

Appendix A: Compliance Framework V1.06–November 2020

Version 1.06

Nov-20

1	Information reported to Council or delegate with respect to the Transaction was complete.
1.01	Reporting to Council or the Chief Administrative Officer (“CAO”) has been prepared in the form of an Administrative Report or Briefing Note as required by Appendix B of the RETMF, and includes: a recommendation(s); reason for the Report or Note presented; implications of the recommendations; history of the Report or Note presented; financial impact of the transaction; and summary of consultations, in accordance with Appendix B of the RETMF.
1.02	Identification of the preparer, reviewer, and review date of the Administrative Report or Briefing Note are included in the file documentation, including evidence of review in accordance with Appendix B of the RETMF.
1.03	The complete reporting checklist (as outlined in Appendix C of the RETMF) which corresponds to the transaction type has been fully completed, including all attachments noted to be evidenced in file. Rationale for the notation of any particular item within the checklist as “N/A” has been included.
1.04	The Complete Reporting Checklist relating to the transaction has been reviewed by the author of the associated Administrative Report or Briefing Note, as evidenced by date and sign-off on the checklist.
2	An appraisal of the property has been performed by a qualified individual, in an acceptable format, as needed.
2.01	An appraisal of the subject property has been prepared as required by Appendix D of the RETMF. In cases where the Manager of Real Estate has conferred with the Appraisal Branch and it has been determined that an appraisal was not required, the rationale has been documented and retained in the file.
2.02	In cases where an appraisal of the subject property is required, the associated Appraisal Requisition Form has been completed and included in the file.
2.03	For transactions involving the Property Management Branch for which an appraisal was deemed not to be required, a market analysis reflecting consideration of all factors outlined in Appendix D of the RETMF has been prepared by the Leasing Officer or Appraisal Branch and included in the file. In addition, the Property Management Branch has determined the appropriate form of market analysis by completing the Risk and Complexity Tool for Market Analysis and including this documentation in the file.
2.04	The decision as to the form of appraisal and the use of an internal or external appraiser was made by the Supervisor of Leasing and Appraisals (or Acting) in accordance with the guidance and matrix in Appendix D of the RETMF, and documented by the Appraisal Branch.
2.05	Where an external appraiser was deemed to be required, a competitive bid process was undertaken or an appraiser was selected at the discretion of the Appraisal Branch from the pre-approved list of appraisers. If the external appraiser was selected from the pre-approved list of appraisers, the appraiser has been pre-approved for the type of appraisal function required (i.e. expropriation, disposition, acquisition, internal use, etc.).
2.06	Consideration with respect to the engagement of Materials Management in the procurement process for an external appraiser was completed with accordance of Materials Management Policy FM-002.
2.07	If an external appraiser was used, the engagement to prepare an external appraisal report with respect to the property was documented through a signed written engagement letter using the most current template maintained by City Legal Services (as at the date of engagement).
2.08	Prior to finalizing the appraisal report and within six weeks of the delivery of the appraisal report, the draft appraisal (both internally and externally prepared) has been reviewed by a designated member of the Appraisal Institute of Canada. This review has been documented by either a narrative review or review memo signed off by the Senior Appraiser, and includes the preparer's consideration of the “Reasonable Appraiser” test as defined by Canadian Uniform Standards of Professional Appraisal Practice.
2.09	The appraisal has been reviewed by staff of the Real Estate Division or Property Management Branch, as applicable based on the type of transaction.
2.10	The appraisal was completed by an accredited member in good standing with the Appraisal Institute of Canada (as at the date of Transaction review).
2.11	The appraisal was prepared in conformity with Canadian Uniform Standards of Professional Appraisal Practice, as evidenced by a signed certification contained within the appraisal.
2.12	In cases where the most recent appraisal with respect to the property was completed more than 24 months from the expected date of the transaction, an Update Appraisal was completed.
2.13	A copy of the appraisal has been retained within the office file, or the location of the appraisal has been referenced within the file.
2.14	Management of PP&D have represented that appraisal documents have not been shared or released to the Community Committees or any other third parties, in accordance with confidentiality requirements.
2.15	For a license or encroachment agreement transaction where it has been documented an appraisal is not required, the fees have been approved through the Fees and Charges Schedule.
3	Consultation and communication with internal City stakeholders such as City departments, the Ward Councillor, and utility agencies has been solicited prior to the execution of the transaction.

3.01	<p>Prior to undertaking a sale, lease, or declaration of surplus, PP&D issued a circulation to applicable City departments, the Ward Councilor, and utility agencies for a sale or declaration of surplus to identify any requirement(s) for the real property with a minimum 14 day deadline for response in accordance with the requirements stipulated in Appendix H of the RETMF. All correspondence has been retained within the transaction file.</p> <p>Departments that are required to be contacted include: Assessment and Taxation, Community Services, Fire Paramedic Service, Local improvements, Planning, Property and Development Department, Public Works Department, Transit Department, Water and Waste department. Winnipeg Parking Authority, and Winnipeg Police Service.</p> <p>Utility and service provider entities that are required to be contacted include: BellMTS, Manitoba Hydro, and Shaw.</p>
3.02	No requirements were identified by a City department to retain the subject property in response to the circulation to City departments outlined in criteria 3.01.
5	All land has either been declared surplus or is planned to be declared surplus concurrently with the approval of sale by the Chief Administrative Officer and/or Council, based on the applicable Delegation of Authority.
5.01	Council/CAO (as applicable) has declared land surplus prior to sale, or such declaration is planned to be made concurrently with transaction approval.
6	PP&D has been authorized to commence negotiations for the acquisition or disposal of land, and completed site inspections as appropriate.
6.01	The Board of Commissioners has authorized PP&D to commence negotiations for all land acquisitions, except in instances where an approved Capital Project clearly identifies the land acquisition (in which case PP&D has received a request from the associated Department).
6.02	Approval to negotiate property acquisition for streets and lanes has been obtained from the Standing Policy Committee on Public Works, except in cases where Council has previously approved a local improvement project and the Public Works Department report to the Standing Policy Committee on Public Works and Council has indicated that the land acquisition is to be funded out of the Land Acquisition for Transportation Purposes Account.
6.03	Prior to entering into negotiations to sell or otherwise dispose of the property, PP&D visually inspected the site to ensure that new encroachments over the City owned property have not occurred during the holding period, and has ensured that all legal encroachments over the lands or contiguous with the City's ownership are protected on sale.
7	An Environmental Site Assessment ("ESA") was completed as required.
7.01	A determination was made and documented by a qualified environmental professional (as defined within Appendix M of the RETMF) as to whether an ESA was required.
7.02	If determined to be required pursuant to criterion 7.01, a Phase I ESA was conducted by a qualified environmental professional (as defined within Appendix M of the RETMF), in accordance with CSA standard Z768-01 Phase I Environmental Site Assessment (as evidenced by a representation to this effect).
7.03	If recommended in the Phase I ESA, a Phase II ESA has been conducted by a qualified environmental professional (as defined within Appendix M of the RETMF) according to CSA standard Z769-00 Phase II Environmental Site Assessment (as evidenced by a representation to this effect).
7.04	All ESAs have been reviewed by a qualified individual with experience in interpreting results and recommendations in the ESA, or has otherwise been reviewed or consulted with either a member of Public Works or a member of the Water and Waste Department's environmental protection program. Documentation evidencing this review has been retained within the file.
7.05	For any lease transaction, the lease documentation includes environmental provisions to clarify environmental liability.
7.06	Under a disposition of land and property, the transaction documentation stipulates that the potential buyer of the land will hold the environmental due diligence responsibility.
8	A competitive procurement process was conducted when prescribed by the RETMF.
8.01	A Risk & Complexity Tool in the format outlined in Appendix F of the RETMF was completed as prescribed by the criteria outlined in Appendix E of the RETMF. If required, the Risk & Complexity Tool was completed by the Real Estate Division / Property Management Branch staff responsible for the transaction and reviewed by their respective Supervisor/Superintendent/Manager. If not completed, the rationale for not utilizing the tool has been documented by the Real Estate Division / Property Management Branch staff member and approved by their respective Supervisor/Superintendent/Manager.
8.02	Engagement of Materials Management and the utilization of a Competitive Bid Process was undertaken in accordance with the directives in Appendix E of the RETMF. In cases where Materials Management or a Competitive Bid Process was not undertaken as required or suggested within the appendix, the supporting rationale have been documented and agreed between PP&D and Materials Management.
8.03	No more than six tenders for residential building lots were accepted from any individual or company.
8.04	Residential building lots were not sold 'over-the-counter' until the tendering process with respect to all lots in the same subdivision was completed. Any unsold lots from the tender process were included in the tendering of 'new' lots within the same subdivided area before being made available 'over-the-counter'.
8.05	Any land being considered for disposal that was previously acquired through expropriation has been offered back to its original owner at the terms of the best offer received, prior to commencing a sale process to any other party.
9	All land transactions and the negotiated terms have undergone a legal review prior to being presented to the CAO or Council, as appropriate, for approval.
9.01	Prior to being presented to the CAO or Council (as appropriate) for approval, the City Legal Department has completed a formal review of all agreements, contracts, and proposed modifications to legal documentation pertaining to the transaction and provided approval and sign-off. This review has included ensuring compliance of the agreements with the applicable by-laws and Policies.
10	Alternative properties and procurement methods were considered in selecting the property.

10.01	A search was undertaken to identify alternative property locations and purchase/lease opportunities available. In cases where multiple opportunities were identified by this search, a comparative analysis was undertaken to evaluate the most economical option. This analysis was reviewed and communicated with the requesting department.
11	Where land is to be expropriated, compliance with the Expropriation Act has been considered and verified by City Legal Services.
11.01	City Legal Services has represented that they have confirmed compliance of the transaction with the terms of the Expropriation Act in its approval of the transaction.
11.02	Prior to undertaking an expropriation of a property not specifically required by a project plan, a search was undertaken for alternative acquisition opportunities that would avoid expropriation.
11.03	In the case of an expropriation, Council has issued a Declaration of Expropriation which defines the property to be expropriated and states that the process shall be undertaken in accordance with the Expropriation Act. In addition, notice of the intended expropriation was provided to the Land Titles office no more than six months prior to the transaction.
11.04	Notice of the Declaration of Expropriation has been distributed to the current land owner(s) within 60 days of the declaration.
11.05	Within a 120 day period of the issuance of the Declaration of Expropriation and before serving a notice for possession of the land, an offer of compensation which includes all provisions identified in paragraph 16(1) of the expropriation act has been provided directly to the land owners.
11.06	If objection to the expropriation was made within 30 days of the later of the declaration or the notification of the declaration, an inquiry officer was appointed and a report was drafted by said officer and provided to Council within the 120 day period.
11.07	Within 120 days of the last Declaration of Expropriation being submitted (excluding an amendment for a correction being submitted on an existing Declaration), the Declaration of Expropriation has been confirmed by Council.
11.08	The offers, approvals and declarations issued throughout the expropriation process have been made in accordance with the Delegation of Authority.
12	Unsolicited offers for the purchase of City owned property have been pursued only when the conditions established by Council have been met.
12.01	Any unsolicited offer for the purchase of City-owned property is pursued only when one or more of the four conditions outlined by Council (as defined in the Council minutes of December 6, 2006 - <i>Offers to purchase City-owned property policy</i>) have been met.
13	Any offer for the purchase of City-owned property was only acted on by PP&D if it was provided in the form of a formal written offer.
13.01	Any offer for the purchase of City-owned property was only acted on by PP&D if it was provided in the form of a formal written offer.
14	Acquisitions of privately owned property containing dilapidated structures are accompanied by a program of rehabilitation, redevelopment, or improvement.
14.01	Acquisitions of property that contain a dilapidated structure are related to a program of rehabilitation, redevelopment or improvement which has been formally accepted in principle by a Standing Committee of Council and/or is under active consideration by the Executive Policy Committee, the Board of Commissioners or City Council, as evidenced by documentation of this relationship in an Administrative Report prepared for Standing Policy Committee or Council approval.
14.02	When a report to the Technical Advisory Committee on City Properties recommends the acquisition of a property with a derelict and/or boarded up house, the report also includes a recommendation regarding whether the house should be demolished immediately upon possession by the City. This specific recommendation has been forwarded to the appropriate authority (either the Board of Commissioners or the Committee on Environment).
15	Specific policies relating to transactions involving property under the purview of the Parks & Recreation division have been observed.
15.01	Where a developer has approached the City to lease or purchase City-owned land to proceed with a major Parks and Recreation Development, PP&D proceeded with negotiations of the transaction after a formal recommendation or request was made by the Community Committee and Committee on Parks, Protection, and Culture, in accordance with Council Minutes of May 31, 1989, <i>Procedure for the Sale or Lease of City-Owned Property for Major Parks and Recreation Development</i> .
15.02	In the acquisition of property for Parks and Recreation purposes, PP&D has evaluated the proposed transaction using the nine criteria stipulated in Council Minutes, October 18, 1989, "Proposed Policy for the Purchase of Land for Parks and Recreation Purposes".
16	Where land declared surplus had previously been transferred by a Developer to the City, that land has first been offered back to that Developer.
16.01	Where (1) a Community Committee has taken transfer of lands instead of cash payment pursuant to the 10% dedication requirement in the subdivision of lands, (2) the Community Committee may subsequently declare said lands surplus for the purpose of sale, and (3) the developer has expressed an interest in the purchase of said lands, then the property has been first offered to the developer at a price determined by the Committee on Finance in accordance with Committee on Finance policy, August 13, 1979.
17	Other policies related to the general process for the sale of land have been adhered to.
17.01	Within 30 days of being declared surplus by Council, the property has been posted on the City of Winnipeg website.
17.02	In the sale of land, any engagement of a broker was undertaken in accordance with Council Policy, June 19, 1996.
18	The policies pertaining to acquisitions and dispositions of specific types of property have been adhered to.
18.01	Compensation payable in connection with the acquisition of small properties such as lane and street corner cuts, widenings, etc., has been set at a minimum of \$500.00 which includes the value of land and an amount to compensate for the inconvenience to the owner.

18.02	The sale of City-owned residential land sold to adjoining owners or for development purposes has been undertaken in accordance with Council policy, October 31, 1977 as amended February 13, 1991, <i>Sale of City owned small parcels or lots to be used for residential purposes</i> .
18.03	The Committee on Environment has recommended the planning requirements with respect to the sale of any City owned residential property with a less restrictive zoning than 'R2' and consideration has been provided by the Community Committee in which the land is located.
18.04	Those portions of closed streets comprising corner roundings in residential areas have been offered for sale to the adjoining owners for the nominal sum of \$1.00 subject to consolidation of titles at the purchaser's expense. This applies in those cases where, in the City's documented opinion, the sale is considered to be in the City's interest to square off the holding and where the corner rounding is considered to have an intrinsic value only to the adjoining owner.
18.05	Where a developer has expressed interest in the purchase of lands dedicated to the City by the developer for regional street rights-of-way and buffer strips and the lands have subsequently been declared surplus for the purpose of sale, the lands were first offered to the developer at a price determined by the Committee on Finance. It is a pre-condition that the lands acquired for regional streets have not in fact been opened by by-law. Where the land to be sold back to the developer is buildable, the building time requirement of two years applies as well as the requirement that transfer was not issued until the basement and foundation have been completed.
18.06	Sales of property designed or acquired for park or cemetery purposes have received approval of at least two-thirds of the members of Council pursuant to Section 156(2) of The City of Winnipeg Act (S.M. 1989-90, C.10).
18.07	All industrial park land has been sold at the appraised value of the general mass-appraisal prepared as of the preceding September 30th and approved by SPC on Property and Development, in accordance with the terms outlined in the RETMF as well as Policy No. PD-012.
18.08	Industrial land which is not located within an industrial park (as defined by clause 2 of Policy No. PD-012) has been appraised on a site-specific basis.
18.09	For the sale and lease of land adjacent to a landfill, the transaction within zones of concern (defined in policy 4559, Council October 17, 1984) was subjected to review and a favourable recommendation was received from the Waterworks, Waste, and Disposal Department.
18.10	The City's proposed acquisition contemplates only the acquisition of the rights to mines, minerals, gravel, etc., where these rights are in the same ownership as the surface rights and then only where the lands are being acquired by negotiation. In those cases where the City is contemplating expropriation of required land, the proposed transaction only considers the expropriation of the surface rights. This policy is not followed where the City would be acquiring land for use as gravel pits, quarries, etc.
19	The policies pertaining to specific types of transaction of property have been adhered to.
19.01	The acquisition of property through a tax sale has been completed in accordance with <i>Terms and conditions to acquire properties offered for sale to the City that are in tax sale</i> , as specified by Council, December 13, 2000 and with <i>Acquisition and disposition of tax sale properties</i> , as specified by the Committee on Finance (February 11, 1986).
19.02	In the acquisition of land through a tax sale an inspection has been carried out, and property is to be transferred free and clear of all liens (other than those property taxes outstanding) at the price of \$1, as evidenced in the transaction agreement.
19.03	Sales or leases of lands at less than market value to not-for-profit organizations have been completed in accordance with Council policy, October 31, 1990.
19.04	Sales to school division organizations have been completed in accordance with Council policy, November 16, 1977.
20	The transaction has been included in the Tracking Database.
	The transaction has been included in the Tracking Database in accordance with Appendix L of the RETMF.