

Policy



Title:	BORROW & RIGHT OF WAY ACQUISITION
Policy Number:	TR – 32 – 05
Effective Date:	October 11, 2023
Resolution:	398-23
Department Responsible:	Transportation
Supersedes Policy No:	E5 – Amended
Next Review Date:	October 11, 2026

POLICY STATEMENT:

In order to provide a standard for the Municipal District of Lesser Slave River No. 124 to enter into a legal agreement with landowners in an orderly and timely manner for the acquisition and or use of lands required for road construction, road widening, upgrading, facilities, and any other infrastructure requiring land purchases.

DEFINITIONS:

Council Policy means the written commitment of Council establishing service delivery, programs, and governance matters. Policy is approved, amended, or rescinded by Council and reflect Council's values, established service levels and strategic goals.

PRINCIPLE:

1. This policy shall include the standard for the purchase of lands, for right of way acquisition, back sloping and borrow pit agreements.
2. Acquisition shall mean the purchasing and or obtaining a lease, license, easement, agreement, workplace, or option to purchase land required for an approved, planned, and budgeted projects of the Municipality through negotiation with the landowner.
3. The compensation payable to the landowner shall be based on the market value of the land or partial taking, damages attributable to disturbance, and damages for injurious affection. The value of these kinds of damages will be determined by the Chief Administrative Officer in accordance with appraisals and Court or Board precedents which have dealt with similar cases. The underlying principle is that a landowner should be no worse off after a proposed taking than before, and any value paid should reflect this principle.



“Original Signed”
Chief Administrative Officer
Barry Kolenosky

October 23, 2023
Date

“Original Signed”
Reeve
Murray Kerik

October 23, 2023
Date

SPECIAL NOTES/CROSS REFERENCE: E5 Borrow & Right of Way Acquisition Procedure
AMENDMENT DATE: October 11, 2023.



Procedure

PROCEDURE TITLE: BORROW & RIGHT OF WAY ACQUISITION

PROCEDURE NO.: TR-32-05.01

RESOLUTION: 399-23

EFFECTIVE DATE: 2023-10-11

DEPARTMENT RESPONSIBLE: Transportation

NEXT REVIEW DATE: 2026-10-11

GENERAL GUIDELINES:

This procedure shall include the standard for the purchase of lands for right of way acquisition, back sloping and borrow pit agreements.

DEFINITIONS:

MDLSR: means the Municipal District of Lesser Slave River #124 having jurisdiction under the Municipal Government Act and other applicable legislation.

PROCEDURE:

1. Acquisition shall mean the purchasing and or obtaining a lease, license, easement, agreement, workplace or option to purchase land required for an approved, planned, and budgeted projects of the Municipality through negotiation with the landowner.
2. The compensation payable to the landowner shall be based on the market value of the land or partial taking, damages attributable to disturbance, and damages for injurious affection. The value of these kinds of damages will be determined by the Chief Administrative Officer in accordance with appraisals and Court or Board precedents which have dealt with similar cases. The underlying principle is that a landowner should be no worse off after a proposed taking than before, and any value paid should reflect this principle.
3. The Chief Administrative Officer, Senior Managers, consultants or their designate shall negotiate the acquisition of required interests in land on behalf of the MDLSR.
4. Administration shall ensure the following:
 - a) Ensure the appropriate documentation is executed and registered at the Land Titles office to secure the interest acquired by the Municipality.
 - b) Maintain accurate and complete land project files.
 - c) To obtain all the necessary consents and/or postponements of encumbrance holders on title.

- d) To prepare and provide estimates of costs of land acquisition for budget purposes.
 - e) To oversee direct and evaluate an external consultant (land agents, surveyors, appraisers, etc.) retained to assist on land acquisitions.
 - f) Coordinate and administer any required expropriations.
 - g) To ensure negotiated settlements are fair and equitable.
5. The land purchaser shall endeavor to acquire land by discussion, conference, and final agreement on the terms of a voluntary transfer of land. All properties shall be appraised to determine the fair market value of land and/or property and estimated value of partial taking prior to contacting the landowner. The negotiations will be in good faith and will not exceed a reasonable time frame. Exhaustive negotiations must be taken prior to any discussions on expropriation proceedings.
6. All agreements for the purchase of land shall be in writing in a format acceptable by administration. The conditions or undertakings by the Municipality shall always be in writing and contained within the main agreement, appendix agreement, or confirming letters to landowners.
7. The purpose of providing land compensation is to ensure that MDLSR pays a fair rate to landowners for road Right-of-Way and / or landscape/ borrow areas, and further to ensure that fair compensation is made to landowners for crop damage loss due to landscape/ borrow areas.
- a) Payment to be made at current market value in that Township according to computer calculations based on Land Titles values and land sales information.
 - b) A minimum of one acre will be paid to the landowner for land compensation on a quarter section. If the exact acreage cannot be determined at the time the Easement is signed, the Easement will state the price to be paid per acre, and the compensation will be paid on completion of the legal survey.
 - c) A Caveat will be registered on the property to formalize the agreement, until the legal survey has been completed.
8. Payment for lands to the landowner shall not be released until the acquired interest is secured on the title to the land or a registerable transfer has been obtained. Administration shall ensure all required consents and/or postponements have been obtained from applicable encumbrance holders prior to release.
9. Administration shall ensure the Municipality has met all of its commitments under the various agreements. Any necessary releases shall be obtained, and all damages payments paid. Any necessary legal surveys and partial discharges into plans shall be prepared and registered to complete the land transaction.





10. Expropriation shall be implemented if negotiations break down or terms of voluntary transfer are unacceptable after a reasonable time frame. Recommendations for expropriation of property shall be forwarded to Council for the necessary resolution. Administration shall notify the property owner of the time and date when Council is to consider an expropriation resolution. The landowner, if they desire, shall be given an opportunity to present their position to Council prior to consideration of authorizing resolution to expropriate. Once the authorizing resolution of expropriation is obtained by Council, the matter is then turned over to the Municipal solicitors.
11. Administration shall have the responsibility to process utility easements and roadway dedications required for development if:
 - a) a signed Development Agreement or intention exists with the party whom the easement or roadway benefit; and
 - b) The easement or roadway dedication location and alignment is acceptable to the Planning and Development Department.
12. The Chief Administrative Officer or designate shall be authorized and empowered to sign and seal the required documents described in this policy.
13. All easements executed by the MDLSR in conjunction with developments will be returned in trust to the developers on the strict condition that postponements to any prior financial encumbrances on title are obtained.

“Original Signed”
Chief Administrative Officer
Barry Kolenosky

October 23, 2023
Date

SPECIAL NOTES/CROSS-REFERENCE: E5 Borrow & Right of Way Acquisition Policy

AMENDMENT DATE: October 11, 2023

