

COUNCIL POLICY

NAME Land Acquisition Policy	POLICY NUMBER DRFM-C-01
DEPARTMENT: Drumheller Resiliency and Flood Mitigation Program	SUPERSEDES: DRFM-C-03-22
DATE APPROVED / MOTION January 23, 2023 – M2023.26	REVISION DATE

POLICY STATEMENT

- 1.0 The Town of Drumheller (Town) will ensure a fair and objective process for selecting and acquiring lands that will be required for the implementation of the Resiliency and Flood Mitigation Program (Program).
 - 1.1 The requirements of the Provincial 18GRSTR41 and Federal Disaster Mitigation and Adaptation Fund (DMAF) Grant Agreements would supersede the requirements of the Council Land Acquisition Policy, in the event of any discrepancy.

PURPOSE OF POLICY

- 2.0 This purchase and acquisition of private lands is recognized as a sensitive activity and that confidentiality during the acquisition process is paramount.
- 3.0 This Land Acquisition Policy will:
 - 3.1 Provide a clear basis for selecting which lands to acquire for the Program,
 - 3.2 Provide assurance to Council and to Town administration and to the Public that the purchase process is objective, fair, and equitable,
 - 3.3 Ensure transparency of the acquisition process and decision making while maintaining confidentiality until acquisition transactions are complete,
 - 3.4 Satisfy the expectations and requirements of the Governments of Canada, Alberta, and Town funding programs.

BACKGROUND

- 4.0 The Town of Drumheller has chosen to make a significant investment to mitigate flooding and adapt to a changing climate and is moving forward to implement this initiative through the Drumheller Resiliency and Flood Mitigation Program (Program).

- 5.0 A major aspect of the Program will be the need to acquire Land for the construction of flood mitigation infrastructure and development of other flood mitigation measures and for the full buy outs of properties at significant risk from flooding, subject to the constraints of the funding programs and available budgets.
- 6.0 The Government of Alberta has agreed to provide funding to the Town under the Flood Relocation/Mitigations Buy-out Grant for the “Purchase of lands, and associated expenditures including remediation and/or reclamation”. Lands acquired under this funding program are to be designated as Environmental Reserve or another “suitable mechanism” as may be approved by the Province.
- 7.0 The Government of Canada has agreed to provide funding to the Town under the Disaster Mitigation and Adaptation Fund Program to undertake measures to mitigate potential damage from future flooding including the acquisition of Land. The costs of land acquired that are directly linked to the development of Natural Infrastructure are eligible expenses. The use of the lands acquired are to be protected by the Town for at least 40 years.

DEFINITIONS

- 8.0 In this Policy:
 - 8.1 "Assessed Value" means the value of the Land as set out in the most current year Assessment Roll of the Town as prepared in accordance with the *Municipal Government Act*,
 - 8.2 “Adaptive Fill” shall mean placement of fill material to raise existing berms above Design Flood elevations,
 - 8.3 “Appraised Value” means the market value of Land and improvements as determined by an Appraiser certified under the Canadian Resident Appraiser (CRA) or Accredited Appraiser Canadian Institute (AACI) at the time of the appraisal,
 - 8.4 “Chief Administrative Officer” (CAO) means the Chief Administrative Officer of the Town of Drumheller and or their appointed delegate,
 - 8.5 “Design Flood” shall be as specified the most up to date 1:100 yr flood mapping as published by Alberta Environment Flood Hazard Mapping,
 - 8.6 “Environmental Reserve” shall be natural areas as defined in the Alberta Municipal Government Act R.S.A 2000,
 - 8.7 “Flood Mitigation Works (Works), means dikes, berms, retaining walls, erosion protection, overland drainage courses, storm water outfalls, control structures and associated appurtenances to protect Town against Design Flood,
 - 8.8 “Floodway” means the portion of the flood hazard area as defined in the Town Land Use Bylaw where flows are deepest, fastest, and most destructive.

The floodway typically includes the main channel of a stream and a portion of the adjacent overbank area as defined under Alberta Environment Flood Hazard Mapping,

- 8.9 "Grant" refers to the Flood Relocation/Mitigations Buy-out Grant (Agreement #18GRSTR41) between the Alberta Government and Town dated December 5, 2019. "Owner" means the owner or owners of a parcel or parcels of land under a single title or titles that are to be acquired under this Policy,
- 8.11 "Land" means a portion or entire parcel of privately owned land and improvements, under a single title,
- 8.12 "River" means the Red Deer River, Rosebud River, Michichi Creek or Willow Creek, and
- 8.13 "Town" means the Town of Drumheller.

IDENTIFYING LANDS TO BE ACQUIRED AND ESTABLISHING THE PRIORITY OF ACQUISITION

- 9.0 To mitigate the potential for damage from future flood events and prepare the community to respond to future flood emergencies, the Town will acquire land:
 - 9.1 for construction of Works,
 - 9.2 to increase the conveyance capacity of the River by providing additional floodway area, by removal of impediments to flow and improvements in channel flow,
 - 9.3 to remove occupants and structures within the Floodway that are at high risk from flooding and/or risk to public safety, and
 - 9.4 for the retention and development of Natural Areas, Environmental Reserves or other uses as approved by approval authorities.
- 10.0 The required Land will be acquired to accommodate the following:
 - 10.1 enhancement of existing berms to Design Flood Levels,
 - 10.2 construction of new Works to accommodate Design Flood Levels,
 - 10.3 realignment of existing River or drainage course, and
 - 10.4 access for purpose of construction and/or maintenance of Works.

SELECTION OF LAND

- 11.0 The Land to be acquired under Section 9.0 will be chosen in concert with decisions on the various infrastructure projects to be undertaken and will be selected based on funding availability and an assessment of relative risk which will consider the factors of Life, Land, Environment and Economy with considerations of public need, for life,

and safety being the highest.

12.0 Land required under this Policy will be acquired on the following criteria:

12.1 Full buy out where Land is located within Floodway with considerable risk of damage to structures and Life, subject to funding agreements and available funding,

12.2 Full buy out where deemed appropriate by CAO to facilitate construction of the Works identified under Section 6.0 considering factors such as:

- i. distance from Works to Principal or Accessory Buildings is less than setbacks identified in the Land Use Bylaw,
- ii. top of berm height is greater than 3.0m higher than existing ground at level of Principal or Accessory Building closest to Works,
- iii. area required to construct Works is greater than 50% the size of any given subject Land,

12.3 Partial or portion of Land required to construct Works identified under Section 11

PROCESS FOR THE PURCHASE OF LANDS

13.0 The Town will engage an independent land services contractor to:

13.1 undertake initial contact with Owners,

13.2 coordinate Appraisal,

13.3 conduct negotiations, and

13.4 secure signed purchase agreements.

14.0 The Town will be the purchaser and Owner of all Lands acquired under this Policy.

15.0 The Town shall retain the services of a Solicitor responsible to the Town for the safe and secure conveyance of all Lands acquired pursuant to this Policy

16.0 Land intended for the Works will be subsequently conveyed to the Town as Environmental Reserve or, as may be approved by the Government of Alberta, in a form appropriate to the use of the land including:

16.1 Public Utility Lots,

16.2 Rights of way.

SETTING THE PURCHASE PRICE AND COMPENSATION

- 17.0 The funding agreements of the Governments of Canada and Alberta require that Land be purchased at the higher of the Appraised or Assessed Value.
- 18.0 Where Land is to be purchased under Full Buy Out, the Town will engage an independent Appraiser to establish the Appraised Value for each Land.
- 19.0 Where Owner does not agree with Town's Appraised Value, they may hire their own appraiser at the Owners cost to establish a second Appraised Value of the Land. The final Appraised Value will be determined as follows:
- 19.1 Where the second Appraised Value is less than the Town's Appraised Value the Town's Appraised Value shall be used,
- 19.2 Where the second Appraised Value is no more than 5% higher than the Town's Appraised Value the average between the two shall be used,
- 19.3 Where the second Appraised Value is greater than 5% of the Town's Appraised Value, the two Appraisers will negotiate an agreed upon Appraised Value or third-party Appraiser may be engaged. The average of the three Appraisals shall be the final Appraised Value.
- 20.0 Where a purchase price cannot be agreed to between the Owner and Town, the Town will undertake expropriation pursuant to the Province of Alberta Expropriation Act.
- 21.0 Under the terms of the Government of Alberta or Government of Canada Grants, the agreed purchase price, legal fees, site remediation, and additional cost associated with or arising from expropriation proceedings deemed eligible by the Province, will be eligible expenses under these Agreements. Additional compensation beyond the Agreed Purchase Price and/or acquiring working easements is the responsibility of the Town.

PARTIAL PURCHASE LANDS

- 22.0 Where only a portion of a Land is intended for the Works, the portion of Land containing the Works may be subdivided and the balance of the Lands may be sold, disposed or used by the Town as it sees fit. Lands containing the Works shall be rezoned as per Clause 16. The proportional purchase price and cleanup of the portion of Land containing the Works will be eligible for reimbursement under the Grant.

Cost associated with resale, relocation of structures, and/or cleanup on the balance of Lands will be borne by the Town and are not eligible for funding under the Grant.

- 23.0 Where Portion of Land is to be purchased the Land will be purchased at the greater of the most current year Land-only Assessed Value or Land-only Appraised Value, on a dollar per square foot (\$/ft²) basis. The Portion or area of land will be as defined by latest engineering design drawings for the Works.

The process identified in Clause 19 shall be followed in establishing the final value of the Land.

SALVAGE

- 24.0 Other conditions of sale or particular arrangements (i.e. removal structures, fence removal/replacement) may be considered, and included in the sales agreement terms as mutually agreed to by the Owner and the Town, provided they do not alter in any appreciable way the agreed to purchase price given to the Owner.
- 25.0 Requests from Owners for the right of salvage from the Properties will be addressed on a case-by-case basis and the value of the salvage as determined by Appraiser, may be deducted from the Purchase Price. Where Town agrees that Owner may salvage structures or appurtenances, and the agreed purchase price may be reduced up to 25%.
- 26.0 Where Town agrees that Owner may move the existing residence, the agreed purchase price will be reduced to 75%.
- 27.0 Costs associated with salvage and/or moving the residence is at the Owner's expense and is not eligible for funding under the grant.

SALE OF LAND ASSETS

- 28.0 The Town may choose to sell assets on Lands purchased through this Policy. All assets are to be advertised and sold publicly.
- 29.0 All funds received through sale of assets shall be deposited into the Grant account fund and used toward remediation of the Lands.

PURCHASE OF LANDS FOR EXPEDIENCY

- 30.0 The CAO may authorize the Town to acquire a Land in advance of finalization of all properties to be acquired if listed for sale or offered for sale at a price that is likely to be fair market value, as demonstrated by a qualified appraiser.

REPORTING TO THE GOVERNMENTS OF CANADA AND ALBERTA

- 31.0 The CAO will fulfill the interim and final reporting requirements set out in the funding agreements with the Government of Canada and Alberta.
- 32.0 As part of the interim reporting and once the purchase transactions are completed, the CAO will forward to the Governments of Canada and Alberta a list of those Properties acquired under this Policy the cost of which the Town expects will be eligible under the respective funding agreements.

TRANSITIONS

33.0 This policy repeals and replaces DRFM Land Acquisition Policy DRFM-C-03-22 and comes into effect on the day it is adopted by Council.

original

MAYOR

original

CHIEF ADMINISTRATIVE OFFICER

REVISIONS C-03-22 (2022 March) DRFM -02-20
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