

## Rationale for Expropriation of the Subject Land

Below is Administration's rationale in support of expropriation of the Subject Land. This rationale may be recited, adopted, or amended as reasons by City Council in its decision to approve the expropriation, disapprove the expropriation, or approve the expropriation with modifications, as it sees fit.

Pursuant to section 18 of the *Act* City Council has considered the Inquiry Officer's Report, Attachment 2, of the August 23, 2021, Office of the City Manager report OCM00728, and approves the expropriation of the Subject Land for the following reasons:

### BACKGROUND

1. The City has satisfied the statutory requirements under the *Act*.
2. The construction, design, and engineering of the Project are consistent with the City's strategic objectives as set out in "The Way We Move", "The Way We Grow", "ConnectEdmonton", and "Edmonton City Plan".
3. The City completed a concept engineering plan relating to the subject area of the Project in 2015, which was presented to the Transportation Committee on October 7, 2015.
4. The design of this segment of the Project, and in particular, the conversion of the Yellowhead Trail/149 Street intersection from a signalized all-directional intersection to a right-in/right-out only intersection, was the result of extensive consultation with businesses and stakeholders in the area, including the registered owner of the Property.
5. Capital funding for the Project was approved by City Council on February 21, 2017.
6. Construction for the segment of the Project between 156 Street and St. Albert Trail began in June 2021.
7. The expropriation is in the public interest. The land that the City is proposing to expropriate is necessary for the construction of the Project.
8. Administration took steps to try to reduce the impact of the Project on the Property. However, expropriation of the Subject Land is unavoidable. The Subject Land is a taking of the least amount of land to meet the technical requirements of what is required in order to construct the Project.
9. Administration has previously assessed the cost of the expropriation of the Subject Land and is in a position to recommend same.

### SUBJECT LAND REQUIREMENT

10. The expropriation of the Subject Land will allow the City to construct the Project, as set out in the Notice of Intention to Expropriate:
  - Without limitation, to facilitate the construction of the Yellowhead Trail Freeway Conversion Program, which may include the

widening and upgrading of Yellowhead Trail and nearby roads, intersections, over/underpasses, public utilities, sidewalks, as well as access modifications, road network improvements, interchange construction, construction of public utilities, drainage infrastructure and sidewalks, and any other infrastructure incidental to the construction of the Yellowhead Trail Freeway Conversion Program.

11. The Subject Land is required:
  - a. to allow for the construction of a westbound, two-lane service road parallel to the new Yellowhead Trail;
  - b. to allow for the construction of related infrastructure such as sidewalks and street lighting; and
  - c. to allow for the placement of linear utilities in accordance with regulations and engineering guidelines.
12. The Subject Land will form part of the future road right-of-way.
13. Through the expropriation process, the City will obtain possession of the Subject Land by the end of 2021, which will allow for the installation of utilities and construction work to begin following possession in line with the timeline contemplated under the City's construction contract.
14. The City's need for the Subject Land in order to achieve the objectives of the Project was agreed upon at the inquiry hearing.
15. In the Inquiry Officer's Report the inquiry officer recommended that City Council approve the partial taking in order to avoid delay to the Project and because it is necessary for the Project.

#### **INQUIRY OFFICER'S REPORT**

16. The inquiry officer considered business loss evidence that relates to matters of compensation to arrive at the findings. The evidence was persuasive enough for the inquiry officer to conclude that a full taking was more appropriate than a partial one.
17. While it is clear that the partial expropriation of the Subject Land will impact the Objectors, compensation is an issue to be determined at a compensation hearing before the Tribunal.
18. Although the inquiry officer chose to allow expert evidence related to anticipated business losses before opining on whether the proposed expropriation met the Statutory Test, the evidence informed the second recommendation that a subsequent or companion process be pursued for a full expropriation of the Property.
19. If City Council were to make a direction in response to the second recommendation, it would need to approve commencement of the whole or remainder of the Property. If a subsequent expropriation of the Property was pursued, there will be another opportunity to object, and a potential second inquiry which may result in another written inquiry report.

20. The above risks can be avoided by not taking steps to pursue the full expropriation of the Property and by allowing the Tribunal to make an Order, as it sees fit, upon hearing the Section 15 MGA application.
21. Based on the currently available information, Administration neither supports nor recommends a full acquisition of the Property.

## **CONCLUSION**

22. City Council approves the expropriation of the Subject Land as it is of the opinion that proceeding with the expropriation of the Subject Land will serve the public interest:
  - a. It will allow the City to acquire the Subject Land in accordance with its anticipated timeline and for construction on the Subject Land to proceed without delay.
  - b. In making no direction in relation to the expropriation of the full Property, it respects the legislative scheme set out in the *Expropriation Act* and the *Municipal Government Act* by properly allowing the Tribunal, upon a review of the evidence and argument that will be presented at the Section 15 MGA application hearing, to determine if a partial expropriation is unfair to the owner such that a full expropriation is warranted, and if so, to direct same.