agreement as attached as Appendix "A", any and all amendments shall be on the consent of all parties to the agreement.

If the parties are unable to resolve the draft form of site disposition agreement, the parties shall be entitled to the arbitration remedies available under the *Cemeteries Act (Revised)*.



APPENDIX "A"

Sample Draft Site Disposition Agreement

This site disposition agreement was made this _____ day of _____, 200__
between [name of private land owner] as Owner, [name of the representative] as the
representative of the aboriginal person(s) whose remains are interred, as the Representative,
and the Corporation of the City of London as the City.

WHEREAS the Owner has uncovered the remains of a person or persons whose cultural
identity has determined upon investigation as an aboriginal person with a close cultural affinity to
the Representative;

AND WHEREAS the Representative is willing to act as a representative in defined by the
Cemeteries Act (Revised), R.S.O. 1990, c. C.4, as amended;

AND WHEREAS the Representative desires to have the remains of the person interred left in
proximity to where they are interred and the Owner can accommodate such an intention;

AND WHEREAS the City and the Representative have agreed to take title in the subject lands
identified below jointly;

AND IN CONSIDERATION of the payment of two dollars (\$2.00) by the Owner each to the City
and the Representative, in addition to other consideration, the receipt and sufficiency of which is
hereby acknowledged;

THE PARTIES AGREE as follows:

1. _____ LEGAL DESCRIPTION OF THE LANDS

_____ [insert legal description]

2. _____ MANNER IN WHICH THE REMAINS ARE TO BE DISINTERRED AND REINTERRED

_____ [insert agreement as to internment]

3. _____ PROVISIONS FOR FUTURE MAINTENANCE

The Representative shall assume the stewardship of the burial area and shall ensure that the area continues to be protected, respected, and used in ways that are consistent with the dignity and integrity of a burial ground.

4. ALLOCATION OF COSTS

The parties agree that costs shall be allocated on the following basis:

- (a) the Owner shall bear the costs of:
 - (i) obtaining a survey of the lands;
 - (ii) preparing and registering a reference plan that shows the lands that are the subject of this agreement;
 - (iii) obtaining rezoning of the lands;
 - (iv) providing for the disinterment and reinterment of the person(s) whose remains are interred on the lands, as set out in paragraph 2 above, including any landscaping as agreed by the parties; and
 - (v) preparation, execution and delivery of all documents necessary to convey title in the subject lands from the Owner to the Corporation of the City of London.

- (b) the Representative shall bear the costs of: stewardship and future maintenance of the subject site.

- (c) the City shall bear the costs of:
 - (i) preparation, execution and delivery of all documents necessary to convey title in the subject lands from the City to the Representative and the Corporation of the City of London jointly; and
 - (ii) registration of this site disposition agreement with the Registrar as provided below.

Following transfer of the lands from the Owner to the City, in so far as the City has the power to do so, the City will treat the lands as exempt from taxation pursuant to sections 3(2) and 3(9) of the *Assessment Act*, R.S.O. 1990, c. A.31 as amended, and any other enabling successor legislation or regulation.

5. OTHER MATTERS

The parties further agree as follows:

- (a) The agreement is a site disposition agreement as contemplated by *Cemeteries Act (Revised)*, R.S.O. 1990, c. C.4 as amended and O.Reg 133/92 (*Burial Sites*), or any successor legislation, and shall be filed with the Registrar;



(b) The parties acknowledge that the Owner intends to develop the lands adjoining or abutting the subject lands for the purposes of [type of use]. Subject to final approval of the development by the necessary authorities including the City and the Ontario Municipal Board, the Representative shall not object to the said development;

(c) This agreement is binding on the parties and their successors;

(d) This agreement cannot be assigned by any party without the written consent of the other parties;

(e) Notice pursuant to this agreement shall be delivered in writing by registered lettermail to the following addresses:

[name of representative]
[address of representative]

[name of land owner]
[address of land owner]

The Corporation of the City of London
300 Dufferin Avenue
P.O. Box 5035
London, Ontario
N6A 4L9
Attention: Legal Services Department

Service of any notice shall be effective five (5) business days after the date of mailing.

IN WITNESS WHEREOF the undersigned have hereunto executed this agreement by representatives duly authorized and affixing their seals.

[witness] _____ [signature of land owner]
_____ [typed name of land owner]

[witness] _____ [signature of representative]
_____ [typed name of representative]

[witness] _____ [signature of Mayor]

[witness] _____ [signature of City Clerk]

The Corporation of the City of London

ADOPTED APRIL 7, 2003

20(16) Donation of Land and Buildings to the City

The following guidelines shall be applied in the event of a significant donation of land and/or buildings to the City:

- (a) The Civic Administration is to submit an initial report to Council through the appropriate Standing Committee at the outset of contact and discussion with the potential property donor. This initial report will, among other things, indicate the nature of any further studies or investigations recommended and provide preliminary estimates of the cost of obtaining outside experts/consultants in assessing the building/property condition. This initial report will be on a confidential basis unless consent for disclosure is received from the potential property donor.
- (b) Based on this initial report, Council may authorize the Civic Administration either to proceed with further discussions and evaluation or to decline the donation.
- (c) Where the Civic Administration is authorized to proceed, the Civic Administration is to evaluate the proposal including:
 - (i) developing a financial model which estimates capital costs and identifies secured revenues, forecasts future operating costs, explores potential use, and any recommended model for restoration/repair where appropriate;
 - (ii) preparing a condition study/building audit for any structures on the subject property, undertaken "in house" by qualified City staff or obtained from a qualified outside consultant;
 - (iii) where appropriate, undertaking a risk assessment analysis and estimated contingency allowance for any forecast expenditures, where the ability to conduct a comprehensive building audit is constrained (i.e. because of existing tenants or third party occupancy);
 - (iv) undertaking a review, if available, of previously obtained building audits, plans and studies completed by the property donor, including historical data on any renovations, alterations, expansions, etc., that have been undertaken;
 - (v) in the case of proposed land donations, where appropriate, preparing "in house" by qualified City staff or obtaining from an outside qualified consultant a Phase I environmental audit and where appropriate a Phase II environmental study report (soil testing and geotechnical investigation); and

~~Deleted: The Protocol for Unapproved Aboriginal Burial Sites in the City of London be established as set out in [Appendix 20\(27A\)](#).~~

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- (vi) where the donated property contains buildings which are recommended for demolition, formulating, where possible, an estimate of the costs of removal of any structures from the property proposed for donation.
- (d) The Civic Administration is to report its evaluation to the Municipal Council with its recommendation for approval or otherwise.
- (e) Where the Municipal Council authorizes proceeding with accepting the donation, the Civic Administration is to obtain and review an independent market value appraisal of the donated property to be completed in accordance with the current regulations of Revenue Canada for the purposes of issuing an income tax receipt.
- (f) It is recognized that this policy may have limited application, if any, to a significant bequest of property to the City under the will of a deceased individual, because of the unique nature of a bequest. The City is not obligated in law to accept a bequest, and the City's acceptance or not of a bequest will be determined on a case-by-case basis.

ADOPTED SEPTEMBER 2, 2003

20(17) Sale and Other Disposition of Land Policy

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PART 1 - APPLICATION

This policy applies to the sale or other disposal of land by The Corporation of the City of London (the City).

This policy does not apply to the sale or other disposition of land by the City to the Housing Development Corporation, London.

PART 2 - POLICY STATEMENT

The City will dispose of surplus land in an open and transparent process to ensure that the consideration for such disposal is fair, reasonable and in the best interest of the City.

PART 3 - DEFINITIONS

In this policy, the following terms shall have this meaning ascribed to them:

"appraisal" means a fair market valuation of the land that is satisfactory to the Manager of Realty Services.

"disposition" means the sale, transfer, conveyance or exchange of the fee simple interest in land or the granting of a lease for a term of twenty-one (21) years or longer, and does not include the granting of an easement or right of way, and "disposal" shall have a similar meaning.

"land" means real property owned by the City.

"surplus" means property that the City no longer requires to meet its current or future needs.

PART 4 - PROCEDURES

The following procedures shall apply to the disposal of real property by the City. Prior to the disposal of any real property by the City of London which has the potential for development as affordable housing, the Housing Development Corporation will be provided with the opportunity to advise Council if the property should be retained by the City or transferred to the Housing Development Corporation for affordable housing purposes.

1. Declaration of Surplus Property

a) Prior to the disposal of land by the City, the Municipal Council shall declare the land to be surplus in the following manner:

- i) the City Treasurer, upon the advice of the Manager of Realty Services will submit a report to the appropriate **Standing Committee** recommending that the land in question be declared surplus to the needs of the City;
- ii) where the appropriate Standing Committee deems it advisable to adopt the recommendation of the City Treasurer with respect to declaring any land owned by the City to be surplus, the Standing Committee will submit a recommendation to the Municipal Council recommending that the land in question be declared surplus to the needs of the City;
- iii) where the Municipal Council deems it advisable to adopt any recommendation from the Standing Committee with respect to declaring any land owned by the City surplus;
- iv) the Municipal Council will, in a meeting open to the public, pass a resolution declaring any such land surplus to the needs of the City.

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b) Notwithstanding the foregoing, the following classes of land are exempt from the requirement to declare such land surplus prior to its disposal:

- i) all land owned by the City that is zoned for industrial uses;
- ii) all cemetery plots owned by the City;
- iii) any land transferred to the City for security or for temporary roads or other works in connection with any agreement to which the City is a party under the *Planning Act*, R.S.O. 1990, c. P. 13 as amended.

2. Appraisal

a) The City, before disposing of land, shall obtain at least one appraisal of the land to be disposed of.

b) Notwithstanding the foregoing, the following classes of land are exempt from the requirement to obtain an appraisal prior to its disposal:

- i) land 0.3 metres or less in width acquired in connection with an approval or decision under the *Planning Act*;
- ii) closed highways, road and road allowances;
- iii) land formerly used for railway branch lines if sold to an owner of land abutting the former railway land;
- iv) land that does not have direct access to a highway if sold to the owner of land abutting that land;
- v) land repurchased by an owner in accordance with Section 42 of the *Expropriations Act*;
- vi) land to be used for sites for the establishment and carrying on of industries and of industrial operations and incidental uses;
- vii) cemetery plots;
- viii) disposal to a local board as defined in the *Municipal Affairs Act*;
- ix) disposal to an authority under the *Conservation Authorities Act*; and
- x) disposal to the Crown in Right of Ontario or of Canada and their agencies.



3. Notice

a) Upon the Municipal Council having declared land surplus to the needs of the City but before any such land is disposed of by the City, the City Clerk will give notice to the public of the intention of the City to dispose of the land in question.

b) Where the land to be disposed of is, in the opinion of the Manager of Realty Services, developable as a separate parcel of land, the notice referred to in paragraph 3 a) shall be in the following forms:

i) publication once of an advertisement in a newspaper of general circulation;

ii) the posting of a "For Sale" sign on the land in question; and

iii) posting a notice on the City of London "Web Site".

c) Where the land being disposed of is, in the opinion of the Manager of Realty Services, not developable except in conjunction with other adjacent land, the notice referred to in paragraph 3 a) may be in one or more of the forms identified in paragraph 3 b) of this Policy.

d) Notwithstanding the foregoing, no notice to the public of the proposed disposal of any land zoned for industrial uses is required, other than the general marketing of such land by the Manager of Realty Services.

4. Methods of Sale

Depending on the nature of the land, various methods may be employed for the disposal of land including, public auction; tender process; listing through the Multiple Listing Service, direct advertising; through direct negotiations with an abutting property owner; or through other direct negotiations when authorized by Municipal Council. The City Treasurer, upon the advice of the Manager of Realty Services, shall be responsible for determining the appropriate method of sale.

5. Procedures for Disposal of Industrial Land

a) In addition to the requirements set out in Parts 1 to 6 inclusive of this policy, the disposal of serviced industrial land owned by the City will be undertaken in accordance with the applicable part or parts of the Sale of Land Procedures set out in Attachment "A" of the policy.

b) The sale price for serviced industrial land as adopted by Municipal Council is as set out in Attachment "B" of this policy.

c) The fee to be paid to Real Estate Agents properly involved in the disposition of City-owned industrial land shall be as set out in Attachment "C" of this policy.

6. Procedures for Disposal of Proposal Call

In addition to the requirements set out in Parts 1 to 6 inclusive of this policy, the disposal of land by proposal call shall be in accordance with the procedures set out in Attachment "D" of the policy.

7. Procedures for Disposal of Public Tender

In addition to the requirements set out in Parts 1 to 6 inclusive of this policy, the disposal of land by public tender shall be in accordance with the procedures set out in Attachment "E" of the policy.

8. Procedures for Disposal by Direct Negotiation

In addition to the requirements set out in Parts 1 to 6 inclusive of this policy, the disposal of land by direct negotiation shall be in accordance with the procedures set out in Attachment "F" of this policy.

9. Procedure for Disposal by Public Auction

In addition to the requirements set out in Parts 1 to 6 inclusive of this policy, the disposal of land by public auction shall be in accordance with the procedures set out in Attachment "G" of this policy.

ATTACHMENT "A"

Disposal of Industrial Land Procedures

1. The purpose of this policy is to establish the terms upon which City-owned serviced industrial land is to be sold and transferred.
2. This policy is to be read and applied fairly and beneficially with such variations as circumstances or the nature of the subject matter require provided the general purpose, intent, meaning and spirit of the policy are maintained.
3. In this policy,
 - (a) Commencement of construction means the date upon which a building permit is issued by the City;
 - (b) Completion of construction is reached when the building or structure or a substantial part thereof is ready for use or is being used for the purpose intended, and;
 - (c) Coverage has the meaning ascribed to it under the applicable zoning by-law

CLASS 1 SALE

4. A class 1 sale is a sale of a land for the purpose of the construction thereon of a building or structure for a detached industrial use.
5. A class 1 sale shall be subject to the following conditions:
 - (a) The purchaser shall commence construction within one year of the registration of the deed or transfer and shall diligently complete construction of the building or structure, in default of which the purchaser shall in the sole discretion of the City reconvey the land to the City in accordance with Section 18 of this policy and free and clear of all encumbrances, easements, restrictions or covenants except as to those originally assumed by the purchaser from the City.
 - (b) The minimum coverage of the building or structure shall be 15 per cent, provided however that, where the maximum coverage permitted under the applicable zoning by-law is 15 percent or less, the maximum coverage under the zoning by-law shall be deemed to be the minimum coverage required by this condition.
 - (c) The purchaser shall not within 10 years of the registration of the deed or transfer convey any vacant part of the land by deed, transfer, grant, assignment, appointment, mortgage, charge, lease or sub-lease (Planning Act, R.S.O. 1990, Chapter P .13), without first notifying the City and, where it has been so notified, the City may either grant its consent (which shall not be unreasonably withheld) to the conveyance or application or may in its sole discretion require the purchaser to reconvey the vacant part to the City in accordance with Section 18 of this policy and free and clear of all encumbrances, easements, restrictions or covenants except as to those originally assumed by the purchaser from the City.



(d) The purchaser shall pay local improvement charges and any other special levies assessed at any time against the land on and after completion of the purchase.

6. The Manager of Realty Services may grant one or more extensions (which in total shall not exceed two years) of the time set out in paragraph 5 (a) of Section 5 of this policy within which construction of a building or structure is to be commenced provided the purchaser has filed a written request with the Manager of Realty Services for the extension.

7. A purchaser wishing to notify the City under condition 5 (c) of this policy shall file a written request with the Manager of Realty Services who shall submit a recommendation thereon to Council through Board of Control.

CLASS 2 SALE

8. A class 2 sale is a sale of a land for the purpose of the extension or enlargement of a building or structure erected or to be erected upon land of the purchaser abutting the land.

9. A class 2 sale shall be subject to conditions (c) and (d) of Section 5 of this policy and the further condition that the land shall not be used for any purpose other than the extension or enlargement of a building or structure erected or to be erected upon lands of the purchaser abutting the land.

CLASS 3 SALE

10. A class 3 sale is a sale that is not a class 1 or class 2 sale and that is a sale of a land for the purpose of a use ancillary to a building or structure erected or to be erected upon land of the purchaser abutting the parcel.

11. A class 3 sale shall be subject to conditions (c) and (d) of Section 5 of this policy and the further condition that the land shall not be used for any purpose other than a use ancillary to a building or structure erected or to be erected upon land of the purchaser abutting the parcel.

GENERAL

12. At least annually, the Manager of Realty Services shall review the pricing of industrial land and if a change in pricing is recommended, shall make a recommendation to Board of Control as to the price per acre at which land should be offered for sale during the ensuing year.

13. Pending receipt of an offer to purchase from a prospective purchaser, land may be reserved for a period of 30 days, provided however that, if during the reserve period the City receives an offer to purchase the same land in accordance with this policy from another prospective purchaser, the first prospective purchaser shall be allowed 5 days after notification within which to submit an offer to purchase at the same price and on the same terms; otherwise the City shall be at liberty to accept the second offer to purchase.

14. A prospective purchaser shall complete and execute an offer to purchase in the form provided by the City accompanied by a deposit payable to the City Treasurer by cash or certified cheque equal to 10 per cent of the total purchase price, and the balance shall be payable subject to usual adjustments upon completion of the transaction.

15. The Manager of Realty Services may submit an offer to purchase for acceptance by the City.
16. The transaction shall be completed within 90 days of the passing of the by-law accepting the offer to purchase or within such further period as may be agreed to between the City Solicitor and the purchaser's solicitor in the best interests of the City.
17. Where, in the City's opinion, land is properly sold through a real estate agent, the City shall pay a fee to the agent not exceeding the scale established by the City upon completion of the transaction but no fee shall be payable if the purchaser is permitted to withdraw from the agreement of purchase and sale prior to the completion of the transaction.
18. Where the whole or any part of land is reconveyed by the purchaser to the City pursuant to a condition of sale or otherwise, the amount payable upon the reconveyance shall be 90 per cent of either the original purchase price (exclusive of interest thereon), if the whole land is reconveyed, or the portion thereof that is in the same ratio as the area of the reconveyed part is to the whole land, subject to adjustments as of the date of reconveyance for taxes, local improvements and other rates and subject, where the City considers necessary, to the City's withholding until a new purchaser is found, an amount sufficient to compensate the City for the cost of restoring the land to its original condition if so required by the new purchaser.
19. The development of the property will be subject to the requirements of the Architectural Control Guidelines as published by the City of London from time to time and the purchaser acknowledges the contents thereof and agrees to conform to those Guidelines.
20. The cost of service connections from the main to the property line is the responsibility of the purchaser.
21. The purchaser accepts the current condition of the site and the cost of removal of topsoil from the site if required is the responsibility of the purchaser.

ATTACHMENT "B"

The current pricing levels of all other City industrial parks be established effective June 23, 2016, as follows:

Pricing for serviced industrial land in Innovation Park, Skyway Industrial Park, River Road Industrial Park, and Cuddy Boulevard Parcels:

<u>Lots up to 3.99 acres</u>	<u>\$75,000.00 per acre</u>
<u>4.00 acres and up</u>	<u>\$65,000.00 per acre</u>

Pricing for serviced industrial land in Trafalgar Industrial Park:

All lot sizes - \$55,000.00 per acre.

Surcharges to be added as follows:

Highway 401 Exposure – 15%;
Veteran's Memorial Parkway Exposure – 5%; and

The cost of service connections from the main to the property line being the responsibility of the purchaser.

Industrial lots are sold on a where is, as is basis, with grading, stripping and removal of excess topsoil being the purchaser's responsibility and cost. The City will strive to provide grading of the municipal industrial parks on a level-graded basis. Site specific final grading is the responsibility of a purchaser.



ATTACHMENT "C"

Real Estate Commissions for Industrial Land

The fee payable to Real Estate Agents properly involved in the disposal of City owned industrial land be as follows:

- (a) Transactions up to \$100,000 - 5%
- (b) Transactions up to \$200,000 - 5% for the first \$100,000
3% above \$100,000 to \$200,000
- (c) Transactions over \$200,000 - 5% for the first \$100,000
3% above \$100,000 to \$200,000
2% above \$200,000 for remainder

ATTACHMENT "D"

Disposal of Land – Proposal Call Procedure

1. Where land, in the opinion of the Manager of Realty Services, may be suitable for major redevelopment, the General Manager of Finance and Corporate Services will recommend that proposal call documents be drafted.
2. When the document has been prepared, notice of the proposal call will be in accordance with the notice provisions of this policy.
3. Sealed proposal calls will be opened at the appointed time in accordance with the City's tendering policy and referred to the Civic Administration for its consideration and recommendation through the General Manager of Finance and Corporate Services to Board of Control.
4. Further direct negotiations with proponents will be at the direction of Board of Control and Municipal Council.

ATTACHMENT "E"

Disposal of Land – Public Tender Procedure

1. The Realty Services Division will forward inquiries to each City Department, local Board or Commission, requesting their opinions as to the potential sale of the land.
2. Where, subject to the inquiry procedure, land is deemed to be surplus to City requirements, the Realty Services Division will suggest a market value for the land and recommend through the City Treasurer to the appropriate Standing Committee that the Manager of Purchasing be authorized to call tenders for the sale of the land.
3. Notice of the tender call will be in accordance with the notice provisions of this policy.
4. Offers to Purchase will be opened at the appointed time in accordance with the City's tendering policy.
5. The terms of sale of such properties will be a deposit of 10% in the form of a certified cheque and/or cash to accompany the offer and cash on closing.
6. The offers will be referred to the Realty Services Division for review and recommendation through the City Treasurer to the appropriate Standing Committee.
7. If the successful tenderer is introduced to the land by a realtor, a commission may be payable if appropriate as follows:
 - (i) transactions up to \$100,000 - 5%



- (ii) transactions up to \$200,000 - 5% first \$100,000
3% between \$100,000 and \$200,000
- (iii) transactions over \$200,000- 5% first \$100,000
3% between \$100,000 and \$200,000
2% all amounts above \$200,000, or
- (iv) as otherwise approved by Municipal Council.

8. The payment of commission as provided for in paragraph 8 be payable only in the event that the realtor has:

- (i) completed and deposited with the Manager of Realty Services, the Realtor Registration Form approved by the City not prior to the calling of each tender and not later than the closing of each tender;
- (ii) obtained the signature of the proposed tenderer on the Realtor Registration Form approved by the City as an acknowledgement of the registration and on the understanding that the payment of the real estate commission may lower the net amount payable to the City which may result in the tender not being accepted;

ATTACHMENT "F"

Disposal of Land – Direct Negotiation Procedure

1. The Realty Services Division will send the appropriate inquiries to each relevant City Department, local Board or Commission, regarding their opinions as to the potential sale of the land.
2. When it has been established through the inquiry procedure that a land is surplus to City requirements and when, in the opinion of the Manager of Realty Services, considering the current market value of the land as well as the value of the said lands to the abutting land owners or other prospective purchasers, it is advisable to dispose of the land through direct negotiations, the Realty Services Division will conduct direct negotiations with the abutting owner(s) or other prospective purchasers and report the results and recommendations to the appropriate Standing Committee through the City Treasurer.

ATTACHMENT "G"

Disposal of Land – Public Auction Procedure

1. Where, in the opinion of the Manager of Realty Services, it is advisable to dispose of real property through a public auction, the following procedures shall apply
2. The Manager of Realty Services shall be authorized to retain a licenced real estate auctioneer to conduct the auction
3. All costs of advertising being borne by the City on the understanding that the method and format of advertising will be agreed to by the auctioneer and approved by the Manager of Realty Services, prior to publication.
4. The City shall maintain the right to establish a reserve bid based on the results of an internal appraisal on the subject land by City staff, or an external appraisal carried out by an independent appraiser assigned by the City, and on the understanding that the reserve bid will remain confidential until the conclusion of the auction.
5. The conditions of sale being established, in each case, by the City, in conjunction



with the Manager of Realty Services and the City Treasurer.

6. The Manager of Realty Services shall report the results of the auction to the appropriate Standing Committee.

ADOPTED DECEMBER 17, 2007

Deleted: That a policy with respect to the sale or other disposal of land by the City be established as set out in [Appendix 20\(29A\)](#)

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20(18) Real Property Acquisition Policy

1.0 POLICY STATEMENT

The City of London acquires real property rights, as required, for municipal purposes consistent with City mandated programs, projects, policies and strategic plans. The general direction for this Policy is set out in Policy 19.11: Land Acquisition, City of London Official Plan (2006). The City of London will acquire real property rights in a transparent, fair and competitive process to ensure the best interest of the City are met.

2.0 PURPOSE

The purpose of this Policy is to establish and maintain a consistent and equitable framework for the acquisition of real property interests that support Council approved projects, programs, policies and strategic plans.

3.0 GOVERNING PRINCIPLES

The Policy is based on the City of London governing principles:

- Good Government
- Respect and Integrity
- Community Engagement
- Fiscal Responsibility

4.0 APPLICATION

This Policy applies where real property rights are acquired by the City of London and includes any right, interest or benefit in land including, but not limited to fee simple acquisitions, leases, licenses, options, air rights, density transfers, permanent easements, rights-of-way, linear corridors, and other limited interests such as joint-use agreements, temporary working easements, access easements, permissions to enter and construct, and any other legal binding agreement related to the acquisition of real property rights. This Policy applies to all City of London employees, and any agents acting on behalf of the City and consultants authorized to acquire real property on behalf of the City.

Real property such as road dedications and easements that are acquired pursuant to the provisions of the *Planning Act* and any regulations there under will continue to be dealt with as part of that process. Real property acquired through the expropriation process will continue to be dealt with as part of that process and in accordance with the *Expropriations Act*.

In addition, the following municipal and provincial legislation relate to the acquisition of interests of real property:

- *Municipal Act, 2001*, s. 6, s.8 and s.11
- *City of London Act, 1999*, s.12.3 (1) and s.12.5 (1)
- *Housing Development Act, 1990*, c. H.18, s. 17
- *Ontario Heritage Act, 2005*, s. 36 (1),36 (2) and s. 45
- By-Law No. A-1-11012, February 28, 2011, City of London
- By-Law No. CP-9, January 1, 2011, City of London
- *Municipal Conflict of Interest Act*
- City of London Official Plan, 2006
- City of London Property Policy (Chapter 20)

5.0 POLICY REQUIREMENTS

The City of London, Realty Services, shall undertake the acquisition of real property interests in conformity with this Policy, unless otherwise directed by the City Council (Council).

6.0 SERVICE AREA NEEDS ASSESSMENT

Prior to initiating an acquisition of any real property rights as defined in Schedule A, the client department will prepare on its behalf, or on behalf of a partner agency, a service area acquisition needs assessment. The needs assessment shall:

- a) provide justification and rationale for the proposed acquisition;
- b) state the municipal need or issue the acquisition will satisfy;
- c) evaluate the total cost of ownership including the impact of on-going operating and estimated capital expenditures over the life cycle of the asset;
- d) discuss the risks and benefits of the acquisition;
- e) identify, if any, options to asset acquisition;
- f) evaluate, if required, the lease term and proposed conditions compared to the market;
- g) prepare a Net Present Value analysis (NPV) that considers the financial costs and benefits of these options; and
- h) identify, if any, unique factors that are applicable to the acquisition, including applicable policies, plans or strategies of the City.

All assessments shall be vetted through the Realty Services and Finance in collaboration with the client service area to determine whether the City's existing real property inventory, or any capital works initiatives, may fulfill the client's requirements and determine the impact, if any, on the remainder of the City's real estate portfolio. In the case of leased property, this process shall apply to all potential leased premises and shall be evaluated by Realty Services.

6.1 Service Areas Needs Assessment Exemptions

For real property rights required for infrastructure, environmental acquisition, emergency scenarios and other municipal purposes at the discretion of Realty Services, a service area needs assessment shall not be required prior to completing the transaction.

7.0 COUNCIL APPROVAL

City Council approval of a project shall include authority for the appropriate person(s) or body to initiate and undertake legal surveys, appraisals, environmental assessments, heritage, archaeology, negotiations, expropriations, legal and other such related activities or reports, as may be required. A budget item must be approved for the program or project, including the costs of acquiring a real property and operational budget impacts, before action is taken to acquire property.

8.0 FUNDING

A source of funding for the acquisition of real property, life cycle costs, including ongoing annualized operating costs of the asset, must be identified through a Council approved budget item, specific to the program, project or policy defining the need, or allocated from an approved service area budget, with approval of the City Treasurer.

9.0 METHODS OF ACQUISITION

Realty Services shall make a determination of the most appropriate method of acquisition, taking into account the needs of the City mandated programs, projects, policies and strategic plans and the best interests of the City and the public interest to achieve these objectives in a timely, fiscally responsible manner, adhering to existing policies and procedures, legislation and applicable Council direction, as amended, from time to time.

9.1 Negotiation

Negotiation is the preferred method of obtaining all types of real property rights and interests through a fair and equitable agreement mutually acceptable to all parties. Compensation may be provided as though acquisition was pursuant to the *Expropriations Act*. Negotiations may be



conducted with a specific property owner as a result of a direct interest in a particular property or in an emergency situation. Negotiations may originate from a request for proposal with multiple proponents initially, until one is selected for completion of a transaction. Realty staff may negotiate directly with other levels of government, utility companies or other agencies, for direct acquisitions.

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9.2 Unsolicited Proposals

Unsolicited proposals relating to real property matters, including either requesting the City to acquire a specific property or enter into a lease agreement, shall be:

- a) subject to the principles of the *Procurement of Goods and Services Policy*;
- b) in compliance with Section 9.14 of this Policy with respect to Emergency Acquisitions;
- c) in compliance with the Delegation By-laws for approval and execution for Sole Source and Single Source; and
- d) in all circumstances, immediately referred to Realty Services for review.

In addition to a service area needs assessment as identified in Section 6.0 of this Policy, all unsolicited proposals under consideration and review by Realty Services must aim to:

- a) stimulate or support the economic development and growth for the City;
- b) illustrate the benefit of acting upon a limited or single opportunity; and
- c) identify budget resources for the acquisition including ongoing annualized operating costs of the asset.

Upon review by Realty Services, a report shall be forwarded to Council.

9.3 Request for Proposal (RFP)

The City of London may initiate the acquisition of a fee simple or lease interest in real property through a request for proposal process. The RFP process shall comply with the *Procurement of Goods and Services Policy*. The City shall not be obligated to enter into negotiations and complete a transaction under this process.

9.4 Expropriation

Where project requirements must be met in a timely manner, or where negotiation is unsuccessful, expropriation may be considered.

The City of London has the authority to expropriate land in accordance with the provisions of the *Expropriations Act*. Expropriation will be used as a last resort for acquisition purposes. Where necessary, service area departments should allow for a minimum of 18 months to 24 months lead time in their project planning, in anticipation that real property acquisition by expropriation may be required.

9.5 Charitable Donations

The City may acquire real property through gifts or donations, subject to Council approval, or that of its delegated authority. Before accepting a gift of real property, an analysis to determine the conditions of the gift, existing restrictions or encumbrances and assumption of liabilities or any tax implications, shall be carried out. A charitable donation receipt may be issued in the amount of the appraised market value of the donated real property. An independent appraisal shall determine the market value of any donated real property. A satisfactory Phase I Environmental Site Assessment will also be required.

9.6 Development Approval Process

This Policy does not apply to acquisitions of real property rights such as parkland dedications, road widening or easements obtained through pursuant to approvals under the *Planning Act* including conditions of final approval for subdivisions, site plans or consents.

9.7 Tax Sales – Vesting in Municipality

The municipality may acquire real property, pursuant to Part XI of the *Municipal Act*, (Sale of Land for Tax Arrears) by registering a Notice of Vesting. Procedures on the Treatment of Properties That Do Not Sell at Municipal Tax Sales are outlined in Schedule B.

9.8 Land Exchanges

When an acquisition is contemplated in support of the natural heritage system, as provided for in the London Official Plan or the City's parks and open space system or other municipal purposes, and it is determined that an exchange of City-owned surplus real property is in the best interests of the City, negotiation shall be initiated based on the market value of the respective real properties, pursuant to the *Safe and Other Disposition of Land Policy* as set out in Schedule "A" of By-law No. 6151-17. Land Exchanges may be considered for other acquisitions of real property in accordance with a departmental needs assessment.

9.9 Public Private Partnerships (P3)

The City of London may acquire or dispose of an interest in real property as part of a Public-Private Partnership (P3) to provide infrastructure, municipal capital facilities and related services that would benefit the municipality, the private sector and City residents.

9.10 Other Agencies

The City of London may acquire interests in real property as the result of a transfer of jurisdiction from one level of government to another, such as transfer of highways.

9.11 Other Levels of Government and Institutions

The City of London may take advantage of its preferred position as a government agency to acquire interests in real property, prior to property being available on the open market, from other levels of government, school boards and conservation authorities.

9.12 Land Assembly

The City may acquire property with the intent of a land assembly to satisfy a City mandate, policy, project or strategic plan that supports long term economic growth and be in the public interest.

9.13 Acquisition of Real Property by Lease/License

The City of London may, for a specified time period, acquire real property in the form of a lease or license agreement. Leases and licenses may be short or long term, and on terms and conditions satisfactory to Realty Services and the client service area. Lease hold interests may be acquired for a nominal sum from other levels of government or at market value. Leases can be entered into under the following situations:

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- In the form of a long term land lease in conjunction with a P3;
- A commercial lease for accommodation for a specific client service area to fulfill a municipal requirement;
- An option to secure a future fee simple acquisition;
- Emergency situations;
- Where no fee simple acquisition is available and a current municipal project is approved;
- As an interim use; and
- As deemed appropriate by Realty Services and the client service area as an alternative to fee simple acquisition that would meet the municipal and City residents requirements without a capital expenditure.



The lease or license agreement shall be in form and content satisfactory to the City Solicitor and Realty Services. Leasehold interests must be obtained through a transparent, fair and competitive process and should include consideration of a RFP procedure.

All lease or license agreements must be in compliance with all aspects of this Policy.

9.14 Emergency Acquisitions

The City of London Realty Services, is authorized, to acquire any interest in real property in an emergency situation for the purposes of this Policy, an emergency situation shall be any unforeseen circumstances identified in Section 14.2 of the *Procurement of Goods and Services Policy*. In these situations, Realty Services shall provide an information report to Council, including source of financing, as soon as possible after the acquisition.

10.0 SPECIAL ACQUISITIONS

10.1 Heritage Properties

Chapter 13 of the City of London Official Plan provides the policy rationale for the acquisition of properties of heritage value and interest. When acquiring real property that may have a heritage designation or historical value, a comprehensive analysis of that property shall be conducted involving Realty Services and appropriate City service areas. The analysis will include:

- Identification of the heritage designation or historical value of the real property (*This should include both buildings and cultural heritage landscapes and "natural heritage"*);
- Confirmation of the City of London program(s) to be implemented at this heritage property;
- Identification of the heritage value of the real property after consultation with the London Advisory Committee on Heritage;
- Identification of the desired long-term use or protection of the real property;
- Assessment of the impact of the operational costs of the real property on the City; and
- Development of an asset management plan, which forecasts the capital renewal and re-investment requirements, to preserve the heritage property.

Prior to the acquisition of a heritage property, Realty Services requires confirmation that the client service area and/or City Council have provided the funding and approval for the acquisition.

10.2 Parkland Acquisition

The City of London may acquire real property to ensure the sustainability of its natural heritage system and the connectivity of its parks and open space system, as outlined under Policies 8A2.5 and 16.3 of the Official Plan. The acquisition of parkland to achieve the objectives of this section may occur through purchase, donation, bequest, expropriation, or through dedication as provided for under the *Planning Act*.

A combination of the various methods of acquisition may be required by the City in order to deliver on a specific mandate, policy or plan or to capitalize on an opportunity for the benefit of the City that can be illustrated in the service area needs assessment.

The Parkland Conveyance & Levy By-law, CP-9 effective January 1, 2011 sets out conveyance, levy, and calculation procedures along with prescribed valuation as a condition of development or redevelopment for residential purposes of any land within the city.

11.0 DUE DILIGENCE ACTIVITIES

11.1 Appraisal – Fee Simple or Partial Interest

An appraisal is a formal, written, impartial estimate or opinion of value of an adequately described property, as of a specific date, and supported by the presentation and analysis of relevant data.



All real property acquisitions shall be supported with a current market value appraisal. An appraisal shall be no more than twelve months old or some shorter time-frame at the discretion of the Manager of Realty Services. An appraisal will be completed and the appraisal report executed by an independent real estate professional who is accredited with the Appraisal Institute of Canada or by a qualified City staff appraiser. Where the estimated market value is \$750,000 or greater, a second appraisal will be required, one of which will be undertaken by an independent real estate professional.

Appraisal reports will be based on the "Highest and Best Use" of the property in accordance with current standards of practice within the real estate industry and within the guidelines of the Appraisal Institute of Canada, which may be amended, from time to time.

11.2 Appraisal – Leasehold Interests

Prior to entering into a lease agreement, a market rent study shall be completed by an independent real estate professional or a qualified City staff appraiser at the discretion of the Manager of Realty Services. For the purposes of this Policy market rent is defined as what a willing landlord might reasonably expect to receive, and a willing tenant might reasonably expect to pay for the tenancy, in comparison with rent levels for similar properties in similar areas, if offered in the competitive market.

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11.3 Acquisition at Market Value

Real property rights shall be acquired on the basis of market value, and where applicable, entitlements, as defined by the *Expropriations Act*, unless other considerations are included in the transaction and approved by City Council. Where there is a variance between the appraised value and the acquisition price, that variance shall be explained in the approval report.

11.4 Environmental Due Diligence

The City of London shall complete a pre-screening on all real property to be acquired to identify potential contamination issues associated with real property e.g., Historical Land Use Inventory (HLUI). When an acquisition involves the entire fee simple interest (total buyout), or where it is deemed necessary by the client service area, for the acquisition of a lesser interest, a Phase I Environmental Site Assessment (ESA) shall be completed.

All such ESAs shall be completed in accordance with the Canadian Standards Association (CSA) and site remediation criteria, as set out by provincial regulations. Whenever possible or appropriate, acquisition agreements may provide for the indemnification of the City of London by the vendor for environmental conditions.

11.5 Compliance with Section 106 of the *Municipal Act*

Section 106 of the *Municipal Act, 2001* states that the City "shall not assist directly or indirectly any manufacturing business or other industrial or commercial enterprise through the granting of bonuses for that purpose." The municipality shall not grant assistance by:

- a) giving or lending any property of the municipality, including money;
- b) guaranteeing borrowing;
- c) leasing or selling property of the municipality at below fair market value; or
- d) giving a total or partial exemption from any levy, charge or fee.

The acquisition of any real property rights shall comply with Section 106 of the *Municipal Act, 2011*.

12.0 ROLES AND RESPONSIBILITIES

12.1 City Council

Unless otherwise provided for by By-law, City Council approval is required for the acquisition of real property right in accordance with the provisions of this Policy and any and all applicable By-



laws and Legislation. In accordance with the approval authority, executing authority is then delegated to the appropriate City officials.

Elected officials, appointed officers and employees shall not knowingly cause or permit anything to be done or communicated to anyone in a manner which is likely to cause any person to have an unfair advantage or disadvantage in obtaining a contract for the acquisition of real property from the City. This also includes a contract with any other municipality, local board or public body involved in the purchase of real property rights either jointly or in co-operation with the City. Council Members shall operate within the conflict of interest guidelines as set out in this Policy and under the *Municipal Conflict of Interest Act*.

Elected officials shall separate themselves from the procurement process and have no involvement whatsoever in specific procurements. Elected officials should not see any documents or receive any information related to a particular procurement while the procurement process is ongoing. Elected officials who receive inquiries from suppliers related to any specific procurement shall immediately direct those inquiries to the Manager of Realty Services, or the City Treasurer.

12.2 Realty Services

Realty Services is responsible for:

- a) Servicing the real estate needs of the client service area and agencies, boards and commissions identified in this Policy which can include real estate acquisitions and consulting services or advice on any real estate matters;
- b) Negotiating and representing the City on behalf of all service areas with perspective buyers, sellers, landlords, tenants and any other business partners with respect to any real property right proposed transaction whether it be a fee simple, partial acquisition, disposition or lease as defined in Schedule A;
- c) Coordinating with the client service area and Finance to review property inventory, prepare a service area needs assessment and conduct all real estate activity related to an acquisition;
- d) Reporting to Committee and Council on real estate transactions, subject to the provisions of this Policy; and
- e) Ensuring completion of real estate transactions and monitoring executed lease agreements to ensure all terms and conditions are adhered to.

12.3 City Solicitor

The City Solicitor or his designate shall act as legal counsel to service areas and advise Council on real property transactions. The City Solicitor has authority to undertake all legal actions required to complete a real property transaction, including expropriation proceedings.

12.4 Client Service Area

The Client Service Area is responsible for:

- a) Requesting the services of the Realty Services when becoming aware of a real property requirement for acquisition of a fee simple, leasehold or partial interest as further defined in Schedule A or consulting purposes;
- b) Reviewing the existing real property inventory and other acquisition initiatives, in consultation through its Realty Services and Finance, to determine if real property needs can be met through current inventory or initiatives, prior to the initiation of an acquisition;
- c) Ensuring that the asset rationalization effort and confirmation that the acquisition requirement satisfies its City-mandated program, that includes participation in the preparation of the service area needs assessment;



- d) Providing confirmation to Realty Services that Capital and Operating Budgets to support an acquisition of real property is available prior to any site search or negotiations are undertaken by Realty Services; and
- e) Referring all third party inquiries on real estate acquisition to Realty Service.

12.5 Finance

Finance is responsible for:

- a) Ensuring any and all payments required under a real estate transaction, including leases/licenses are paid in accordance with the terms of the agreement to ensure no potential penalties to the City;
- b) Providing financial analysis and comment in a departmental needs assessment for property acquisitions in collaboration with the client service areas and Realty Services;
- c) Ensuring, in collaboration with the client service areas, that no existing corporate asset will meet the current property initiative;
- d) Identifying sources of funding for any proposed initiative;
- e) Providing leadership for RFP process as required by this Policy; and
- f) Engaging the Purchasing Office to support negotiations, as required.

12.6 Conflict of Interest

No elected official, appointed officer or employee of the City, agency, board or commission, shall have any interest either directly or indirectly of the real property to be acquired or considered for acquisition and must comply with the *Municipal Conflict of Interest Act*. Once known, any interest must be disclosed to Realty Services, Corporate Asset Management. No party having a Conflict of Interest, even once disclosed, shall have any authority to negotiate the transaction. Direct or indirect interest shall include, but not limited to, being an owner, or partial owner, of the property or a party to financing the asset.

12.7 Monitoring/Contraventions

Realty Services will administer the application of this Policy to ensure that all policy requirements are met.

REFERENCES

City of London Policy Manual, Chapter 20 Property
Sale and Other Disposition of Land Policy
Council Policy 17

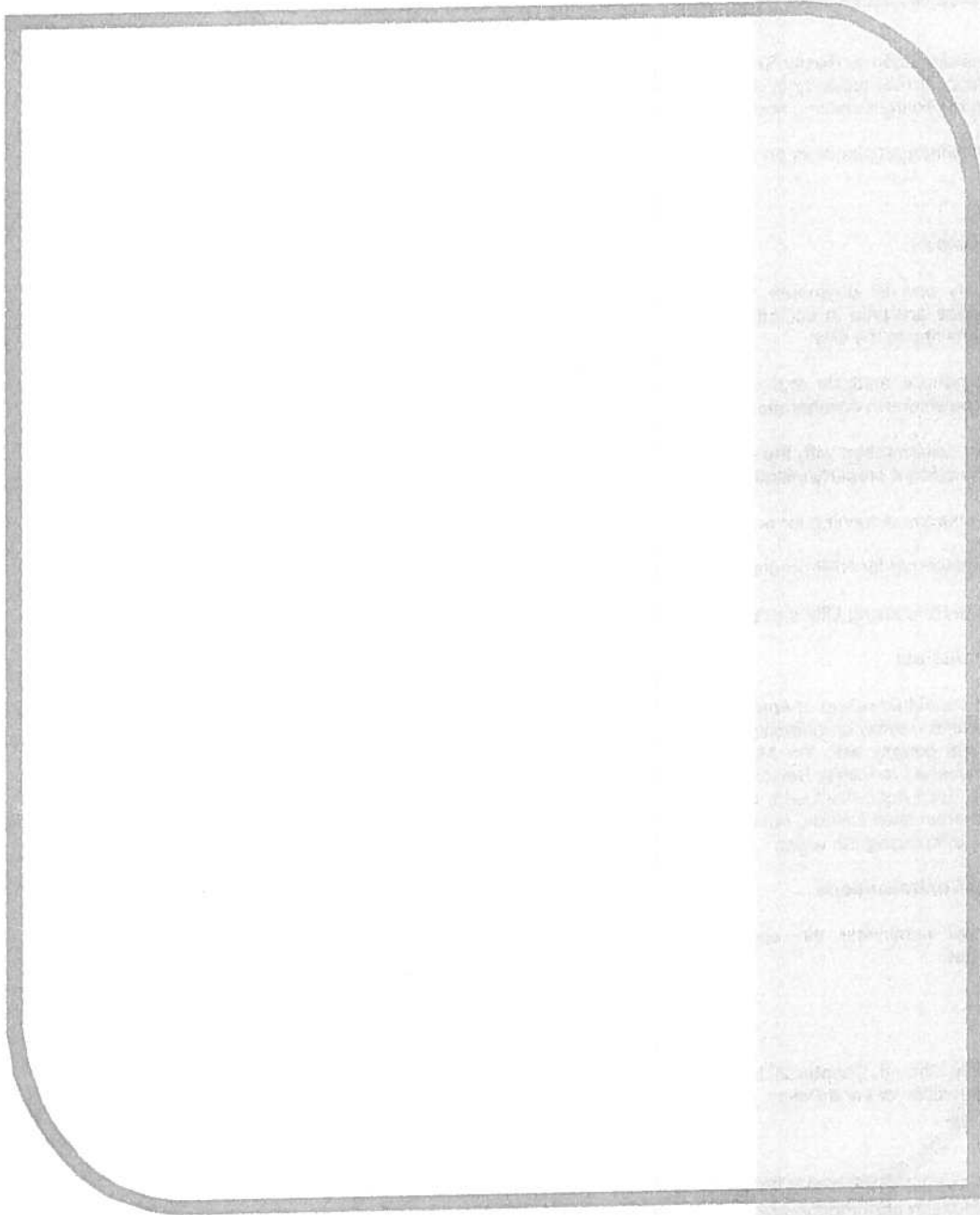
Legislative and Administrative Authorities

City of London Delegation of Authority By-law A-1-101007
City of London Execution of Certain Documents By-law A-1-11012
City of London Capital Budget
City of London Official Plan, 2006
Expropriations Act, 1990
Environmental Assessment Act, 1976
Heritage Act, 1975
Housing Development Act, 1990
Municipal Act, 2001
Municipal Tax Sales Act, 1984
Municipal Board Act, 1975
Planning Act, 1990
By-Law CP-9 Parkland Conveyance & Levy By-Law



Chapter 20

Property



SCHEDULE "A"

Definitions

Appraisal – An appraisal is a formal, written, impartial estimate or opinion of value of an adequately described property, as of a specific date, and supported by the presentation and analysis of relevant data.

Asset Rationalization – a process to support decision-making related to the acquisition, remediation or disposal of real property, in a cost effective manner, while assuring that essential program and service delivery objectives are not compromised.

Capital Projects – have funding or budgets in place and are included in the City's Capital Budget.

City Mandated Programs – support City of London initiatives, as reflected in the Official Plan or Capital Program.

Client Department – a City department that is a client of Realty Services and requires a real property for an approved program or project.

Conflict of Interest - a situation in which the personal interests of officers, Council Members and key staff members come into conflict, or appear to come into conflict, with the interests of the City.

Council Approval Report – a report to Council recommending approval of an acquisition by the City of London.

Delegated Authority – authority to approve pursuant to the Delegation of Authority By-law No. A-1-01007, as amended.

Delegated Authority Approval Report – a report to the City Manager, Managing Director - Corporate Asset Management, Manager of Realty Services, and/or, recommending the approval of an acquisition of real property in accordance with the provisions of the Delegation of Authority By-law No. A-1-01007, as amended from time to time.

Service Area Needs Assessment – a client service area's report documenting the need for and purpose of acquiring real property.

Due Diligence – any activities required prior or during the acquisition of real property that will effectively assist in the decision making process of the acquisition and will provide a thorough understanding of the potential asset.

Easement – a partial interest in real property that is registered on title. An easement reflects the acquisition of property rights either on the surface, above or below ground and can be permanent or temporary and identifies a specific use.

Expropriation – acquiring real property without the consent of the owner, by an expropriating authority in the exercise of its statutory powers.

Highest and Best Use – that use, which, at the time of the appraisal, is most likely to produce the greatest net return, in money or amenities, over a given period of time.

Lease - a legal and binding agreement between two or more parties that specifies a specific property interest, for a specific term, for the right of a specific purpose of use, for a stated consideration and executed by the parties to the agreement.

Market Rent – what a willing landlord might reasonably expect to receive, and a willing tenant might reasonably expect to pay for the tenancy, in comparison with rent levels for similar properties in similar areas, if offered in the competitive market.

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Market Value – the most probable price, as of a specified date, in cash, or in terms equivalent to cash, or in other precisely revealed terms, for which the specified property rights should sell after reasonable exposure in a competitive market under all conditions requisite to fair sale, with the buyer and seller each acting prudently, knowledgeably, and for self-interest, and assuming that neither is under undue duress.

Public-Private Partnerships (P3) – legal agreements between government and private sector entities, for the purpose of providing public infrastructure, community facilities and related municipal services.

Real Estate Professional – an individual or firm qualified to provide, in accordance with the City's current standing offer(s), appraisal and/or real estate consulting services.

Real Property - real property includes land, buildings, anything that is erected or growing on or affixed to the surface of the land, minerals and anything subsurface, and all rights issuing out of, annexed to, and exercisable without or about land such as leases, licenses, mortgages, air rights, easements and rights of access.

Request for Proposal (RFP) – a process where a need is identified, but the method by which it will be achieved is not prescribed at the outset. This process allows prospective suppliers to propose solutions or methods to arrive at a desired result.

Real Property Rights - any right, interest or benefit in land, but is not limited to, fee simple acquisitions, leases, licenses, options, permits, air rights, density transfers, permanent easements, rights-of-way, linear corridors, and other limited interests such as joint-use agreements, temporary working easements, access easements, permissions to enter and construct, and any other legal binding agreement related to the acquisition of property rights for the City of London.

Enquiries

For more information on this Policy, contact:
Manager, Realty Services
The Corporation of the City of London
300 Dufferin Avenue, London ON, N6B 1Z2
Tel: 519-661-2500, ext. 5445

SCHEDULE "B"

Procedures on the Treatment of Properties That Do Not Sell at Municipal Tax Sales

- 1) After a failed tax sale, circulate the property to internal departments and external agencies in accordance with City Policy for the sale of City owned properties in order to determine if they have any interest in the property should the City vest the property; (If there is internal or agency interest in a property this interest will be presented to the appropriate Standing Committee of Council and Council for a decision as to whether or not to take ownership for the department or agency after conducting a Phase 1 and Phase 2 ESA as considered appropriate).
- 2) Conduct a Phase 1 Environmental Site Assessment (ESA).
- 3) Conduct a Phase 2 Environmental Site Assessment where appropriate as indicated by the Phase 1 ESA.
- 4) Report to the Finance and Administration Committee and if there is no internal department or external agency interest in the property, market the property by issuing a Request for Proposal which shall include an evaluation criteria with weighted scoring and a draft Agreement of Purchase and Sale.
- 5) Evaluate the submissions received from the Request for Proposal and prepare a recommendation report for the Standing Committee for the Proponent with the highest technical combined score for the property acquisition.

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- 6) Vest property and convey to purchaser after approval of sale agreement by the Standing Committee and Council.
- 7) Apply the proceeds of the sale against the tax arrears, deem any remaining tax arrears uncollectible and write off the remaining tax arrears upon registration of the notice of vesting of the property by the City.

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NOTES:

- A) Clauses in a form satisfactory to the City Solicitor will be included in the Agreement of Purchase and Sale to clarify that the property is being sold by the City on an as is, where is basis and that the purchaser acknowledges that the City has regulatory liability limitation from MOE orders under the EPA for the time that it owns the property (for up to five (5) years).
- B) Where encumbrances of the Federal or Provincial Governments or their agencies exist City staff will attempt to negotiate a resolution of the interest as part of or prior to Step 4.
- C) Where it is determined that a property has no environmental risks or liabilities or where the estimated market value will exceed the estimated costs of clean up, City staff may vest the property at any time and follow standard procedures for the designation and sale of surplus City land.
- D) Where it is determined that environmental risks or liabilities are so severe with respect to a property that the City should not vest a property even for the purposes of immediate transfer then a recommendation to take no action with respect to the property will be provided to Council by staff.

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