

# Approval of Expropriation, Valley Line West

## Consideration of inquiry officer's report

15523 95 Avenue NW & 9439/9449 156 Street NW

### Recommendation

1. That having considered the report of the inquiry officer in Attachment 2, the expropriation of the specified portion of the lands as shown and legally described in Attachment 3 (the "Land") is approved, for the reasons contained in Attachment 1 of the February 3, 2020, Office of the City Manager report CR\_7863.
2. That all steps under the *Expropriation Act*, RSA 2000, c. E-13 (the "Act") be taken to complete the expropriation, including but not limited to, serving City Council's decision, registering a certificate of approval of expropriation, and serving the notice of expropriation, notice of proposed payment and notice of possession.

### Executive Summary

Under the *Expropriation Act*, an owner may object to a proposed expropriation. If an owner objects, an inquiry hearing is held and the inquiry officer issues a written report. The report of the inquiry officer is not binding on City Council, however City Council must consider the report and approve or disapprove the expropriation; or approve the expropriation with any modifications it considers appropriate. Administration recommends that after considering the inquiry officer's report, City Council approve the expropriation of the Land for the proposed reasons contained in Attachment 1.

### Report

#### Background

On April 16, 2019, City Council approved the commencement of the expropriation process to acquire a strip of land for the Valley Line West LRT project. The Land is located at the intersection of 156 Street NW and 95 Avenue NW in the Sherwood neighbourhood of Edmonton. The Land consists of three contiguous strips of bare land approximately 5.3 metres in width. The Land runs parallel to 156 Street with an additional small 'corner-cut' at the intersection of 156 Street and 95 Avenue (Attachment 3). A condominium complex is located on the Land which consists of 15 row-house condominium units contained in three buildings, with five units each. The Land the City requires does not impact the buildings.

Notices of intention to expropriate were registered on the titles, served on the owners and advertised in the Edmonton Journal in accordance with the Act. The registered owner of the Land objected to the proposed expropriation. An inquiry officer was appointed by the Province and an inquiry was held on December 17 and 19, 2019 to determine whether the intended expropriation is fair, sound and reasonably necessary in the achievement of the objectives of the expropriating authority. The inquiry officer issued a written report on January 22, 2020, Attachment 2.

### **Inquiry Officer's Report**

The inquiry officer found that, having considered all of the documentary evidence presented, the testimony of the witnesses and expert witness, and arguments of the parties, the intended expropriation of the Land to accommodate the development of the Valley Line West LRT is fair, sound and reasonably necessary to achieve the City's objectives.

The inquiry officer found that:

1. The City satisfied all the statutory requirements under the Act and has taken all necessary steps to properly constitute the inquiry.
2. The City demonstrated a *bona fide* need to acquire land for the project.
3. A long process of planning and public engagement has taken place over the past several years in connection with the project.
4. The owner expressed concern with the extent of the proposed taking, believing it is too broad and beyond what is needed by the City to achieve its objective.
5. The City considered alternate design options including:
  - a. Shifting north-bound traffic west to reduce the taking. This was rejected because it would result in an offset of the northbound traffic lanes through the intersection leading to safety concerns.
  - b. Narrowing the vehicle lanes along 156 street. This was rejected because the lanes had already been narrowed and further narrowing would not comply with design standards and would be unsafe.
  - c. Narrowing or removing the furnishing zone. This was rejected because its removal would also remove the safety buffer between the pedestrians and traffic and would not allow trees to be planted to screen and enhance the area.
  - d. Narrowing the sidewalk. This was rejected because the sidewalk is designed to be a 3.0m pedestrian throughway, which is the specified minimum in a high pedestrian activity area. This area is expected to have high volumes of pedestrian traffic.
6. The City was unable to accommodate the owner's concerns to reduce the area while continuing to meet the City's Complete Streets Design and Construction Standards as well as the Transportation Association of Canada guidelines.

7. The City reviewed the quadrants of the intersection and developed a design which would meet the expected volume of pedestrian traffic.
8. The City reasonably and fairly considered the concerns expressed; reasonably and fairly considered design alternatives, having regard to the City's Complete Streets Design and Construction Standards, Transportation Master Plan, Municipal Development Plan and its pedestrian first urban transportation design protocols.

### **Recommendation and Reasons**

After considering the report of the inquiry officer, Attachment 2, Administration recommends that City Council approve the expropriation of the Land for the proposed reasons contained in Attachment 1.

### **Legal Implications**

1. An owner may object to an expropriation within 21 days of being served with a notice of intention to expropriate.
2. If an objection is filed, the Province appoints an inquiry officer to conduct a hearing into whether the expropriation is fair, sound and reasonably necessary.
3. The inquiry officer must make a written report within 30 days after appointment. An extension order was issued by the Deputy Minister's designate extending the time for the inquiry officer to report by an additional 30 days. This extension also extends the deadline to register the certificate of approval of expropriation for an additional 30 days.
4. City Council must consider the inquiry officer's report but the report is not binding on City Council. City Council must consider the inquiry officer's report and approve or disapprove the expropriation; or approve the expropriation with any modifications that it considers proper within 30 days of receiving the inquiry officer's report.
5. City Council must provide written reasons for its decision and serve its decision and written reasons on the parties to the inquiry within 30 days of receipt of the inquiry officer's report.
6. The Proposed Reasons to Approve Expropriation of Land, Attachment 1, are proposed reasons to support City Council's decision, should it decide to approve the expropriation of the Land. Should City Council wish to amend or modify the proposed reasons, it may do so.
7. If City Council approves the expropriation, a certificate of approval of expropriation will be registered and the City will become the owner of the Land. The City must provide legal notice to vacate.
8. Prior to vacating, an owner will receive compensation in accordance with the Act. The City is required to provide an appraisal which sets out the market value of the Land.
9. The Land Compensation Board will determine compensation if the parties cannot agree.

10. The reasonable legal, appraisal and other costs actually incurred by the owner in order to determine compensation are paid by the City. The reasonable costs of the inquiry are also paid by the City.

### Budget/Financial Implications

Funding for the acquisition of land required for Valley Line West is through Capital Profile 16-66-7017 - Valley Line LRT: Downtown to Lewis Farms.

### Corporate Outcomes and Performance Management

<b>Corporate Outcome(s): Edmonton is Attractive and Compact.</b>			
<b>Outcome(s)</b>	<b>Measure(s)</b>	<b>Result(s)</b>	<b>Target(s)</b>
Edmonton is attractive and compact.	Edmontonians' assessment: Well designed, attractive city (percent of survey respondents who agree/strongly agree)	53% (2017)	55% (2018)

  

<b>Corporate Outcome: Edmontonians use public transit and active modes of transportation.</b>			
<b>Outcome(s)</b>	<b>Measure(s)</b>	<b>Result(s)</b>	<b>Target(s)</b>
Edmontonians use public transit and active modes of transportation.	Transit ridership (rides/capita)	91.6 (2017)	105 (2018)
	Journey to work mode (percent of survey respondents who select auto passenger, transit, walk, cycle or other)	26.1% (2016 result)	25.9% (2018)

  

<b>Corporate Outcome: The City of Edmonton has sustainable and accessible infrastructure.</b>			
<b>Outcome(s)</b>	<b>Measure(s)</b>	<b>Result(s)</b>	<b>Target(s)</b>
The City of Edmonton has sustainable and accessible infrastructure.	Edmontonians' assessment: Access to infrastructure, amenities and services that improve quality of life (percent of survey respondents who agree/strongly agree)	68% (2017)	70% (2018)

## Risk Assessment

Risk Element	Risk Description	Likelihood	Impact	Risk Score (with current mitigations)	Current Mitigations	Potential Future Mitigations
Project Management	Project goes over budget, poor quality, delay.	2- Unlikely	2 - Moderate	4 - Low	Recommendation that City Council approve the proposed expropriation.	Complete the steps required under the <i>Expropriation Act</i> to finalize the expropriation, including registering a certificate of approval of expropriation.

## Attachments

1. Proposed Reasons to Approve Expropriation of Land
2. Report of the Inquiry Officer, Janet Alexander-Smith, January 22, 2020
3. Map and Legal Description of the Land, including registered & non-registered interests

## Others Reviewing this Report

- M. Persson, Deputy City Manager and Chief Financial Officer, Financial and Corporate Services
- J. Meliefste, Acting Deputy City Manager, Integrated Infrastructure Services
- C. Owen, Deputy City Manager, Communications and Engagement