SCHEDULE D

Winnipeg

CITY OF WINNIPEG POLICY NO. XXX-XXX

POLICY TITLE *Acquisition of Property*	**ADOPTED BY** *City Council*	**EFFECTIVE DATE** *XXXXXXXX*
ORIGIN / AUTHORITY *City Council*	**CITY POLICY NO**	**MOST RECENT CONSOLIDATION** *XXX-XXX*

1. Purpose:

This Policy sets out the requirements to acquire non-City-owned property and to negotiate the terms and conditions of an acquisition, easement or land exchange, as well as the approval authority for the acquisition of non-City-owned property.

2. Definitions:

"Acquisition" means the acquisition of property rights, in full or in part, including but not limited to fee simple ownership or an easement;

"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;

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

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

"City" means the municipal corporation The City of Winnipeg, continued under section 8 of the Charter;

"Commission" means the payment of a fee to a Broker in respect of a real property transaction;

"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;

“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;

“Disturbance Damage” means losses incurred by an expropriated property owner determined in accordance with Section 28 of the Expropriation Act;

“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;

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

“Expropriation” means the taking of non-City-owned property pursuant to the Expropriation Act;

“Expropriation Act” means The Expropriation Act, CCSM c. E190, as amended from time-to-time;

“Land Acquisition Program” means the acquisition of property, in full or in part, required for a Council-approved capital project;

“Land Exchange” means the sale of City-owned property in exchange for the acquisition of non-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-City Property” means all or a portion of the interests, benefits and rights inherent in the ownership of physical real estate that is not owned by the City;

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

"Purchase" means the acquisition of property by a willing purchaser from a willing vendor for fair market value;

"Tax Sale" means the process set out in Part 8 Division 4 of the Charter; and

"Vendor" means a person or corporation offering real property for sale.

3. Acquisition of Non-City Property Policy

3.1 Purchase of Non-City Property

A. Purchases of Non-City Property must:

- **i.** Represent the best value for the City, which may or may not represent Market Value;
- **ii.** Form part of a Council-approved Land Acquisition Program or be necessary to implement Council's intent (e.g. temporary easements related to capital projects); and
- **iii.** Be identified as necessary for the City's purposes by the Public Service.

B. Where a City department does not have a site-specific Purchase requirement, the Public Service will issue a Request for Proposal or Expression of Interest in accordance with all relevant City Administrative Standards and Council Policies.

C. The Public Service must obtain a Phase I Environmental Site Assessment for the Purchase of Non-City Property, unless directed otherwise by the City department requesting the Acquisition.

D. Where the City requires access to Non-City Property that is the subject of an Acquisition in advance of the date of possession, other than for any of the purposes set out in section 3.1(E), the City may enter into an enter to construct agreement where the following criteria are met:

- **i.** Council has approved the project for which entry and construction has been proposed;
- **ii.** The City is constructing public infrastructure (e.g. road) and not a City-occupied building (e.g. police station);
- **iii.** If the criteria are met, the enter to construct agreement must obligate:
    - The City to indemnify the Vendor; and

- The City to restore, at its sole cost, effort and expense, the Non-City Property to its original condition if the Purchase is not completed (unless Expropriated by the City).

E. Where the City has requested entry onto Non-City Property that the City intends to acquire, in order to carry out testing for geotechnical, archaeological or Environmental Site Assessments, a release of liability may be provided to the Vendor where:

i. Council has approved the capital project;

ii. If the above criterion is met, the release of liability must obligate:

- The City to indemnify the Vendor; and
- The City to release the results of the geotechnical, archeological or Environmental Site Assessments to the Vendor at the request of the Vendor.

F. Payment of a Commission to a Broker for a completed Acquisition is subject to the negotiated terms of the offer to purchase or purchase and sale agreement.

G. Donation of Non-City Property and the issuance of a tax receipt must be in accordance with the rules of Canada Revenue Agency and all applicable Council Policies and City Administrative Standards.

3.2 Land Exchanges

A. All provisions of Section 3.1 apply to the Purchase of Non-City Property, where the Non-City Property is included in a Land Exchange.

3.3 Expropriation of Non-City Property

A. Expropriation of Non-City Property shall be in accordance with the Expropriation Act.

i. Where a capital project requires the Acquisition of Non-City Property, Council shall be advised of the risks of declaring an Expropriation if the Acquisition of the Non-City Property is outstanding.

B. All payments of compensation shall be in accordance with the Expropriation Act.

i. All offers that do not constitute a final settlement are considered to be offers of compensation; and

ii. Non-discretionary costs including but not limited to applicable taxes, legal fees, appraisal fees, other professional fees or interest are legislated by the Expropriation Act or other relevant legislation.

4. Responsibilities

4.1 Director of PPD is authorized to:

A. Approve all Purchases, Land Exchanges, Expropriation offers and Expropriation settlement claims up to and including $375,000.00;

i. Acquisition price must not exceed 125% of the Appraised Value (inclusive of Disturbance Damages) for all transactions that exceed $10,000.00.

B. Assign City jurisdiction to Non-City Property obtained through Acquisition;

i. The City department being assigned the property must concur with the proposed jurisdiction.

C. Elect to exercise the City's right to purchase a Tax Sale in accordance with the provisions noted in the Charter.

D. Discharge, amend or register caveats on a certificate of title that relate to an Acquisition.

E. 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. Confidentiality;
viii. Letter of Intent;
ix. Memorandum of Understanding; and
x. GST Declaration and Indemnity.

4.2 CAO is authorized to:

A. Approve all Purchases, Land Exchanges, Expropriation offers and Expropriation settlement claims exceeding $375,000.00 up to and including $750,000.00;

i. Acquisition price must not exceed 125% of the Appraised value and Disturbance Damages.

4.3 Designated Committee is authorized to:

A. Approve all Purchases, Land Exchanges, Expropriation offers and Expropriation settlement claims exceeding $750,000.00, excepting awards made by the Land Value Appraisal Commission.

4.4 Council is authorized to:

A. Approve all Land Acquisition Programs;

- **i.** Such approval shall be secured through the Capital Budget or as a separate project.

B. Approve the Declaration of Expropriation and Expropriation By-law.