

**Subject: Approval to Expropriate Lands – Earl Grey Drive Extension Project**

**File Number: ACS2024-PRE-CRO-0011**

**Report to Finance and Corporate Services Committee on 5 March 2024**

**and Council 3 April 2024**

**Submitted on February 21, 2024 by Peter Radke, Director, Corporate Real Estate Office, Planning, Real Estate and Economic Development Department**

**Contact Person: Stephen O'Brien, Program Manager, Corporate Real Estate Office**

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**Ward: Kanata North (4)**

**Objet: Approbation visant l'expropriation de terrains – projet de prolongement de la promenade Earl Grey**

**Dossier: ACS2024-PRE-CRO-0011**

**Rapport au Comité des finances et des services organisationnels**

**le 5 mars 2024**

**et au Conseil le 3 avril 2024**

**Soumis le 21 février 2024 par Peter Radke, Directeur, Bureau des biens immobiliers municipal, Services de la planification, des biens immobiliers et du développement économique**

**Personne ressource: Stephen O'Brien, Gestionnaire de programme, Bureau des biens immobiliers municipal**

**Quartier: Kanata Nord (4)**

## **REPORT RECOMMENDATION(S)**

That the Finance and Corporate Services Committee recommend that City Council enact a by-law, in the form attached in Document 1 hereto authorizing the City to proceed with the expropriation of the property interests described in Schedule A to the draft by-law (the “Property Interests”) including:

1. Registering plans of expropriation with respect to the Property Interests;
2. Serving notice of expropriation and possession on the owners of the Property Interests;
3. Serving offers of compensation as contemplated in Section 25 of the *Expropriations Act*; and,
4. Taking possession of the Property Interests.

All in accordance with the *Expropriations Act*.

## **RECOMMANDATION(S) DU RAPPORT**

Que le Comité des finances et des services organisationnels recommande au Conseil de promulguer le règlement municipal joint en tant que document 1 autorisant la Ville à exproprier les intérêts immobiliers décrits à l’annexe A du règlement provisoire ci-joint (les « intérêts immobiliers »), notamment :

1. enregistrer un plan d’expropriation visant les intérêts immobiliers;
2. signifier aux propriétaires des intérêts immobiliers un avis d’expropriation et de possession;
3. proposer des offres d’indemnité, comme le prévoit l’article 25 de la *Loi sur l’expropriation*; et
4. prendre possession des intérêts immobiliers.

Conformément à la *Loi sur l’expropriation*.

## **BACKGROUND**

The City is proceeding with the extension of Earl Grey Drive west to Didsbury Road, with the construction of a segment of road approximately 140 metres in length. The extension will pass under Terry Fox Drive and requires the construction of a new bridge structure and underpass as well as an upgrade to the Terry Fox Drive and Didsbury Road intersection in order to meet the requirements of the City’s protected intersection guidelines. The extension of Earl Grey Drive and the construction of the underpass and

intersection improvements are collectively referred to in this Report as the “Earl Grey Drive Extension Project”. A budget for the Earl Grey Drive Extension Project was included in the City’s 2023 capital budget.

As identified within the City’s Transportation Master Plan, the Earl Grey Drive Extension Project will improve traffic flow in the Kanata Centrum area and will greatly improve bus service by providing a more direct route to and from Terry Fox Station.

The Property Interests are required in connection with the Earl Grey Drive Extension Project. City Council authorized the initiation of expropriation proceedings with respect to the Property Interests by enacting By-law 2023-315 on July 12, 2023 ([ACS2023-PRE-CRO-0006](#)).

The purpose of this report is to obtain the approval of City Council to complete the expropriation of the Property Interests needed for the Earl Grey Drive Extension Project.

## **DISCUSSION**

The Earl Grey Drive Extension Project requires the acquisition of Property Interests, including land and temporary easements described in Schedule A to the draft By-law attached as Document 1 here to. While agreements have been negotiated for the acquisition of some of the required Property Interests, expropriation will be required to secure the balance of the interests and is recommended in order to protect anticipated construction timing for the project.

Expropriation proceedings commenced 2023 with respect to the Property Interests with the delivery and publication of Applications for Approval to Expropriate Lands under Section 4 of the *Expropriations Act*, as authorized by Council in By-law 2023-315. The property interests are listed in Document 1, Schedule A attached to this report. All rights, title and interests will be acquire for six (6) parcels and temporary easements will be acquired for 24 months for seven (7) parcels. Notice of the Application for Approval to Expropriate the Property Interests was served by registered mail on 21 August 2023 and published three times in the Citizen and Le Droit as per the requirements of the *Expropriations Act*.

The City did not receive any requests for an inquiry as contemplated in Sections 6 and 7 of the *Expropriations Act* with respect to the Property Interests and the City is now in a position to proceed with the expropriation of the Property Interests including:

- Registering plans of expropriation with respect to the Property Interests;
- Serving notice of expropriation and possession on the owners of the Property Interests;

- Serving offers of compensation as contemplated in Section 25 of the *Expropriations Act*; and,
- Taking possession of the Property Interests.

Staff will continue efforts to settle compensation payable to the owners of the Property Interests, both permanent and temporary, through negotiation and through the process established in the *Expropriations Act*, including arbitration before the Ontario Land Tribunal, if necessary.

### **FINANCIAL IMPLICATIONS**

Funding for costs associated with implementing the recommendation of the report are available within account 904995 Earl Grey/Centrum Underpass.

### **LEGAL IMPLICATIONS**

Provided that the City follows procedures set out in the *Expropriations Act*, including as outlined in this Report and in the draft By-law attached hereto as Document 1 there are no legal impediments to implementing the recommendations set out in this Report.

### **COMMENTS BY THE WARD COUNCILLOR(S)**

The Ward Councillor for the Ward in which the Property Interests identified in Document 1 are located has been consulted and is aware of this report.

### **ADVISORY COMMITTEE(S) COMMENTS**

N/A

### **CONSULTATION**

Consultation regarding the Earl Grey Drive Extension Project has been ongoing during the design phase of the project with the local ward councillor, stakeholders and BIA. During the implementation phase, regular communications with stakeholders, councillors, local residents and commuters will be required to proactively inform the community about work taking place. Specifically, the City will advise of any potential mobility impacts and assist the community to plan their travels.

Affected property owners have been contacted directly about property requirements for the Earl Grey Drive Extension Project.

### **ACCESSIBILITY IMPACTS**

The Earl Grey Drive Extension Project will comply with the Integrated Accessibility Standards Regulation (IASR) of the Accessibility for Ontarians with

*Disabilities Act, 2005, (AODA).*

## **ASSET MANAGEMENT IMPLICATIONS**

There are no Asset Management Implications resulting from the recommendations of this report.

## **CLIMATE IMPLICATIONS**

N/A

## **ECONOMIC IMPLICATIONS**

N/A

## **ENVIRONMENTAL IMPLICATIONS**

A review of the City's Historical Land Use Inventory data base resulted in no further environmental investigation being recommended regarding these partial takings. This project will ensure compliance with City, Provincial and Federal environmental policies, standards, regulations and legislation.

## **RISK MANAGEMENT IMPLICATIONS**

The acquisition of the Property Interests is required to complete the Earl Grey Drive Extension Project. Failure to enact the By-law as recommended in this Report may delay completion of the Earl Grey Drive Extension Project.

## **RURAL IMPLICATIONS**

N/A

## **TERM OF COUNCIL PRIORITIES**

This project addresses the following Term of Council Priorities:

A city that is more connected with reliable, safe and accessible mobility options

## **SUPPORTING DOCUMENTATION**

Document 1 Draft By-law

**DISPOSITION**

Following Council's approval of the recommended By-law, the Corporate Real Estate Office will work with Surveys and Mapping to register plans of expropriation with respect to the Property Interests and with external legal counsel to serve notice of expropriation and possession on the owners of the Property Interests. The Corporate Real Estate Office will continue its efforts to resolve the compensation payable with respect to the expropriation of the Property Interests, including through proceedings before the Ontario Land Tribunal, if necessary.

**DOCUMENT 1 – DRAFT BY-LAW**

BY-LAW NO. 2024 – \_\_\_\_

A by-law of the City of Ottawa to approve the expropriation of certain property interests in the City of Ottawa for the purposes of the Earl Grey Drive Extension project

WHEREAS the City of Ottawa requires the property interests described in Schedule “A” attached hereto (collectively the “**Property Interests**”), for the purposes of the Earl Grey Drive Extension project (the “**Earl Grey Drive Extension Project**”) including but not limited to, replacing and relocating above and underground utilities, including sanitary sewers, stormwater sewers, watermains and other utility conduits, facilitating the construction, use, operation, installation and maintenance of an improved right-of-way, cycling and pedestrian corridors, cycle tracks, bus stops and shelters, fences, curbs, sidewalks, retaining walls, landscaping and streetscaping features, streetlight and traffic signal poles, protected intersection improvements, ditching, drainage improvements, guiderails, bridge structures, supports and surfaces and related excavation and support of excavation and including re-grading of the right-of way together with temporary easements in support of the foregoing for a duration of twenty-four (24) months as described in Schedule “A” hereto, for purposes including, but not limited to, storage of excavated materials, construction materials and equipment, temporary power supply, parking, vehicular and pedestrian access and egress, traffic management and detouring, and to enter and remain on the lands with all vehicles, machinery, workmen and, material for construction, renewal, relocation installation and assembly of bus transit infrastructure, municipal utilities, grading, fences, retaining walls and landscaping features and all other improvements and works ancillary to the Earl Grey Drive Extension Project;

AND WHEREAS pursuant to Section 6(1) of the *Municipal Act, 2001, S.O. 2001, c. 25*, as amended, the power of a municipality to acquire land under this or any other Act includes the power to expropriate land in accordance with the *Expropriations Act, R.S.O. 1990, c.E.26*, as amended (hereinafter referred to as the “*Expropriations Act*”) for these purposes;

AND WHEREAS a Notice of Application for Approval to Expropriate Land including the Property Interests was served and published, as required by the *Expropriations Act*;

AND WHEREAS the application has not been referred to the Ontario Land Tribunal for a hearing of necessity by any of the owners of the Property Interests and the applicable deadline for such has passed;

THEREFORE the Council of the City of Ottawa hereby enacts as follows:

1. THAT approval is hereby granted for the expropriation by the City of Ottawa of the Property Interests described in Schedule “A” attached to this by-law, for the above-described purposes.
2. THAT the City Clerk is hereby authorized to execute on behalf of City

Council the Certificate of Approval and the Expropriation Certificate and all other notices and documents which are necessary to carry out the provisions of this By-law.

3. THAT the City Clerk is hereby authorized to cause Expropriation Plans to be registered in the Land Registry Office for the Land Titles Division of Ottawa (No. 4) and thereby effect the expropriation of the Property Interests.

4. THAT a Notice of Expropriation be served upon the registered owners of the Property Interests together with a copy of the Expropriation Plan and a Notice of Election relating to the date of assessment of compensation.

5. THAT an appraisal report estimating the market value of the Property Interests and damages for injurious affection, if any, be obtained from an accredited appraiser.

6. THAT a Notice of Possession be served requiring possession of the Property Interests at least three (3) months after the date of service of said notice.

7. THAT the City of Ottawa is hereby authorized to enter and take possession of the lands described in Schedule "A" hereto on the day permitted under the *Expropriations Act*, or pursuant to any Court Order thereunder, or pursuant to any agreement entered into between the relevant owner(s) and the City of Ottawa.

8. THAT, subject to any requirement for additional Council approval based on the estimated market value of any registered owner's interest in the Property Interests, an offer of an amount in full compensation for the registered owners' interests in the Property Interests, and an offer for immediate payment of 100 per cent of market value as estimated by the expropriating authority, all in accordance with section 25 of the *Expropriations Act*, be served, together with a copy of the appraisal report on which the offer of compensation is based.

9. THAT the officers and authorized agents of the City of Ottawa be and are hereby otherwise authorized and directed to do all things required arising from the authorizations provided for by this by-law.

10. THAT this by-law comes into force on the day it is passed.

ENACTED and PASSED this \_\_, day of \_\_\_\_\_, 2024.

CITY CLERK

MAYOR

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## SCHEDULE "A"

**All right, title and interest in the following lands:**

1. Part of PIN 04507-0044 (LT) PART OF THE WEST HALF OF LOT 3 CONCESSION 2, designated as PARTS 5 AND 9, 4R-35859; CITY OF OTTAWA
2. Part of PIN 04507-0129 (LT) PART OF THE WEST HALF OF LOT 3 CONCESSION 2, designated as PARTS 10 AND 12, 4R-35859; CITY OF OTTAWA
3. Part of PIN 04507-0034 (LT) PART OF BLOCK 6, PLAN 4M941, designated as PART 7, 4R-35862; CITY OF OTTAWA
4. Part of PIN 04507-0039(LT) PART OF BLOCK 11, PLAN 4M941, designated as PART 4, 4R-53862; CITY OF OTTAWA
5. Part of PIN 04507-0001(LT) PART OF BLOCK 1, PLAN 4M-921; designated as PART 2, 4R-35862; CITY OF OTTAWA
6. Part of PIN 04507-0048(LT) PART OF THE WEST HALF OF LOT 3 CONCESSION 2 designated as PART 1, 4R-35859; CITY OF OTTAWA

**An estate, right or interest, for a limited time in the nature of a temporary easement for a period of twenty four (24) months in the following lands:**

7. Part of PIN 04507-0044 (LT) PART OF THE WEST HALF OF LOT 3 CONCESSION 2, designated as PARTS 6, 7 AND 8, 4R-35859; CITY OF OTTAWA
8. Part of PIN 04507-0129 (LT) PART OF WEST HALF OF LOT 3 CONCESSION 2, designated as PART 11, 4R-35859; CITY OF OTTAWA
9. Part of PIN 04507-0034 (LT) PART OF BLOCK 6, PLAN 4M941, designated as PART 8, 4R-35862; CITY OF OTTAWA
10. Part of 04507-0029(LT) PART OF BLOCK 1, PLAN 4M941, designated as PARTS 5 AND 6, 4R-35862; CITY OF OTTAWA
11. Part of PIN 04507-0039(LT) PART OF BLOCK 11, PLAN 4M941, designated as PART 3, 4R-35862; CITY OF OTTAWA
12. Part of PIN 04507-0001(LT) PART OF BLOCK 1, PLAN 4M-921; designated as PART 1, 4R-35862; CITY OF OTTAWA

13. Part of PIN 04507-0048(LT) PART OF WEST HALF OF LOT 3 CONCESSION 2 designated as PARTS 2, 3 AND 4, 4R-35859; CITY OF OTTAWA