

Clause 22 in Report No. 11 of Committee of the Whole was adopted, without amendment, by the Council of The Regional Municipality of York at its meeting held on June 28, 2018.

22

Leasing of Real Property Policy Revisions

Committee of the Whole recommends adoption of the following recommendation contained in the report dated June 1, 2018 from the Commissioner of Corporate Services:

1. Council approve the revised Leasing of Real Property Policy as shown in Attachment 1.

Report dated June 1, 2018 from the Commissioner of Corporate Services now follows:

1. Recommendations

It is recommended that:

1. Council approve the revised Leasing of Real Property Policy as shown in Attachment 1.

2. Purpose

The purpose of this report is to update the Leasing of Real Property Policy so it aligns better with industry best practices and meets the Region's need to conduct more complex leasing transactions. The proposed Policy refines financial approval limits and the process for execution of leases.

3. Background and Previous Council Direction

The Region adopted and maintains a Policy governing leasing of real property

Council adopted the current Leasing of Real Property Policy on September 24, 2009. [Leasing of Real Property Policy September 24, 2009](#). There has been no

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substantive review of the Policy since its adoption. The key purpose of this Policy was to provide financial limits related to leasing real property and to provide processes for Regional staff to follow when conducting these transactions.

Complexity of commercial leasing has resulted in a review of the existing Policy

Since 2009, requests to lease commercial and office space on behalf of the Region have increased in complexity. While a number of leased units currently occupied by the Region are planned to be decommissioned, there is continuing need to lease space to meet program needs. The time and cost required to secure real property has prompted a review of the existing Policy and its application to ensure the Region is aligned with industry best practices.

Staff reviewed the existing Policy to identify opportunities for improvement

The existing Leasing of Real Property Policy was reviewed by staff from Corporate Services, Legal Services and Corporate Finance, including Controllershship Office and Risk Management. Feedback from each Department was incorporated into the proposed Policy.

4. Analysis and Implications

Revisions to the existing Policy are required

The essence of the Leasing of Real Property Policy has not changed since 2009, however, the latest revisions better align with industry best practices and provide a more streamlined process to conduct leasing transactions. A summary of the proposed policy amendments is included in Attachment 2. The most notable enhancements include:

- An update to the Definitions Section
- Revisions to the Departmental Approval Process
- Addition of “Overholding” of Leased Real Property
- Change to Authorization Limits for Annual Lease Payments under \$250,000

The revised Policy supports and enhances the principles governing the leasing of real property

The existing Policy requires the leasing of real property to be consistent and transparent. These principles have been expanded and restated to ensure that:

Leasing of Real Property Policy Revisions

- The Region's preference to purchase real property for the provision of services to the public is clearly outlined
- The process of leasing real property is transparent and financially prudent
- Appropriate delegation has been assigned
- Clearly defined roles and responsibilities have been established

The revisions to the Policy include procedural amendments

The revised Policy incorporates a series of steps designed to ensure the principles outlined above have been met and to facilitate efficient leasing of real property.

The steps incorporate procedural amendments intended to set out the process of leasing of real property. For example, the revised Policy stipulates that a business case, along with appropriate levels of authority, is required by client Departments prior to initiating a search for leased real property. This ensures staff time and resources are allocated appropriately based on approved initiatives.

Updates to the Policy address matters not adequately captured by the existing Policy

A number of revisions to the Policy have been proposed to address matters that are not well addressed by the existing Policy:

- Increased delegation authority for Annual Lease Payments under \$250,000
- Material Lease procedure
- Offer to Lease provision and procedure
- Overhold provision
- Occupancy Agreement provision
- Municipal Capital Facilities Agreements provision

Proposed change to the delegated authority for Annual Lease Payments under \$250,000

The existing Policy provided delegated authority for the Commissioner of Corporate Services to execute leases with annual lease payments under \$100,000. As illustrated in Table 1 below, leases that had annual payments between \$100,000 and \$250,000 required Council authority. Any agreements with annual lease payments in excess of \$250,000 per annum or with a Net Present Value (NPV) greater than \$2 million over the term of the lease required Council approval and a Report of the Treasurer prior to approval.

Table 1
Financial Authority for Current Policy

Annual Payments Under \$100,000	Annual Payments Between \$100,000 - \$250,000	Annual Payments Above \$250,000
Delegated to Commissioner of Corporate Services	Council Authority required	Council Authority and Report of the Treasurer is required

As illustrated in Table 2 below, in the revised Policy the Commissioner of Corporate Services would be authorized to execute, on the Region's behalf, any Lease agreements with Annual Lease Payments under \$250,000 without the need for Council approval. Any leases with annual lease payments in excess of \$250,000 would be treated as a material lease, and would require Council's approval (as well as a Report of the Treasurer). This proposed change streamlines the lease approval process and provides greater clarity.

Table 2
**Changes to Financial Authorities
for Proposed Policy**

Annual Payments Under \$250,000	Annual Payments Above \$250,000
Delegated to the Commissioner of Corporate Services	No change from existing Policy

The revised Policy includes a defined process for entering into Material Leases

Complying with the requirements of *the Municipal Act, 2001*, and the Region's Capital Financing and Debt Policy, all Material Leases must be analyzed for specific risk factors and reported on separately to Council for approval. Material Leases are defined as having annual lease payments greater than or equal to \$250,000 or that have a Net Present Value greater or equal to \$2 million over the term of the lease, including any renewal or extension options.

The delegation of authority to execute any Material Leases will be governed by the authority granted by Council in each instance.

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The revised Policy includes a defined process when using Offers to Lease

Offers to Lease are used regularly in the commercial real estate industry to indicate a potential tenant's interest in leased property. These agreements are used to secure space to provide time to conduct due diligence prior to entering into a legally-binding lease agreement. Offers to Lease were included as part of the existing Policy but the process for their use has now been clarified so these offers are conditional based upon Council approval and require review by Legal Services and Risk Management.

The authority to execute Offers to Lease is in line with delegation levels.

A provision for Overhold is included in the revised Policy

Lease agreements typically include a provision to continue leasing space on a month-to-month basis (overhold) under the same terms and conditions after a Lease expires. The overhold provision is usually exercised if lease negotiations take longer than expected, if space is required on a short term basis prior to relocating to another facility or if additional time is required to finalize documents.

Overholding was not included as part of the existing Policy and is an important provision to include so that the Region's operational needs are being met.

Proposed changes included in the Policy for instances where the Region acts as a landlord

In some cases, third party organizations or agencies may request space within a Regional facility when they offer complementary services to the programs provided by the Region. For example, if a third party organization offers services to seniors and space exists in a long-term care facility the Region operates, an agreement may benefit both parties. In these cases, the Region acts as a landlord and will sign occupancy agreements with the third party agency if adequate space is available. As part of the occupancy agreements, external organizations will be able to occupy space in Regional facilities in exchange for rent payments.

Agreements where the Region acts as a landlord have been executed in the past and the proposed Policy provides a process for these types of transactions. These agreements provide partnership opportunities with local municipalities and other organizations that provide like services, in addition to acting as a revenue source to the Region that often offset operating costs for the respective facilities.

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Municipal Capital Facilities Agreements (MCFA) are a proposed addition to the revised Policy

Municipal Capital Facilities Agreements are contracts signed between the Region and the Landlord to provide property tax exemption for a leased facility where the Region is a tenant and is using the space for administrative purposes. These agreements are approved by both the Municipal Property Assessment Corporation (MPAC) and the local municipality where the facility is located to confirm the exemption. These savings are used to minimize operating costs for leased locations where MCFAs have been signed, which lowers the Region's operating budget for these locations.

Authority for the Commissioner of Corporate Services to execute MCFAs was approved by Council on January 24, 2013, however, the existing Policy does not include mention of these agreements or when they would be used.

5. Financial Considerations

The revised Policy will ensure that leasing of real property is conducted in a manner that is transparent and financially prudent while minimizing risk to the Region.

6. Local Municipal Impact

The proposed changes to the Leasing of Real Property Policy are not expected to have an impact on local municipalities.

7. Conclusion

The proposed revision of the Leasing of Real Property Policy establishes an updated process for leasing real property and better aligns the Region with industry best practices. The Policy will provide a more streamlined process to secure leased real property on behalf of the Region by:

- Ensuring the process of procuring Real Property is transparent and financially prudent
- Assigning appropriate delegated authority
- Establishing clearly defined roles and responsibilities
- Updating portions of the Policy that are not well addressed by the existing Policy

Leasing of Real Property Policy Revisions

For more information on this report, please contact Michael Shatil, Director, Property Services at 1-877-464-9675 ext. 71684.

The Senior Management Group has reviewed this report.

June 1, 2018

Attachments (2)

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Accessible formats or communication supports are available upon request



Status: **DRAFT**
Approved By: **Council**

The Regional Municipality of York

Leasing of Real Property Policy

Policy No.: 1838025

Original Approval Date: September 24, 2009

Policy Last Updated: June 1, 2018

Policy Statement:

A policy establishing the framework and procedures for the approval and execution of Real Property Leases for Regional purposes and the leasing and licensing of Real Property owned by the Region for third party use.

Application:

Property Services Branch staff responsible for the procurement of leased Real Property, excluding Housing York Inc. residential Leases and York Regional Police leased facilities, in support of the Region's provision of services to the public.

Purpose:

This Policy provides a framework for the procurement of leased Real Property for Regional purposes and the approval and execution of Leases for such purposes. This Policy reflects the commitment to ensure that a transparent process is in place when the Region secures leased Real Property. This Policy must be considered in conjunction with the Region's Capital Financing and Debt Policy and the Accommodation Master Plan (AMP).

Leasing of Real Property

Date:

Definitions:

Additional Rent: an amount payable by a Tenant to a Landlord in accordance with a Lease that is in addition to Base Rent, for items including, but not limited to common area maintenance, property taxes and Landlord's building and property insurance.

Annual Lease Payment: an annual amount payable by a Tenant to a Landlord in accordance with a Lease which includes Base Rent and Additional Rent.

Base Rent: an amount payable by a Tenant to a Landlord in accordance with a Lease for the occupation of space.

Client Department: the Regional Department that requires leased space to carry out its required operations.

Community Non-Profit Lease: a Lease agreement of Regional Real Property with community organizations, at below market rates, that deliver services and programs in alignment with Regional services and programs.

Gross Lease: an agreement in which the Tenant pays a fixed rent and the Landlord pays all operating expenses associated with the Real Property.

Landlord: an owner of leased Real Property.

Land Lease: a Lease only applicable to land owned by a Landlord.

Lease: a contract whereby the Landlord gives the right of possession to a Tenant for a specified time period, in return for payment.

Leasehold Improvements: (also known as tenant improvements) structural changes or enhancements made to leased space to make such space suitable for business needs including, but not limited to: interior walls and ceilings, electrical and plumbing additions, built in cabinetry.

License: permission given by a Landlord to another to allow for non-exclusive occupation, including the granting of privileges for a specified time and for a specified consideration (fee). A license does not grant a property interest, but only a limited right to use the Real Property, is revocable at the Landlord's discretion, and is non-transferable.

Material Lease: any Lease with Annual Lease Payments greater than or equal to \$250,000 per annum, or that exceeds 1% of the Region's net tax levy, or that has a Net Present Value (NPV) greater than or equal to \$2 million, for the term of the Lease, including possible extensions or renewals.

Leasing of Real Property

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Municipal Capital Facilities Agreement: an agreement signed between the Region and a Landlord that provides an exemption for payment of property taxes in a leased facility. This agreement is approved by both the Municipal Property Assessment Corporation (MPAC) and the local municipality to confirm the exemption.

Net Lease: an agreement specifying that the Tenant pays a Base Rent plus Additional Rent.

Net Present Value (NPV): the value of an investment's cash inflows minus the value of cash outflows, discounted at an appropriate rate. For Regional purposes, the discount rate is determined by Corporate Finance.

Nominal Lease: a Lease with payments that are minimal in comparison to the market value of the land or property.

Occupancy Agreement: an agreement that provides use of office space for business purposes and provides the occupant with additional facility use and resources in exchange for a rental payment.

Offer to Lease: a non-binding proposal document used to negotiate preliminary terms and conditions of a Lease that requires execution of a formal Lease to be legally binding.

Overhold (deemed Month-to-Month Tenancy): commercial leases typically include an overhold provision that allows the Tenant to continue to legally occupy the space under the same lease terms and conditions once the lease expires without further written agreement and the Landlord continues to accept rent payments.

Real Property: the physical land and buildings or structures affixed to it, plus any rights associated with its ownership.

Tenant: a holder of Real Property under a Lease or other rental agreement with the right of possession.

Description:

The Region's preference is to purchase Real Property for the provision of services to the public. However, on a case by case basis, other considerations may make leasing of Real Property preferable.

This Policy only addresses those scenarios where it has been determined that procuring space by Lease is appropriate having considered the Region's goals, objectives and policies and, in particular, the feasibility of purchasing property. Planning for, acquiring and preparing leased accommodation is a lengthy process which can take up to a year

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Leasing of Real Property

Date:

or more, depending on the complexity of the acquisition. The search for a suitable property and the subsequent lease negotiations can take up to six months. An additional six months is typically required for preparing architectural plans, securing approvals, and completing leasehold improvements.

All properties considered for lease by the Region shall meet Corporate standards, as approved from time to time by the Property Services Branch, shall meet all applicable health and safety legislation and at a minimum, shall conform to all applicable building codes, accessibility and energy standards.

It is the position of the Region that the process to procure Real Property must be transparent and financially prudent.

A. Leasing Versus Ownership

Based on the Region's preference for property ownership, all reports to Council must clearly identify why a lease interest should be pursued, as opposed to a purchase. There are many variables which can affect whether a property should be leased, including:

- Short-term nature of space requirements
- Underlying program funding from sources outside the Region may be unpredictable or temporary in nature
- Shifting demographics require the need for Regional services to be flexible in terms of the type of facilities and location
- Space requirements may be relatively small, making the ownership of an appropriate space unfeasible
- The Region may already lease Real Property within the geographic search boundaries and securing additional rental space for compatible functions may reduce overall costs and add to program delivery efficiencies
- Renewing or extending a Lease may make the most business sense when significant funds have already been spent on leasehold improvement work during the initial lease term, and also when it may be challenging to source unique or purpose-built space
- Partnership opportunities may exist with local municipalities, other levels of government or organizations that provide complementary services
- There may be a limited amount of appropriate space available for purchase within a particular time period or geographic area

Leasing of Real Property

Date:

In the absence of any of the above demonstrated factors, any lease requirement will be subject to a purchase/lease analysis.

B. Department Approval Required Prior to Conducting Property Search

To begin the search process for leased space, Client Departments are required to submit a business case to the Property Services Branch. This business case is to include criteria outlined in Section C of this Policy and will be endorsed by the Client Department Branch that is seeking new leased space. The Client Department Director's authorization is required for Leases with Annual Lease Payments below \$250,000 and the Client Department Commissioner's authorization is required for Material Leases.

Upon review and approval of the Client Department's business case, the Property Services Branch, either on its own or through the use of licenced real estate brokers, will conduct a search in an open and transparent manner for adequate and appropriate leased space, based on the criteria approved by the Client Department. Through its use of licensed real estate brokers and other tools such as real estate databases, staff will comprehensively canvas available lease opportunities. In most cases, appropriate and available space matching the required criteria can be identified.

Property Services Branch will review the potential leased locations with the Client Department and will inspect the properties meeting the Region's minimum space, locational and property standards criteria. In addition, an estimate of the costs of renovating the space to meet the Client Department's needs will be prepared and Property Services will inform the Client Department of these estimated costs based on recent transactions and information available in the current marketplace.

Annual Lease Payments, including Base Rent and Additional Rent, or Gross Lease rates and expected leasehold costs for each potential proposal, will be compared for all properties that meet the Region's specifications. Property Services Branch may negotiate an Offer to Lease to secure leased space with the Landlord at a preferred location, or will draft a Lease, subject to authorities granted in this Policy.

C. Criteria for Evaluating Leased Real Property

The business case or Council Report to support the need for leased Real Property shall reference the following criteria:

- A description of the service or support functions to be carried out within the property
- A rationale for the size requirement of the space based on Regional accommodation standards
- The requested start date and term of the Lease and any renewal or extension options

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- The geographic area in which the property is required. There are several factors which can influence the location of a property which include but not limited to the location of the residents to be served, access to transit, the type of service provided to residents and availability of parking
- An explanation of how the Lease request meets the Region's broader strategic accommodation objectives
- Availability of existing Regional leased space that may provide opportunities for economies of scale and program efficiencies
- The estimated all-in cost for the lease transaction, including Annual Lease Payments and leasehold improvement costs. The Client Department will inform the Director, Office of the Budget, in the Finance Department, if the estimated amount exceeds amounts already budgeted to allow for a revision of the Region's Operating Budget

D. Agreements with Annual Lease Payments under \$250,000

The Commissioner of Corporate Services is authorized to execute, on the Region's behalf, any Lease agreements with Annual Lease Payments under \$250,000 without the need for Council approval based on the search parameters outlined by the Client Department. Material Leases will be subject to the requirements in Section E of this policy. All Leases will be subject to review by Legal Services and Risk Management prior to approval.

E. Material Leases

Complying with requirements of *the Municipal Act, 2001*, and the Region's *Capital Financing and Debt Policy*, most recently approved by Council, all Material Leases must be analyzed for specific risk factors and reported on separately to Council for approval. Material Leases are leases with Annual Lease Payments greater than or equal to \$250,000 or that have a Net Present Value (NPV) greater than or equal to \$2 million over the term of the Lease, including any renewal or extension options.

The Commissioner of Finance shall adhere to the reporting requirements set out in the Region's *Capital Financing and Debt Policy* for Material Leases. The delegation of authority to execute, on the Region's behalf, any Material Leases will be governed by the authority granted by Council in each instance.

F. Offer to Lease

The Director of the Property Services Branch is authorized to execute, on the Region's behalf, any Offers to Lease (Letters of Intent or Term Sheets) which act as non-binding proposals and are used to negotiate preliminary terms and conditions of a Lease prior to

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the execution of a formal Lease. Offers to Lease are used regularly in the commercial real estate industry to indicate a potential Tenant's interest in leased Real Property.

The Offer to Lease assists potential Tenants in securing the space and to conduct due diligence activities prior to entering into a legally-binding Lease agreement.

All Offers to Lease will be conditional on Council approval prior to execution of a formal Lease agreement and subject to review by Legal Services and Risk Management.

G. Overholding Leased Real Property

Typically, in commercial real estate transactions, Lease agreements include a provision to continue leasing space on a month-to-month basis (Overhold) under the same terms and conditions after the Lease expires. When a Tenant enters Overhold on a leased space, it is possible that Base Rent could increase until a new agreement has been finalized or the Tenant vacates the leased space. Overholding may be required if lease negotiations take longer than expected, if space is required on a short term basis prior to relocating to another facility or if additional time is required to finalize documents.

The Region is authorized to Overhold leased Real Property subject to the terms and conditions contained in the Lease agreement. The Director of Property Services has authority to Overhold leased Real Property until a new Lease agreement, extension or amendment is signed or an alternative property is secured. All efforts will be made to avoid Overholding leased Real Property, however, this provision may be used in cases when additional negotiation is required, or the leased space is needed to meet operational requirements.

H. Renewal of Leases

The Commissioner of Corporate Services is authorized to exercise any renewal or extension of Material Leases provided that the renewal or extension has been previously authorized by Council, as outlined in this Policy, and the Client Department has allocated funds within its operating budget for the leasing costs. Any other lease renewals will be subject to the same processes outlined in this Policy for leasing new accommodation. Generally, the process to renew a lease will begin at least six months prior to the expiration of the Lease, depending on the complexity of the file.

I. Land Leases

Land Leases (also known as ground leases) will be subject to the same processes and delegated authorities outlined in this Policy, save and except where the Land Lease is an integral part of a separate transaction in a capital project approved by Council. In the case where a Land Lease is an integral part of a capital project, the authority for the Land Lease will be secured separately from the Capital project approval.

J. Nominal Leases

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Date:

Lease agreements are generally entered into at market value rent. If the Region offers or is offered leased Real Property at a nominal payment rate, these lease arrangements will be subject to the same processes and delegated authorities outlined in this Policy for leasing new Real Property. Nominal leases may take into consideration factors such as:

- The agreement is with another municipality, Provincial or Federal government or government agency
- A partnership has been entered into by the Region, such as an agreement with a school board
- The agreement is with a not-for-profit organization that actively provides services which supplement Regional services (Community Non-Profit Lease)

K. Occupancy Agreement (Region as Landlord)

The Director of Property Services is authorized to execute, on the Region's behalf, any Occupancy Agreement for leased or owned locations within the Region's real estate portfolio for space required by a third party, provided the space is not required for Regional use. Occupancy Agreements with Annual Lease Payments in excess of \$50,000 will require approval and execution by the Commissioner of Corporate Services.

L. Municipal Capital Facilities Agreements (MCFA)

The Commissioner of Corporate Services is authorized by Council to sign Municipal Capital Facilities Agreements (MCFAs) for leased administrative sites with property taxes greater than \$10,000 per annum. This is in accordance with the authority granted by Council on January 24, 2013.

Responsibilities:

Legal Services:

- Review Offers to Lease, Leases, Occupancy Agreements, License Agreements and MCFA's, including renewals and extensions on behalf of The Regional Municipality of York
- Prepare, Offers to Lease, Leases, Occupancy Agreements, License Agreements and MCFA's, including renewals and extensions, on behalf of the Regional Municipality of York

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Date:

- Retain external legal counsel as required to review the Lease or Offer to Lease, and negotiate lease provisions

Controllership Office – Risk Management:

- Review Offers to Lease, Leases, Occupancy Agreements, renewals and extensions to provide advice regarding the Region's insurance and indemnification requirements

Chief Administrative Officer (or designate):

- The Chief Administrative Officer is authorized to execute, on the Region's behalf, any Material Leases which meet the space and location criteria approved by Council

Commissioner of Corporate Services (or designate):

- The Commissioner of Corporate Services is authorized to execute, on the Region's behalf, any Lease with payments less than \$250,000 per annum
- The Commissioner of Corporate Services is authorized to exercise Material Lease renewals, provided that the renewal has been previously authorized by Council, and the Client Department has allocated funds within its operating budget for the leasing costs
- The Commissioner of Corporate Services is authorized to execute, on the Region's behalf, any Municipal Capital Facilities Agreements

Commissioner of Client Department (or designate):

- Request the Director of Property Services to commence a search for Real Property for Lease by submitting a business case as described within this Policy
- In co-operation with the Corporate Services Department, will assist in preparing a report to Council if required, requesting approval to lease Real Property with specifically defined space and location criteria
- Responsible for ensuring that the Operating and Capital Budget Funding has been allocated for the leased property including the cost of leasehold improvements to the space, if required. If the estimated lease costs exceed the amount budgeted, the Commissioner will inform the Director, Office of the Budget, in the Finance Department

Commissioner of Finance/Regional Treasurer (or designate):

Leasing of Real Property

Date:

- Review lease/purchase analyses performed by the Property Services Branch and provide a Report of the Treasurer to the Commissioner of Corporate Services. This will accompany a Council Report recommendation, as to whether a property should be leased
- As required, submit a report to Council assessing the costs and financial and other risks associated with a financial lease, as prescribed by Section 10 of Regulation 635/05 under the Municipal Act
- Where there is at least one lease financing agreement in a fiscal year, the Commissioner of Finance and Treasurer will submit to Council a report as prescribed by Section 11 of Regulation 635/05 under the Municipal Act
- Comment on Material Leases as required by *the Municipal Act, 2001* and the Region's *Capital Financing and Debt Policy*

Director of Property Services (or designate):

- Conduct appropriate searches for leased Real Property based on Client Department approved search criteria and minimum property standards required by the Region
- Provide the Client Department with an estimated cost of any contemplated Lease agreement based on size requirements and average market costs
- The Director of Property Services is authorized to execute Offers to Lease on the Region's behalf, for Real Property which meets the space and location criteria approved by the Client Department, where the Annual Lease Payments are within approved budget. All Offers to Lease must be conditional on Council approval (or its designate as per this Policy)
- Provide a list of current leases to the Commissioner of Finance at the end of each year to support Council reporting and preparation of the Region's financial statements, with sufficient detail as required by the Tangible Capital Assets Policy

Non-Compliance with Policy:

Negligent or willful non-compliance with this Policy may result in disciplinary action up to and including dismissal.

Leasing of Real Property

Date:

Reference:

Regular text. (Provide links and eDOCS #s to supporting documents including schedules and/or appendices)

Contact:

A. General Inquiries

General inquiries regarding this Policy can be directed to Michael Shatil, Director, Property Services Branch, at Ext. 71684.

Approval Information:

Council Approval Date: [REDACTED]	Committee Name: Finance and Administration
Council Minute No.: [REDACTED]	Report No.: [REDACTED]
Extract eDOCS #: [REDACTED]	Clause No.: [REDACTED]

Insert eDOCS # for policy and any attachments (provide full access to the "CAO Policy Manual Group" for policy and any attachments)

Insert eDOCS # for *archived policy* if any (provide full access to the "CAO Policy Manual Group" for *archived policy* and any attachments)

Accessible formats or communication supports are available upon request.

Leasing of Real Property Policy Revisions
Summary of Proposed Policy Amendments

Minor Amendments and Clarification

Topic	Existing Policy	Revised Policy
Additional language inserted in the Policy statement to reflect current practices.	To all Regional Employees who are responsible for the procurement of leased real property in support of the Region's provision of services to the public.	A policy establishing the framework and procedures for the approval and execution of Real Property Leases for Regional purposes <i>and the leasing and licensing of Real Property owned by the Region for third party use.</i>
Additional language included to the Application Section citing Branch specific responsibilities as well as Regional Departments excluded from Policy	To all Regional Employees who are responsible for the procurement of leased real property in support of the Region's provision of services to the public.	<i>Property Services Branch staff</i> responsible for the procurement of leased Real Property, <i>excluding Housing York Inc. residential Leases and York Regional Police leased facilities</i> , in support of the Region's provision of services to the public.
The existing Policy contained seven Definitions. To provide clarity to the Policy, 16 additional definitions have been added.	Exiting Definitions Additional Rent Annual Lease Payment Basic Rent Client Client Group Leasing payments Material Lease	New or Updated Definitions Client Department Community Non-Profit Lease Gross Lease Land Lease Lease Leasehold Improvements License Municipal Capital Facilities Agreement Net Lease Net Present Value (NPV) Nominal Lease Occupancy Agreement Offer to Lease Overhold Real Property Tenant

Substantive Changes

Topic	Existing Policy	Revised Policy
The property search process has been amended	The existing Policy requires Council approval prior to preparing for a search for adequate and appropriate leased space for Regional use.	The revised Policy has been amended so that Client Departments are to submit a business case that has been endorsed by the Client Department Branch that is seeking new leased space.
Delegation authority for annual lease payments between \$100,000 and \$250,000 per annum has been removed and replaced	Existing Policy requires a report to Council approving the procurement of leased space with payments between \$100,000 and \$250,000 per annum.	The revised Policy has been amended to include that the Commissioner of Corporate Services have delegated authority to execute agreements with annual lease payments under \$250,000.

Attachment 2

Offer to Lease	The existing policy does not address Offers to Lease.	The revised Policy has been amended to include that the Director of the Property Services Branch be authorized to execute Offers to Lease, which act as non-binding proposals and are used to negotiate preliminary terms and conditions of a Lease prior to the execution of a formal Lease. All Offers to Lease will be conditional on Council approval prior to execution of a formal Lease agreement and subject to review by Legal Services and Risk Management.
Overhold	The existing Policy does not include an overhold section.	The revised Policy has been amended to include the Region be authorized to Overhold leased Real Property subject to the terms and conditions contained in the Lease agreement. The Director of Property Services has authority to Overhold leased Real Property until a new Lease agreement, extension or amendment is signed or an alternative property is secured. All efforts will be made to avoid Overholding leased Real Property, however, this provision may be used in cases when additional negotiation is required, or the leased space is needed to meet operational requirements.
Occupancy Agreements	The existing Policy does not address Occupancy Agreements.	The revised Policy has been amended to include that the Director of Property Services be authorized to execute, on the Region's behalf, any Occupancy Agreement for leased or owned locations within the Region's real estate portfolio for space required by a third party, provided the space is not required for Regional use. Occupancy Agreements with Annual Lease Payments in excess of \$50,000 will require approval and execution by the Commissioner of Corporate Services.
Municipal Capital Facilities Agreements (MCFA's)	The existing Policy does not include MCFA's.	The revised Policy has been amended to include that the Commissioner of Corporate Services is authorized by Council to sign Municipal Capital Facilities Agreements (MCFAs) for leased administrative sites with property taxes greater than \$10,000 per annum. This is in accordance with the authority granted by Council on January 24, 2013.