



## MEMO

To	Mayor and Members of Council	File: L04-01 17 CITY
From	Stephen Willis - General Manager Planning, Infrastructure & Economic Development	
Subject	By-law authorizing the making of an application to expropriate properties required for the Stage 2 Light Rail Transit Project	Date: April 3, 2020

### PURPOSE

Memo detailing the requirement for a by-law authorizing the making of an application to expropriate property interests required for the Stage 2 Light Rail Transit Project.

### BACKGROUND

On March 8, 2017, City Council directed the Corporate Real Estate Office (CREO) to proceed with the acquisition of the property interests required to facilitate the construction, use and maintenance of the Stage 2 Light Rail Transit Project and related works.

On [February 27, 2019 City Council](#) approved, among other things, the selection of preferred proponents for the Trillium Line Extension Project and the Confederation Line East and West Extension (collectively the "Stage 2 Light Rail Transit Project"), delegated authority to finalize project agreements and received summaries of various complex agreements negotiated with major landowners and approved under the delegated authority.

One of the complex agreement summaries received by City Council detailed a Memorandum of Agreement (the "MOA") between the City and the owner of the South Keys shopping centre (Canadian Property Holdings (South Keys) Inc. and Calloway Reit (South Keys) Inc.) (the "Owner"). The MOA provided, among other things, for the transfer of certain easements to the City over certain exterior portions of the shopping centre lands, the installation of certain utilities by the City for the purposes of the Stage 2 Light Rail Transit Project and the construction and installation of certain amenities including a walkway, transit plaza elements and landscaping.

The MOA was negotiated in advance of the execution of the Trillium Line Extension Project and the subsequent detailed design and utility planning work which has now been undertaken by the City's Trillium Line contractor. As a result of this detailed design work and utility planning, the City's property requirements in the vicinity of the South Keys Shopping Centre have changed.

The City's property acquisition team for the Stage 2 Light Rail Transit Project have, for the past 6 months, pursued the negotiation of an amendment to the MOA which would meet these requirements but have not been able to reach an agreement.

In order to preserve project timelines, staff recommends that Council adopt the Application By-law attached this memorandum as Document 1 for the purpose of authorizing the making of an application for approval to expropriate the required property interests from the Owners. These property interests are identified in Schedule "A" and illustrated in Schedule "B" of the draft Application By-law.

Notwithstanding the initiation of expropriation proceedings staff will continue efforts to achieve a negotiated resolution with the Owners.

## **DISCUSSION**

The purpose of by-law attached as Document 1 is to initiate the expropriation process to acquire certain property interests, generally described in the sketches included in Schedule "B" to the draft by-law, which have been identified as being required for the purposes of the Stage 2 Light Rail Transit Project.

CREO staff will continue to work towards negotiating an amendment to the MOA, but authorization to initiate the expropriation process at this stage is recommended to ensure that the project can be delivered within current timelines.

Section 6(1) of the Municipal Act, 2001, S.O. 2001, c. 25 states that the power of the City to acquire land "includes the power to expropriate land in accordance with the Expropriations Act." Section 4 of the *Expropriations Act* requires an expropriating authority, in this case the City, to receive "approval of the approving authority", in this case, Council, before expropriating any land.

In accordance with Section 6(1) of the *Expropriations Act*, Council must initiate the expropriation process by directing staff to serve Notices of Application for Approval to Expropriate ("Notice of Application"), on the registered owners of legal interests in the lands to be expropriated. Pursuant to the *Expropriations Act*, the notices will be published once a week for three consecutive weeks in English and French newspapers having general circulation in the Ottawa Region.

Within 30 days of the service of the Notices of Application or the first publication of the notices, persons entitled to receive the Notice of Application may request an inquiry for the purpose of determining if the taking of the lands or any part of the lands required by the City is "fair, sound and reasonably necessary" for the construction of the Stage 2 Light Rail Transit Project.

## **Mayor and Councillor's Concurrence**

The concurrence of the Mayor and Councillor Brockington on behalf of Councillor Deans (Ward 10) has been obtained prior to including the draft by-law in the Council Agenda.

## **FINANCIAL IMPLICATIONS**

The current approved capital authority for the Stage 2 Light Rail Transit Project (Capital Project #907926) includes an allocation for property acquisition and related expenditures. Staff have estimated costs associated with this draft by-law, including costs associated with expropriation, and have concluded that such costs can be met within the approved budget allocation.

If you require further information with respect to the information in this memorandum, please feel free to contact either **Derrick Moodie**, Director - Corporate Real Estate Office, at extension 15134, **or myself** at extension 16150.

Sincerely,

Stephen Willis, MCIP, RPP  
General Manager  
Planning, Infrastructure and Economic Development  
City of Ottawa

Cc: Senior Leadership Team  
Derrick Moodie, Director, Corporate Real Estate Office  
Michael Morgan, Director, Rail Construction Program  
Caitlin Salter-MacDonald - Program Manager, Committee and Council Services  
Branch

Encl.: Document 1: Draft by-law for the purpose of authorizing the making of an application for approval to expropriate property interests identified in Schedule "A" and illustrated in Schedule "B" thereto (2020 Application By-law)