

TO:	CHAIR AND MEMBERS CIVIC WORKS COMMITTEE MEETING ON NOVEMBER 19, 2019
FROM:	KELLY SCHERR, P.ENG., MBA, FEC MANAGING DIRECTOR - ENVIRONMENTAL & ENGINEERING SERVICES & CITY ENGINEER
SUBJECT:	BY-LAW AND VEHICLE LEASE AGREEMENTS URBAN ANIMAL MANAGEMENT INC. AND TOURISM LONDON

RECOMMENDATION

That, on the recommendation of the Managing Director - Environmental & Engineering Services & City Engineer, the following actions be taken with respect to Vehicle Lease Agreements for the London Animal Care Centre and Tourism London:

- a) the attached proposed by-law (Appendix "A") being "A by-law to approve a Vehicle Lease Agreement between The Corporation of the City of London ("City") and Urban Animal Management Inc. ("UAM")"; to provide for the leasing of seven (7) City-owned vehicles to the UAM ; and to authorize the Mayor and City Clerk to execute the Agreement", **BE INTRODUCED** at the Municipal Council meeting to be held on November 26, 2019; and,
- b) the attached proposed by-law (Appendix "B") being "A by-law to approve the Vehicle Lease Agreement between The Corporation of the City of London (the "City") and Tourism London for the lease of one (1) City-owned vehicle to Tourism London; and to authorize the Mayor and City Clerk to execute the Agreement: **BE INTRODUCED** at the Municipal Council meeting to be held on November 26, 2019.

PREVIOUS REPORTS

Corporate Services, Report #16 - July 23, 2013 – Vehicle Lease Agreement and by-law A.-6999- 244 with Tourism London

Corporate Services Committee, Report #3 - April 29, 2014 - Vehicle Lease Agreement and by-law A.7109-175 with London Animal Care Centre

COUNCIL'S 2019-2023 STRATEGIC PLAN

Leading in Public Service

Promote the City of London as a leading employer supporting jobs and investments for businesses in our community. Delivering new and innovative ways to increase efficiency and effectiveness

BACKGROUND

Discussion

The Fleet Service Division manages over 1,300 municipal vehicle and equipment assets owned by the City. The majority of these vehicle and equipment assets are assigned and leased to internal programs support their services.

However over the years several agreements and partnerships have been entered into that help support various municipal partners including the London Public Library Board, Fire Services, London Middlesex EMS, Tourism London and the London animal care program.

Shared fleet services have included everything from just refueling, to full maintenance contracts and in other cases full service vehicle lease agreements for City Vehicle assets. In the case of Tourism London and the animal care and welfare program they have been operating under full vehicle lease agreements that provides for access to City owned fleet vehicles, maintenance services, refuelling, and asset management and lifecycle replacement. Vehicle and driver insurance aspects for these customers however is the responsibility of the Lessee based on the indirect relationship with the City itself.

This arrangement has been approved through Municipal Council and the terms and conditions described through associated vehicle lease agreements with both parties. The lease agreements are necessary to ensure the appropriate approval and authority is in place to continue with a full service vehicle lease agreements with these municipal partner agencies and also to ensure responsibilities and accountabilities are laid out for each party in the arrangement.

The existing vehicle lease agreements require updating to reflect new information with respect to contract terms and conditions, new vehicle descriptions and revised lease costs.

Financial Impact

The financial structure for these external vehicle lease agreements is based on the same methodology as the fleet internal rental rate system. It is a full cost recovery process for maintenance/service, capital replacement, fuel and overhead.

The lease costs for the vehicles dedicated to Urban Animal Management (UAM) are funded within the City program area responsible for this service. Tourism London is charged directly for the lease costs.

The proposed cost for the full maintenance lease of the seven vehicles for UAM is \$68,809 (2020) which includes vehicle replacement contributions, maintenance, fuel and indirect costs.

Tourism London has one vehicle and their vehicle lease costs are \$7,144 (2020). This is calculated using the historical cost experience and usage patterns for these vehicles over the last three (3) years of service.

Each agency is responsible for their own liability insurance and various roles and responsibilities as defined in the terms of the agreement. There are no foreseeable negative financial impacts for Fleet Services or the City as this service is accomplished within existing staff and facilities and on a full cost recovery basis.

CONCLUSION

Urban Animal Management, as part of the London animal care program, and Tourism London have been provided with City owned vehicles for the sole purpose of providing their services to the municipality for many years. Since these agencies are not directly part of the City of London, vehicle lease agreements are necessary to define the responsibilities, terms and conditions that apply for both parties.

The existing vehicle lease agreements require updating to reflect the changes to the Lessors, vehicle assets and the revised costs for the next multiyear budget. These vehicle lease agreements provide cost certainty, reliability and efficiencies for the services they provide which provides value to the City of London. They also establish clear expectations and accountabilities of the parties in order to manage risk.

The recommendation is that the City of London continue to support these partnerships and reauthorize the amended vehicle lease agreements and associated by-laws.

SUBMITTED BY:	REVIEWED & CONCURRED BY
MIKE BUSHBY, BA DIVISION MANAGER, FLEET & OPERATIONAL SERVICES	JAY STANFORD, MA, MPA DIRECTOR, ENVIRONMENT, FLEET & SOLID WASTE
RECOMMENDED BY:	
KELLY SCHERR, P. ENG., MBA, FEC MANAGING DIRECTOR, ENVIRONMENTAL & ENGINEERING SERVICES & CITY ENGINEER	

Appendix A A by-law to approve a Vehicle Lease Agreement between The Corporation of the City of London ("City") and Urban Animal Management Inc. ("UAM"); to provide for the leasing of seven (7) City-owned vehicles to the UAM and to authorize the Mayor and City Clerk to execute the Agreement.

Appendix B A by-law to approve the Vehicle Lease Agreement between The Corporation of the City of London and (the "City) and Tourism London for the lease of one (1) City-owned vehicle to Tourism London; and to authorize the Mayor and City Clerk to execute the Agreement.

C: John Freeman, Manager of Purchasing & Supply
Steve Mollon, Manager of Fleet Planning

APPENDIX “A”

Bill No.

By-law No.

A by-law to approve a Vehicle Lease Agreement between The Corporation of the City of London (“City”) and Urban Animal Management Inc. (“UAM”); to provide for the leasing of seven (7) City-owned vehicles to the UAM and to authorize the Mayor and City Clerk to execute the Agreement.

WHEREAS subsection 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*, as amended, 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. The Vehicle Lease Agreement between The Corporation of the City of London and Urban Animal Management to provide for the leasing of seven (7) City-owned vehicles to the Urban Animal Management Inc. attached as Schedule ‘A’ to this by-law, is hereby approved.
2. The Mayor and the City Clerk are authorized to execute the agreement approved under section 1 of this by-law.
3. This by-law shall come into force and effect on the day it is passed.

PASSED in Open Council , 2019.

Ed Holder
Mayor

Catharine Saunders
City Clerk

First reading -
Second reading -
Third reading –

SCHEDULE 'A'
VEHICLE LEASE AGREEMENT

THIS VEHICLE LEASE AGREEMENT effective as of the 1st day of January, 2020 _

BETWEEN:

THE CORPORATION OF THE CITY OF LONDON ("the Lessor")

And

URBAN ANIMAL MANAGEMENT INC.

(the "Lessee")

WHEREAS the Lessor is a municipality that has the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority under the *Municipal Act, 2001*, as amended or any other Act;

AND WHEREAS the Lessee is a corporation that provides animal welfare services for the Lessor under the contract arising from the City's acceptance of the Lessor's submission under RFP 19-14 ("RFP 19-14 Contract");

THEREFORE IN CONSIDERATION of good and valuable consideration, the sufficiency of which is hereby acknowledged and admitted, the parties agree as follows:

1. VEHICLE LEASE

The Lessor hereby agrees to lease to the Lessee the vehicles (the "vehicles") listed in section 2 of this Agreement, together with all accessories, additions, repairs and replacement parts affixed to them, now or in the future.

The Lessee acknowledges that all the vehicles were received by it in good condition and repair.

2. LEASE AMOUNT

The Lessee agrees to meet terms and condition as laid out in the "RFP 19-14 Contract". The identified City vehicles as set out in the table below are provided by the City as part of the "RFP 19-14 Contract". The list of vehicles may change as they reach their optimum service life at the sole discretion of the City. Changes to the lease agreement will be reflected upon renewal of this agreement at the end of the term.

Description	VIN #
2013 Ford Focus S	1FADP3E24DL109189
2016 Ford F150 XL	1FTEX1CP3GKF22488
2015 Ford Transit Connect	NM0LS7E70F1181610
2015 Ford Transit Connect	NM0LS7E77F1182141
2015 Ford Transit Connect	NM0LS7E75F1186351
2015 Ford Transit Connect	NM0LS7E76F1196337
2015 Ford Transit Connect	NM0LS7E7XF1196339

3. TERM

The terms of this Agreement shall be for a period of five (5) years commencing November 1st, 2019 and ending October 31st, 2024. The City at its absolute sole discretion shall have the option to renew the contract for an additional three (3) year period in one (1) year increments.

4. VEHICLE OPERATION AND USE

The Lessee agrees that the vehicles will be driven only by a competent driver who holds a valid Ontario driver's license of the proper class for the vehicle being driven, in accordance with relevant laws and regulations, and that the Lessee will pay all and any fines or sanctions levied

or imposed in connection with the possession, use or operation of the vehicles and to indemnify the Lessor in respect of any fines or levies, including but not limited to any victim fine surcharges and court costs.

The Lessee agrees that the vehicles are to be used by the Lessee solely in connection with the services provided for in the RFP 19-14 Contract with respect to the provision of animal care and control services and for no other purpose.

5. VEHICLE MAINTENANCE

The Lessor agrees to maintain, service, license, inspect and provide fuel for the vehicles in possession of the Lessee as part of the lease amount as set out in this Agreement. Appointments for service will be arranged through the Lessor's Fleet Services Division coordinated with the Lessee. The Lessee agrees that the vehicle shall be made available for such appointments with reasonable notice.

6. LIENS AND CHARGES

The Lessor shall, at all times, keep the vehicles free from all levies, liens and encumbrances whatsoever. If the Lessee fails to pay any such levies, liens and encumbrances, the Lessor may pay the same and in such event the costs thereof, together with interest calculated monthly at a rate equivalent to the prime rate established by the Scotiabank on the first day of each month, plus two (2%) present per annum, shall forthwith due and payable by the Lessee to the Lessor.

7. INSURANCE

The Lessee agrees to obtain and maintain standard automobile insurance on statutory forms listing both the actual owner (Lessor) and the Lessee of the vehicles and shall ensure that this insurance will not be cancelled unless the insurer notifies the certificate holder in writing at least thirty (30) days prior to the date of cancellation:

- (a) automobile liability insurance in an amount not less than five million (\$5,000,000.) Dollars;
- (b) statutory accident benefits, uninsured motorist coverage and direct compensation property damage; and
- (c) collision and comprehensive coverage with a deductible no more than \$1,000.00.

- 7.1 Evidence that such insurance is in force shall be provided to the Lessor promptly on request and thereafter once annually at policy renewal until this Agreement is terminated or expires.
- 7.2 Proof of insurance must be carried in the vehicles at all times and available for presentation should the need arise.
- 7.3 In the event of damage to the vehicles the proceeds of any insurance shall be payable to the Parties as their respective interests may appear.
- 7.4 The Lessee acknowledges that the vehicles and any goods carried are solely and exclusively under its possession and control and at its risk, and nothing contained in this Agreement is intended to be construed otherwise.
- 7.5 The Lessee is required to notify the Lessor, as soon as practicable, of any accident or circumstance giving rise to a claim and to provide the Lessor with particulars of it, the identity of the driver, and to furnish the Lessor with information as might reasonably be requested to enable the Lessor to be fully acquainted with the circumstances of the incident.

8. INDEMNITY

The Lessee agrees to be responsible for and shall indemnify and save the Lessor harmless from and against all losses, claims, actions, expenses and liabilities of any sort and kind whatsoever in nature in connection with or arising from this Agreement and the Lessee's use and operation of the vehicles. The Lessee agrees that it will defend, at its expense, any actions

brought against the Lessor for which indemnity might be provided in accordance with the terms of this Agreement

9. NON-TRANSFERABILITY

The Lessee acknowledges that this Agreement is not assignable or transferable.

10. OWNERSHIP

All right, title, interest in and to the vehicles remains in the Lessor and nothing in this Agreement is to be taken as transferring to the Lessee any proprietary interest.

11. CANCELLATION OR TERMINATION

This Agreement may be terminated by either Party at any time by providing to the other Party 90 days' written notice, delivered to the other Party at the address stated in this Agreement, whereupon the Lessee shall surrender to the Lessor possession of the vehicles.

On the failure of the Lessee to perform any obligations stipulated in this Agreement, the Lessor may at its option cancel this Agreement and on fifteen (15) days' written notice, delivered to the Lessee at the address stated in this Agreement, whereupon the Lessee shall surrender to the Lessor possession of the vehicles.

In the event of the total loss of the vehicles as a result of a collision, fire, theft, or otherwise, the Lessor may in its sole discretion choose to replace the Vehicle with a vehicle of similar kind and condition or terminate this Agreement.

12. LICENSES

The Lessor will provide license plates to be used on the vehicles for each year during the term. The Lessor agrees to apply for, obtain and maintain the permit for the vehicles as defined in Part II of the *Highway Traffic Act*, and the Lessee agrees to pay for the permit as part of the lease amount for the vehicles.

13. ADDITIONAL COSTS / CHARGES

The Lessee agrees to pay all fines, penalties, Victim Fine Surcharge, Administrative Monetary Penalties or assessments incurred pursuant to any conviction or charge by virtue of any by-law, regulation or legislation of any governmental authority arising from or in connection in any way with the operation and use of the vehicles (and for greater certainty includes but is not limited to fines imposed pursuant to the *Highway Traffic Act* including red light camera infractions even where the person charged is the vehicle owner and not the driver of the vehicle).

14. GOVERNING LAW

This Agreement is enforceable pursuant to the laws of the Province of Ontario.

15. ENTIRE AGREEMENT

The Parties agree in writing that this Agreement and the RFP 19-14 Contract constitutes the entire agreement between the Parties.

16. NOTICE

Any notice relation to or provided for in this Agreement shall be in writing to the following Parties:

LESSOR:

The Corporation of the City of London
City Clerk
300 Dufferin Avenue
P.O. Box 5035
London, ON N6A 4L9

LESSEE:

Urban Animal Management

J. Brett Harlton
Executive Director
121 Pine Valley Blvd.
London Ontario N6K 3T6

IN WITNESS WHEREOF the parties hereto have hereunto affixed their corporate seals attested to by the hands of their respective authorized signing officers.

SIGNED, SEALED AND DELIVERED

THE CORPORATION OF THE CITY OF LONDON

Ed Holder, Mayor

Catharine Saunders, City Clerk

URBAN ANIMAL MANAGEMENT INC.

*J. Brett Harlton, Executive Director

authority to bind the Corporation

*I have

APPENDIX “B”

Bill No.

By-law No.

A by-law to approve the Vehicle Lease Agreement between The Corporation of the City of London (the “City”) and Tourism London for the lease of one (1) City-owned vehicle to Tourism London; and to authorize the Mayor and City Clerk to execute the Agreement.

WHEREAS subsection 5(3) of the *Municipal Act, 2001* provides that a municipal power shall be exercised by by-law;

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

1. The Vehicle Lease Agreement between The Corporation of the City of London and Tourism London attached as Schedule “A” to this by-law to provide for the lease of one (1) City-owned vehicle to Tourism London be approved.
2. The Mayor and the City Clerk are authorized to execute the Agreement approved under section 1 of this by-law.
3. This by-law shall come into force and effect on the day it is passed.

PASSED in Open Council , 2019

Ed Holder
Mayor

Catharine Saunders
City Clerk

First reading -
Second reading -
Third reading –

Schedule “A”

VEHICLE LEASE AGREEMENT

THIS VEHICLE LEASE AGREEMENT effective as of the 1st day of January, 2020 _

BETWEEN:

THE CORPORATION OF THE CITY OF LONDON (“the Lessor”)

And

TOURISM LONDON (the “Lessee”)

WHEREAS the Lessor is a municipality that has the capacity, rights, powers and privileges of a natural person for the purpose of exercising its authority under the *Municipal Act, 2001*, as amended or any other Act;

AND WHEREAS Tourism London is a federal corporation without share capital incorporated under the *Canada Corporations Act*;

THEREFORE IN CONSIDERATION of good and valuable consideration, the sufficiency of which is hereby acknowledged and admitted, the parties agree as follows:

1. VEHICLE LEASE

The Lessor, hereby agrees to lease to the Lessee the vehicle (the “vehicle”) listed in section 2 of this Agreement, together with all accessories, additions, repairs and replacement parts affixed to it, now or in the future.

The Lessee acknowledges that the vehicle was received by it in good condition and repair.

2. LEASE AMOUNT

The Lessee agrees to pay to the Lessor the amounts set out in the table below:

Description	VIN #	2020	2021	2022	2023
2019 Ford Escape	1FMCU9GD6KUC38053	\$7,144	\$7,893	\$8,090	\$8,305

3. TERM

The Agreement shall commence on December 1, 2019 and terminate on December 31, 2023, with the Lessor reserving the right to review this Agreement.

4. VEHICLE OPERATION AND USE

The Lessee agrees that the vehicle will be driven only by a competent driver who holds a valid Ontario driver’s license of the proper class for the vehicle being driven, in accordance with relevant laws and regulations, and that the Lessee will pay all and any fines or sanctions levied or imposed in connection with the possession, use or operation of the vehicle and to indemnify the Lessor in respect of any fines or levies, including but not limited to any victim fine surcharges and court costs.

The Lessee agrees that the vehicle is to be used by the Lessee solely in connection with the business operations of the Lessor and for no other purpose.

5. VEHICLE MAINTENANCE

The Lessor agrees to maintain, service, license, inspect and provide fuel for the said vehicle in possession of the Lessee as part of the lease amount as set out in this Agreement. Appointments for service will be arranged through the Lessor’s Fleet Services Division coordinated with the Lessee. The Lessee agrees that the vehicle shall be made available for such appointments with reasonable notice.

6. LIENS AND CHARGES

The Lessor shall, at all times, keep the vehicle free from all levies, liens and encumbrances whatsoever. If the Lessee fails to pay any such levies, liens and encumbrances, the Lessor may pay the same and in such event the costs thereof, together with interest calculated monthly at a rate equivalent to the prime rate established by the Scotiabank on the first day of each month, plus two (2%) present per annum, shall forthwith due and payable by the Lessee to the Lessor.

7. INSURANCE

The Lessee agrees to obtain and maintain standard automobile insurance on statutory forms listing both the actual owner (Lessor) and the Lessee of the vehicle and shall ensure that this insurance will not be cancelled unless the insurer notifies the certificate holder in writing at least thirty (30) days prior to the date of cancellation:

- (a) automobile liability insurance in an amount not less than five million (\$5,000,000.) Dollars;
- (b) statutory accident benefits, uninsured motorist coverage and direct compensation property damage; and
- (c) collision and comprehensive coverage with a deductible no more than \$1,000.00.

Evidence that such insurance is in force shall be provided to the Lessor promptly on request and thereafter once annually at policy renewal until this Agreement is terminated or expires.

Proof of insurance must be carried in the vehicle at all times and available for presentation should the need arise.

In the event of damage to the vehicle the proceeds of any insurance shall be payable to the Parties as their respective interests may appear.

The Lessee acknowledges that the vehicle and any goods carried are solely and exclusively under its possession and control and at its risk, and nothing contained in this Agreement is intended to be construed otherwise.

The Lessee is required to notify the Lessor, as soon as practicable, of any accident or circumstance giving rise to a claim and to provide the Lessor with particulars of it, the identity of the driver, and to furnish the Lessor with information as might reasonably be requested to enable the Lessor to be fully acquainted with the circumstances of the incident.

8. INDEMNITY

The Lessee agrees to be responsible for and shall indemnify and save the Lessor harmless from and against all losses, claims, actions, expenses and liabilities of any sort and kind whatsoever in nature in connection with or arising from this Agreement and the Lessee's use and operation of the Vehicle. The Lessee agrees that it will defend, at its expense, any actions brought against the Lessor for which indemnity might be provided in accordance with the terms of this Agreement

9. NON-TRANSFERABILITY

The Lessee acknowledges that this Lease is not assignable or transferable.

10. OWNERSHIP

All right, title, interest in and to the vehicle remains in the Lessor and nothing in this Agreement is to be taken as transferring to the Lessee any proprietary interest.

11. CANCELLATION OR TERMINATION

This Agreement may be terminated by either Party at any time by providing to the other Party 90 days' written notice, delivered to the other Party at the address stated in this Agreement, whereupon the Lessee shall surrender to the Lessor possession of the vehicle.

On the failure of the Lessee to perform any obligations stipulated in this Agreement, the Lessor may at its option cancel this lease and on fifteen (15) days' written notice, delivered to the Lessee at the address stated in this, whereupon the Lessee shall surrender to the Lessor possession of the vehicle.

In the event of the total loss of the vehicle as a result of a collision, fire, theft, or otherwise, the Lessor may in its sole discretion choose to replace the vehicle with a vehicle of similar kind and condition or terminate this Agreement.

12. RETURN OF VEHICLE AT END OF TERM OR ON TERMINATION

At the end of the lease term or on termination of this Agreement, the Lessee at its option may purchase the vehicle at the market value or return the vehicle to the Lessor in the same good order and condition in which it was received, subject to normal wear and tear. In the event of default of this provision, the Lessee agrees to reimburse the Lessor for the cost of any repairs to the vehicle.

13. LICENSES

The Lessor will provide license plates to be used on the vehicle for each year during the term of this Agreement. The Lessor agrees to apply for, obtain and maintain the permit for the vehicle as defined in Part II of the *Highway Traffic Act*, and the Lessee agrees to pay for the permit as part of the lease amount for the vehicle.

14. ADDITIONAL COSTS / CHARGES

The Lessee agrees to pay all fines, penalties, Victim Fine Surcharge, Administrative Monetary Penalties or assessments incurred pursuant to any conviction or charge by virtue of any by-law, regulation or legislation of any governmental authority arising from or in connection in any way with the operation and use of the vehicle (and for greater certainty includes but is not limited to fines imposed pursuant to the *Highway Traffic Act* including red light camera infractions even where the person charged is the vehicle owner and not the driver of the vehicle).

15. GOVERNING LAW

This Agreement is enforceable pursuant to the laws of the Province of Ontario.

16. ENTIRE AGREEMENT

The Parties agree that this Agreement in writing contains the full and complete provisions of their contract and that there are no other terms, conditions or representations forming part of the contract, except as are expressly referred to in this Agreement.

17. NOTICE

Any notice relation to or provided for in this Agreement shall be in writing to the following Parties:

LESSOR:

The Corporation of the City of London
City Clerk
300 Dufferin Avenue
P.O. Box 5035
London, ON N6A 4L9

LESSEE:

Tourism London

267 Dundas Street, 2nd Floor
London, ON, N6A 1H2

IN WITNESS WHEREOF the parties hereto have hereunto affixed their corporate seals attested to by the hands of their respective authorized signing officers.

SIGNED, SEALED AND DELIVERED

THE CORPORATION OF THE CITY OF LONDON

Ed Holder, Mayor

Catharine Saunders, City Clerk

TOURISM LONDON

*Print Name: _____

Title: _____
*I have authority to bind the Corporation