

Corporate Policies

SECTION: Finance	POLICY 13.2.4	
SUBJECT: Lease Financing - Under Review		
EFFECTIVE: Nov 28, 2005	REPLACES: n/a	PAGE: 1 of 6
APPROVED BY: CW535-2005	PROCEDURAL UPDATES: n/a	

POLICY STATEMENT:

This policy constitutes the statement of the City of Brampton's lease financing policies and goals under Ontario Regulation 46/94, as amended, to the *Municipal Act*, R.S.O. 1990, c. M.45 and to the *Municipal Act, 2001*, S.O. 2001, c.25, as amended.

PUPOSE:

The purpose of this policy is to establish a framework and outline requirements for entering into leases of municipal capital facilities, and for reporting such leases to Council as required under the *Municipal Act* and *Municipal Act, 2001*, as amended, and Ontario Regulation 46/94, as amended.

Leasing is an important option for local governments. The choice may be a function of strategic investment or of comparative cost.

When entering into a lease arrangement, possible risks need to be assessed, such as the following:

- Leasing an asset may be more costly than buying it (including internally financing), if the terms of the lease are negotiated without conducting a thorough lease versus purchase analysis to assess whether terms available through leasing are more or less favourable than other arrangements.
- Risk of obsolescence may be transferred to the lessee.
- The lease is a contractual agreement and generally non-cancellable prior to its expiration.
- Fixed contractual charges have to be met.
- When the asset is expected to have a residual value at the end of the lease period, any future benefit of this residual value is lost if the asset is leased.

SCOPE:

This policy applies to all Financing Leases for Municipal Capital Facilities: see definitions below.

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DEFINITIONS:

“Financing Lease”, as defined in Ontario Regulation 46/94, as amended, means a lease allowing for the provision of Municipal Capital Facilities if the lease may or will require payment by the municipality beyond the term for which Council was elected.

There are two categories of Financing Lease: a Material Lease and a Non-Material Lease, both as defined below.

“Material Lease” means a Financing Lease that would result in a Material Impact for the municipality.

“Non-Material Lease” means a Financing Lease which would not result in a Material Impact or a Combined Material Impact for the municipality.

“Material Impact”, as defined in Ontario Regulation 46/94, as amended, means costs or risks that significantly affect, or would reasonably be expected to have a significant effect on, the municipality’s debt and financial obligation limit prescribed under Ontario Regulation 799/94, as amended.

“Combined Material Impact” means the costs or risks of a proposed Non-Material Lease which, when combined with all other Non-Material Leases entered into or proposed to be entered into in a particular year by the municipality, would result in a Material Impact.

“Municipal Capital Facilities”, as defined in Ontario Regulation 46/94, as amended, include land, works, equipment, machinery and related systems and infrastructures.

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LEASE FINANCING POLICY AND GOALS:

Non-Material Lease:

The following types of Financing Leases, in the opinion of the Commissioner of Finance and City Treasurer, will not result in a Material Impact for the City and are therefore Non-Material Leases:

- Any lease entered into in accordance with the City's Acquisition and Disposal of Goods and Services By-law or equivalent by-law(s) then in effect, including, but not limited to, leases of: office equipment; automobiles; information technology infrastructure, hardware and software; communications equipment; machinery and equipment;
- Any building or property lease entered into in accordance with approved policies and procedures;
- Any leases in place at the time of Council approval of this policy.

Where a proposed Non-Material Lease in combination with all other Non-Material Leases entered into or proposed to be entered into in a particular year by the City would have a Combined Material Impact, the proposed Non-Material Lease is to be reported to and reviewed by City Council as if it were a Material Lease under this policy.

A proposed Non-Material Lease in combination with all other Non-Material Leases entered into or proposed to be entered into in any particular year would have a Combined Material Impact **ONLY** if the total present value of all such Non-Material Leases were **greater than 10%** of the City's debt repayment limit prescribed under Ontario Regulation 799/94, as amended. Where such total present value is less than 10%, a proposed Non-Material Lease is not required to be reported to and reviewed by Council under this policy.

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Material Lease:

A Financing Lease, in the opinion of the Commissioner of Finance and City Treasurer, will result in a Material Impact for the City, and is therefore a Material Lease, if its total present value is **greater than 10%** of the City's debt repayment limit prescribed under Ontario Regulation 799/94, as amended.

Under this policy, a proposed Material Lease is required to be reported to, reviewed by and approved by Council.

PROCESS FOR APPROVAL OF A MATERIAL LEASE:

Before entering into a Material Lease, the Commissioner of Finance and City Treasurer shall prepare a report to Council assessing the costs and financial and other risks associated with the proposed Material Lease, including any possible extensions or renewals. The report will include:

- A comparison between the fixed and estimated costs and the risks associated with the proposed Material Lease and those associated with other methods of financing;
- A statement summarizing, as may be applicable, the effective rate or rates of financing for the Material Lease, the ability for lease payment amounts to vary, and the methods or calculations, including possible financing rate changes, that may be used to establish that variance under the lease;
- A statement summarizing any contingent payment obligations under the lease that would result in a Material Impact for the municipality, including lease termination provisions, equipment loss, equipment replacement options and guarantees and indemnities;
- A summary of the assumptions applicable to any possible variations in the lease payment and contingent payment obligations;
- A schedule of all fixed amounts of payment, if any, required under the lease and that may be required under any possible extensions or renewals of the lease; and

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- Any other matters Commissioner of Finance and Treasurer or City Council considers advisable.

In considering the report and recommendation Council is responsible for ensuring that legal and financial advice has been obtained, and must consider whether the scope of the proposed lease warrants further legal or financial advice from an independent source.

Prior to entering into the lease, Council must advise the Region of Peel, in writing, of the proposed Financing Lease.

Council approval of a Material Lease shall be by by-law.

ANNUAL REPORT TO COUNCIL:

The Commissioner of Finance and City Treasurer shall provide an annual report to Council that will include the following:

- Description of the estimated proportion of the total financing arrangements of the municipality that is undertaken through Financing Leases to the total long-term debt of the municipality;
- Description of the change, if any, in that estimated proportion since the previous year's report;
- Statement by the Commissioner of Finance and City Treasurer as to whether, in his/her opinion, all Financing Leases were made in accordance with this policy;
- Any other information that may be requested by Council or that, in the opinion of the Commissioner of Finance and City Treasurer, should be recorded.

ACCOUNTABILITY:

The Treasurer and/or Director of Treasury Services shall meet with the Councillor(s) and make every reasonable effort to resolve the dispute or extraordinary circumstance.

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ADMINISTRATION:

The Finance Department will be responsible for keeping this policy up to date. The Treasurer is authorized to create, amend and delete procedures necessary for the implementation/administration of this policy.

CONTACT:

Director of Treasury Services & Deputy Treasurer