SCHEDULE C

Winnipeg

CITY OF WINNIPEG POLICY NO. XXX-XXX

POLICY TITLE *Declaration as Surplus and Sale of Property*	**ADOPTED BY** *City Council*	**EFFECTIVE DATE** *XXXXXXXX*
ORIGIN / AUTHORITY *City Council*	**CITY POLICY NO**	**MOST RECENT CONSOLIDATION** *XXX-XXX*

1. Purpose:

The requirements to declare City-owned property surplus, negotiate the terms and conditions of a sale, easement or land exchange, and the approval authority for the sale of City-owned property are contained herein.

2. Definitions:

"Appraised Value" means the fair market value of a particular property as determined by a designated real estate appraiser who is a member in good standing of the Appraisal Institute of Canada;

"Broker" means a registered real estate broker that is licensed to buy and sell real estate;

"Broker Program" means engagement of a registered real estate broker at a predetermined fee to sell City-owned property;

"Calls to Action" means the 94 Calls to Action contained within the Truth and Reconciliation Commission of Canada: Calls to Action;

"CAO" means the Chief Administrative Officer of the City of Winnipeg;

"Charter" means The City of Winnipeg Charter, S.M. 2002, c. 39, as amended from time to time;

"Circulation" or "Circulate", in respect of the proposed sale of surplus City-owned property, means a canvass of affected internal and external stakeholders for comments on a proposed declaration of surplus City-owned property;

“City” means the municipal corporation of The City of Winnipeg, continued under section 8 of The City of Winnipeg Charter, S.M. 2002, c. 39;

“City Property” means all or a portion of the interests, benefits and rights inherent in the ownership of physical real estate that is owned by the City;

“Commission” means the payment of a fee to a registered real estate broker who closes the sale of City-owned property;

“Council” means the municipal Council of the City;

“Designated Committee” means the committee of Council responsible for providing policy advice to Council in respect of planning and land use, which, on the date this policy is enacted, is the Standing Policy Committee on Property and Development, Heritage and Downtown Development;

“Direct Sale” means a sale of City-owned property which has not been marketed to the general public;

“Director of PPD” means the director of the City department responsible for planning and land use, which, on the date this policy is enacted, is the Director of the City’s Planning, Property and Development Department;

“Easement” means the right of one land owner to access, cross or otherwise use the land of another in a particular manner, which right can be permanent or temporary in nature;

“Economic Development Transaction” means the sale of City-owned property for a development proposal requiring completion within three years, where a minimum of $1.0 million in Provincial or Federal Funding, or combination thereof, has been secured for the said development;

“Environmental Site Assessment” means a site investigation to determine whether the site contains contaminants;

“Fees and Charges Schedule” means the annual public list of fees, charges, rates or rents charged for a variety of City services;

“Historical Resource” means a property which has been designated and protected as a historical resource through Historical Resource Bylaw No. 55/2014, as amended from time to time;

“Land Dedication Reserve Fund” means an accounting fund managed by the City in which funds resulting from the sale of City-owned parkland property accumulates;

“Land Exchange” means the sale of City-owned property in exchange for the acquisition of non-City-owned property;

“Land Operating Reserve Fund” means the Land Operating Reserve Fund approved by Council on May 16, 1973 and as amended from time to time;

“Marketed” means the public advertisement for the sale of City-owned property;

“Market Value” means the most probable price that a property should obtain in a competitive and open market with the buyer and seller each acting prudently and knowledgeably, and assuming the price is not affected by undue stimulus;

“Non-Profit Organization” means an organization that does not generate a profit that is returned to shareholders, partners or individuals, but does not include golf courses;

“Parkland” means City park property as defined in the Parks By-law No. 85/2009, but includes golf courses.

“Principles of Reconciliation” means the ten Principles of Reconciliation outlined in Winnipeg’s Indigenous Accord;

“Purchaser” means the proponent or proponents buying City-owned property;

“Public Service” means the employees of the City of Winnipeg but does not include elected officials;

“Sale” means the transfer of the full or partial bundle of rights in land, including but not limited to fee simple ownership or an easement;

“Stakeholder” means any City department, person, corporation, organization or agency that has a general or specific interest in any City-owned property that includes, but is not limited to, utility agencies, crown corporations, government agencies, the Provincial Government or the Federal Government;

“Surplus” means property that Council or its delegated authority has determined is not required for civic purposes;

“Taking Title Without Compensation” means the process defined in Part 5 Division 4 of the Charter;

“Tax Sale” means a property as defined in Part 8 Division 4 of the Charter;

“Unbuildable Land” means a property that does not conform with the provisions of the Winnipeg Zoning By-law No. 200/2006 or the Downtown Winnipeg Zoning By-law No. 100/2004, or property for which the highest and best use as determined by an accredited appraiser is for consolidation with the adjacent non-City-owned property;

“Ward Councillor” means the elected official that represents one of the electoral wards within the City of Winnipeg within which the City-owned property is located; and

“Winnipeg’s Climate Action Plan" means the City’s strategy to reduce greenhouse gas emissions that was adopted by Council on September 20, 2018 and as amended from time to time.

3. Declaration as Surplus and Sale of City Property Policy

3.1 Declaration as Surplus City Property

A. The Public Service must Circulate City Property, for a minimum of ten business days to Stakeholders, unless otherwise specified by the Director of PPD, prior to recommending that the City Property be declared Surplus.

i. Stakeholders may identify (if necessary):

- A civic departmental need, if any;
- Easement requirements; and
- Objection to a Sale;

ii. The City department having jurisdiction over the City Property, or programs on the City Property, must be consulted regarding the Declaration of Surplus City Property.

B. Easements are not required to be declared surplus, but do require Circulation as set out in Section 3.1(A).

C. Should a City Stakeholder object to a proposed Sale, the City Stakeholder must have a demonstrated need for the City Property, evidenced through existing infrastructure, recommended project alignment or identified funding within an adopted Capital Budget and Five-Year Forecast.

D. The Ward Councillor will be notified subsequent to a completed Circulation if the Public Service intends to recommend that the City Property be declared Surplus.

E. The Public Service will obtain a Phase I Environmental Site Assessment for Surplus City Property that the Public Service suspects contains a use that may have environmentally impacted the City Property (e.g. former Public Works yard, former Police station, etc.).

F. The Public Service will publish all Surplus City Property, not including closed roads, on the City's website within 60 days of the City Property being declared Surplus.

3.2 Sale of City Property

A. Sales must:

- **i.** Obtain the best value for the City, which may or may not be Market Value
  - A price less than Market Value may be considered for Sales of Unbuildable Land (Section 3.2(B)(i)), Sales qualifying as an Economic Development Transaction (Section 3.2(B)(v)), Sales to Non-Profit Organizations (Section 3.2(C)), temporary easements, public utility easements, or Sales to an organization established by the City;
- **ii.** Be marketed, except for Direct Sales (Section 3.2(B));
- **iii.** Support orderly development through Council-approved development policies and/or other Council policies;
- **iv.** Be open and transparent, ensuring all prospective Purchasers receive equal information and/or access;
- **v.** Prioritize submissions from Non-Profit Organizations to construct affordable housing on vacant City Property where possible, subject to Section 3.2(C);
- **vi.** Prioritize submissions from for-profit organizations to construct affordable housing on vacant City Property where possible, subject to the Purchaser providing evidence of funding from the Canada

Mortgage and Housing Corporation or the Province of Manitoba to ensure affordability targets are met;

vii. Be declared Surplus to the City's needs;

viii. Be approved by Council or its delegated authority, and in all cases, the Ward Councillor will be provided notice of the Public Service recommendation prior to approval.

B. The Public Service is authorized to pursue a Direct Sale, but is not obligated to do so, where at least one of the following criteria is met:

i. Unbuildable Land is sold to an adjacent owner(s)

- The purchase price of the City Property may be Market Value, or a lesser amount if the Purchaser, at their sole cost, consolidates the City Property with non-City Property through a Development Application;

ii. City Property is sold to a government, government agency, or organization established by the City where:

- The Sale aligns with Council direction or a Council mandate;
- The City Property is required for a capital project; or
- The Sale addresses a public need or operational requirement;

iii. The Sale addresses the development of affordable housing as defined in Council-approved development policies and/or other Council policies;

iv. The City Property forms part of a Land Exchange that benefits a Council-approved land acquisition program or is required by a civic department for a public use;

v. The Sale meets the criteria of an Economic Development Transaction

- The Sale must include a covenant to construct to ensure the development is completed;

vi. The Sale facilitates one of the Principles of Reconciliation or one of the Calls to Action;

vii. The Sale addresses a specific recommendation or goal within Winnipeg's Climate Action Plan.

C. The City will consider, where appropriate, sales of City Property to Non-Profit Organizations at below Market Value where:

i. The Tenant is an active, registered Non-Profit Organization;

ii. The Non-Profit Organization provides for activities that are compatible with the City's needs;

iii. The Non-Profit Organization provides a service for which there is a current and projected need in that location;

iv. The Non-Profit Organization must provide evidence of available funding and/or financial commitment to complete the project;

v. The minimum purchase price must be the City's current inventory cost of the City Property;

vi. A reversionary interest in favour of the City is registered against the City Property

- The reversionary interest may be invoked when the City Property has reached the end of the project's life or if the Non-Profit Organization has failed to develop the City Property (covenant to construct);
- The reversionary interest is not applicable to affordable housing providers where City Property is transferred by the affordable housing provider to a third party upon substantial completion of construction of the affordable housing.

D. Where a Purchaser has requested entry onto City Property in advance of the date of possession, the City may enter into an enter to construct agreement with the Purchaser where all six of the following criteria are met:

i. Council or its delegated authority has approved the Sale;

ii. The terms and conditions of the Sale have been successfully negotiated as between the City and the Purchaser;

iii. The Purchaser satisfies insurance requirements certified by the City's Corporate Risk Manager to be adequate to protect the City's interests;

iv. The Purchaser agrees to fully release and indemnify the City;

v. Unless the City deems restoration would harm the City Property, the Purchaser agrees to restore the City Property, at its sole cost, effort and expense, to its original condition if the Sale is not completed, for which evidence of available funding (e.g. letter of credit) shall be required;

vi. Meet any other term or condition considered necessary by the Director of Legal Services and City Solicitor to adequately protect the interests of the City.

E. Where a Purchaser has requested entry onto City Property to carry out testing for geotechnical, archaeological or Environmental Site Assessments after the Sale has been approved but prior to successfully negotiated terms and conditions, entry may be granted where:

i. The Purchaser satisfies insurance requirements certified by the City's Corporate Risk Manager to be adequate to protect the City's interests;

ii. The Purchaser agrees to fully release and indemnify the City;

iii. The Purchaser agrees to release the results of the geotechnical, archaeological or Environmental Site Assessments to the City at the request of the City.

F. The City will recognize the participation of a Broker representing a Purchaser in a completed Sale transaction of a City Property:

i. The City will pay a Commission of up to 3% of the purchase price, to a maximum of $500,000; or the percentage disclosed within the offer to purchase or purchase and sale agreement;

ii. The Commission is payable out of the Sale proceeds;

iii. The Commission forms part of the offer evaluation; and

iv. The Commission is payable upon Title transfer.

F. Unless directed by other Council policies (e.g. Recreation, Leisure and Libraries Facility Policy), gross proceeds of a Sale are credited to either the Land Operating Reserve Fund or the Land Dedication Reserve Fund.

G. A summary of all completed Sales will be posted on the City's website annually.

3.3 Land Exchanges

A. All provisions of Sections 3.1 and 3.2 apply to the Sale of City Property, where the City Property is included in a Land Exchange.

3.4 Closed Roads

A. All roads closed through a Development Application shall be purchased at market value, without credit for any other road openings.

4. Responsibilities

4.1 Director of PPD is authorized to:

A. Declare any of the following City Property Surplus to the City's needs

i. Unbuildable Land;

ii. City Property acquired through Tax Sale;

iii. City Property acquired through Taking Title Without Compensation.

B. Subject to Sections 4.4(B) and 4.4(C), approve all Sales, Land Exchanges and Sale settlement claims up to and including $375,000.00 where:

i. Sale price must be at least 80% of the Appraised Value for all transactions that exceed $10,000.00; and

C. Approve all Sales that have pre-approved prices from the Designated Committee.

D. Transfer the jurisdiction of City Property to another civic department, excluding transfers defined in Section 4.4(D), subject to

- **i.** The civic department having jurisdiction over the City Property must concur with the transfer.

E. Authorize the demolition or removal of any building or structure on a City Property, except for City Property protected under a by-law, which is:

- **i.** Uneconomic to maintain;
- **ii.** Structurally unsound;
- **iii.** Obtained through tax sale; or
- **iv.** Obtained through taking title without compensation.

F. Authorize the right to an applicant to include City Property within a Development Application, provided that the City Property has been circulated (Section 3.1(A)).

G. Discharge, amend or register caveats on a certificate of title that relate to a Sale:

- **i.** Amendments to a mortgage are permitted only where the amended principal amount does not exceed the original principal amount.

H. Elect to hold a public auction for a Tax Sale, where the City has not exercised its right to purchase the Tax Sale.

I. Negotiate and approve the terms and conditions of the following agreements and documents:

- **i.** Offer to Purchase and/or Purchase and Sale;
- **ii.** Land Exchange;
- **iii.** Easement;
- **iv.** Temporary Easement;
- **v.** Enter to Construct;
- **vi.** Amending;
- **vii.** Assignment;
- **viii.** Confidentiality;
- **ix.** Letter of Intent;
- **x.** Memorandum of Understanding;
- **xi.** GST Declaration and Indemnity.

4.2 CAO is authorized to:

A. Subject to Sections 4.4(B) and 4.4(C), approve all Sales, Land Exchanges and Sale settlement claims exceeding $375,000.00 up to and including $750,000.00 where:

i. Sale price must be at least 80% of the Appraised Value.

4.3 Designated Committee is authorized to:

A. Subject to Section 4.4(B) and 4.4(C), approve all Sales, Land Exchanges and Sale settlement claims in excess of $750,000.00;

B. Approve a Broker Program; and

C. Authorize pre-approved Sale prices, where applicable.

4.4 Council is authorized to:

A. Declare all City Property Surplus to the City's needs, except for City Property identified in Section 4.1(A);

B. Approve all Sales, Land Exchanges or Sale settlement claims of Parkland or City Property used for cemetery purposes subject to

i. Approval of two-thirds of all members of Council, in accordance with the Charter;

C. Approve all Sales of City Property which have been designated as a Historical Resource;

D. Approve transfers of jurisdiction to another civic department for Parkland or City Property used for cemetery purposes subject to

i. Approval of two-thirds of all members of Council