

## Sale of Land Below Market Value - Discovery Park Reservoir

### Recommendation

That the agreement between the City of Edmonton and EPCOR Water Services Inc., for the sale of land, for an amount of \$1.00, as outlined in Attachment 2 of the May 27, 2021, Financial and Corporate Services report FCS00346, be approved, and that the agreement be in form and content acceptable to the City Manager.

### Executive Summary

This report is seeking approval for the sale of surplus land at less than market value to EPCOR Water Services Inc. (EPCOR). The land, as shown in Attachment 1 (the "Sale Land") is within the land area annexed by the City of Edmonton from Leduc County on January 1, 2019, and was dedicated to the City of Edmonton through subdivision of the larger industrial development. Administration is recommending the transfer of the Sale Land to EPCOR for \$1.00, as it will be used solely for the purposes of a water reservoir (Discovery Park Reservoir).

### Report

The Discovery Park Reservoir is situated in the southernmost boundary of the City of Edmonton, within the area of land that the City annexed from Leduc County. At the time of annexation, the former owner of the Sale Land had already: initiated the subdivision process with Leduc County; begun development of the Discovery Park Industrial area; and partially completed the construction of a water reservoir. As subdivision endorsement did not occur until after annexation, the former owner of the Sale Land and surrounding lands was required, upon subdivision, to transfer the Sale Land to the City of Edmonton by dedication.

In November 2020, EPCOR obtained ownership of the water utility assets located on the Sale Land, including the reservoir and associated infrastructure, by way of an asset purchase and sale agreement with the former owner of the Sale Land. Under the asset purchase and sale agreement, EPCOR also paid the land value for the Sale Land directly to the former owner. EPCOR agreed to that arrangement because the former owner would not recover any land costs through a development levy from subsequent developers under City of Edmonton rules. Under Leduc County's rules, the former owner would have recovered a portion of the land costs through a development levy paid by subsequent developers in the area.

The proposed transfer of the Sale of Land to EPCOR aligns with the ownership of other water reservoirs within the City of Edmonton, which were transferred to EPCOR pursuant to the Master Agreement re: Water Utility dated December 8, 1998 (the "Master Agreement"). As the Master Agreement does not address water utility assets acquired by the City of Edmonton after the effective date, Executive Committee approval of the proposed less than market transfer of the Sale Land to EPCOR is required.

### Budget/Financial Implications

As the Sale Land has a nominal book value of \$1.00, if Executive Committee approves this transfer, there would be no financial loss recognized upon sale. This sale was not considered within the development of the 2019-2022 Operating Budget and, therefore, will not impact the operating performance reporting of Land Enterprise.

### Legal Implications

As per section 70(2)(a) of the *Municipal Government Act*, the proposed less than market transfer is exempt from advertising as the Sale Land is to be used by EPCOR for the purposes of supplying a public utility.

### Next Steps

If the recommendation is approved, Administration will enter into a sale agreement with EPCOR on the terms and conditions outlined in Attachment 2. The sale agreement has already been executed by EPCOR.

### Corporate Outcomes and Performance Management

Corporate Outcome: The City Of Edmonton has sustainable and accessible infrastructure			
Outcome(s)	Measure(s)	Result(s)	Target(s)
Infrastructure, including water utilities are designed, operated and maintained so that they are accessible to all Edmontonians.	Percentage of infrastructure accessible to all Edmontonians	TBD	100%
The City of Edmonton has a resilient financial position			
Land transfer agreements below market value are used in support of the advancement of Council initiatives.	Average # of land transfer agreements below market value (annual)	~2	n/a

## Risk Assessment

Risk Element	Risk Description	Likelihood	Impact	Risk Score (with current mitigations)	Current Mitigations	Potential Future Mitigations
Risk if Recommendation is Approved						
Commercial	EPCOR uses the land for a purpose other than water utility infrastructure	1 - Rare	1 - Low	1 - Low	EPCOR has already acquired the water infrastructure assets from the developer of the Discovery Industrial Park and has agreed to operate and maintain them.	N/A
Risk if Recommendation is Not Approved						
Commercial/ Reputational	EPCOR's access to the Sale Land to maintain and operate the assets is impacted	1 - Unlikely	2 - Moderate	2 - Low	EPCOR can still access the land via the Franchise Agreement.	The terms of the Asset Purchase and Sale agreement between EPCOR and the developer may require amendment.

## Attachments

1. Site Plan
2. Sales Agreement Terms and Conditions

## Others Reviewing this Report

- G. Cebryk, Deputy City Manager, City Operations
- C. Owen, Deputy City Manager, Communications and Engagement
- S. McCabe, Deputy City Manager, Urban Planning and Economy
- K. Fallis-Howell, Acting City Solicitor