



Corporate Policy Manual

Sub Topic: Corporate Financing Lease

Policy No. FIN.1-01

Topic:

Covered: Members of Council
All Union & Non-Union Employees

Section: Finance

Council Adoption Date: December 13, 2004

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Revision No: Date:

Policy Statement

This policy constitutes the statement of the Town of Newmarket's lease financing policies and goals under Ontario regulation 46/94, as amended, and to the Municipal Act, 2001, as amended. The policy applies to all Financing Leases for Municipal Capital Facilities (as defined below).

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 (for which definitions will follow):

- Material Lease
- Non-Material Lease

"Material Lease":

means a Financing Lease which would result in a Material Impact (see definition below) for the municipality.

"Non-Material Lease":

means a Financing Lease which, in the opinion of the Director of Finance/Treasurer and Town Council, would not result in a Material Impact (see definition below) or a Combined Material Impact (see definition below) 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.

If in the opinion of the Director of Finance/Treasurer a proposed Non-Material Lease 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 25% of the Town debt repayment limit prescribed under Ontario Regulation 799/94, as amended. Where such total present value is less than 25%, a proposed Non-Material Lease is not required to be reported to and reviewed by Council under this policy.

“Municipal Capital Facilities”:

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

Procedures

Financing Lease Requirements:

Every Financing Lease must include a schedule of all fixed payment amounts, if any, required under the lease terms and/or that may be required under any possible lease term extension(s) or renewal(s).

Non-Material Financing Leases:

In the opinion of the Director of Finance/Treasurer and Town Council, the following types of Financing Leases will not result in a Material Impact for the municipality and are therefore Non-Material Leases:

Any financing lease entered into in accordance with the Town’s Procurement Policy then in effect, including, but not limited to, financing leases of:

- Office equipment
- Telecommunication equipment

Any building or property lease entered into that expires before the end of the current term of Council;

Any leases in place at the time Council approves this policy.

Regardless, if a Non-Material Financing Lease does not have to be reported to Council under this policy, Financing Leases shall be reported to Council when required by the Town Procurement Policy then in effect or by any other applicable or approved corporate policy and procedure.

If, at any time after a report is made to Council, but before the Financing Lease is executed, the Director of Finance/Treasurer becomes of the opinion that a change in circumstances with respect to the proposed lease may result in a Material or a Combined Material Impact for the municipality, the report must be updated as soon as is reasonably possible and presented to Council for re-consideration.

Council Reporting Requirements for Non-Material Financing Leases with a Combined Material Impact:

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 municipality would have a Combined Material Impact, the proposed Non-Material Lease is to be reported and reviewed by Town Council as if it were a Material Lease under this policy.

Process for Approving a Material Financing Lease:

1. Treasurer's Report:

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

- a. A comparison between the fixed and estimated variable costs and associated risks with the proposed Material Lease in relation to other methods of financing;

- b. 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 of calculations, including possible financing rate changes, that may be used to establish any variance under the lease terms and obligations;
- c. A statement summarizing any contingent payment obligations under the lease that, in the opinion of the Director of Finance/Treasurer, would result in a Material Impact for the municipality, including any provisions for lease termination, equipment loss, equipment replacement options and guarantees and indemnities;
- d. A summary of the assumptions applicable to any possible variations in the lease payment and contingent payment obligations; and,
- e. Any other matters the Director of Finance/Treasurer or Town Council may consider advisable.

2. Council's Role:

Council is responsible for determining whether the costs of financing for proposed Financing Leases are lower than other methods of financing available to the municipality, and whether the risks associated with the Financing Leases are reasonable.

In considering the report and recommendations from the Director of Finance/Treasurer, Council is responsible for ensuring that legal and financial advice has been obtained, and must be considered in determining whether the scope of the proposed financing lease warrants further legal or financial review and/or advice from an independent source.

Prior to entering into the financial lease, Council must advise the Region of York, in writing, of the proposed consideration of the Material Financing Lease.

If Council decides to approve entry into the Financing Lease, such approval shall be by bylaw.

The Town Clerk shall give written notice of such bylaw to the Region of York.

Annual Report to Council:

Once in every fiscal year, the Director of Finance/Treasurer shall provide a report to Council containing the following information:

- A 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;
- A description of the change, if any, in that estimated proportion since the previous year's report;
- A statement by the Director of Finance/Treasurer as to whether, in his/her opinion, all Financing Leases were made in accordance with this policy; and,
- Any other information that may be requested by Council or that, in the opinion of the Director of Finance/Treasurer, should be recorded.

Cross-references

[Municipal Act 2001, Ontario Regulation 46/94 and Ontario Regulation 799/94](#)