



TOWN OF DRUMHELLER
REGULAR COUNCIL MEETING

AGENDA

TIME & DATE: 4:30 PM – Monday February 26, 2024

LOCATION: Council Chambers, 224 Centre St and ZOOM Platform and Live Stream on Drumheller Valley YouTube Channel

1. CALL TO ORDER

2. OPENING COMMENTS

Deputy Mayor – Councillor Lacher – March and April

3. ADDITIONS TO THE AGENDA

4. ADOPTION OF AGENDA

4.1 Agenda for February 26, 2024 Regular Meeting

Proposed Motion: That Council adopt the agenda for the February 26, 2024 Regular Council meeting as presented.

5. MEETING MINUTES

5.1 Minutes for February 20, 2024 Regular Council as presented.

[Regular Council Meeting – February 20, 2024 - Minutes](#)

Proposed Motion:

Move that Council approve the minutes for the February 20, 2024, Regular Council meeting as presented.

DELEGATION

COUNCIL BOARDS AND COMMITTEES

6. REPORTS FROM ADMINISTRATION

OFFICE OF THE CHIEF ADMINISTRATIVE OFFICER

Chief Administrative Officer

6.1 Flood Resiliency Project Director

6.1.1 Request for Decision:

Resolution for Expropriation and Notice of Intention to Expropriate a Partial Parcel for Berm Construction affecting Plan Nacmine 7125DD, Block "B", Excepting that portion which lies to the east of a line drawn parallel with and one hundred and three (103) feet perpendicularly distant north westerly from the south easterly boundary of said block 44 2 Avenue, Nacmine

[Request for Decision + Resolution + Notice of Intention to Expropriate](#)

Proposed Motion:

Moves that Council approve the Resolution for Expropriation and Notice of Intention to Expropriate pertaining to a portion of land described as Plan Nacmine 7125DD, Block "B", Excepting that portion which lies to the east of a line drawn parallel with and one hundred and three (103) feet perpendicularly distant north westerly from the south easterly boundary of said block; Title Number 061 102 801.

6.1.2 Request for Decision:

Resolution for Expropriation and Notice of Intention to Expropriate a Partial Parcel for Berm Construction affecting Plan Nacmine 7125DD, that portion of the south easterly thirty one and forty hundredths (31.40) metres in perpendicular width of Block "B" which lies to the north east of the south west twenty two and eighty six hundredths (22.86) metres of the said Block "B", excepting thereout: Subdivision Plan 9312239 containing 0.072 hectares (0.180 acres) more or less
287 1 Street, Nacmine

[Request for Decision + Resolution + Notice of Intention to Expropriate](#)

Proposed Motion:

Moves that Council approve the Resolution for Expropriation and Notice of Intention to Expropriate pertaining to a portion of land described as Plan Nacmine 7125DD, that portion of the south easterly thirty one and forty hundredths (31.40) metres in perpendicular width of Block "B" which lies to the north east of the south west twenty two and eighty six hundredths (22.86) metres of the said Block "B", excepting thereout: Subdivision Plan 9312239 containing 0.072 hectares (0.180 acres) more or less; Title Number 001 142 256.

6.1.3 Request for Decision:

Resolution for Expropriation and Notice of Intention to Expropriate a Partial Parcel for Berm Construction affecting That portion of the north west quarter of Section 8 Township 29 Range 20 West of the 4 Meridian described as follows: commencing at the point of intersection of the north easterly limit of 3 Avenue with the northerly production of the north westerly limit of 3 Street as said avenue and street are shown on Plan Nacmine 7125DD thence northerly along said production of said limit of 3 Street to the right bank of the Red Deer River shown on Plan 53/46 thence westerly along said right bank to its intersection with the said north easterly limit of 3 Avenue thence south easterly along said limit to the point of commencement containing 0.648 hectares (1.6 acres) more or less
301 3 Street, Nacmine

[Request for Decision + Resolution + Notice of Intention to Expropriate](#)

Proposed Motion:

Moves that Council approve the Resolution for Expropriation and Notice of Intention to Expropriate pertaining to a portion of land described as that portion of the north west quarter of Section 8 Township 29 Range 20 West of the 4 Meridian described as follows: commencing at the point of intersection of the north easterly limit of 3 Avenue with the northerly production of the north westerly limit of 3 Street as said avenue and street are shown on Plan Nacmine 7125DD thence northerly along said production of said limit of 3 Street to the right bank of the Red Deer River shown on Plan 53/46 thence westerly along said right bank to its intersection with the said north easterly limit of 3 Avenue thence south easterly along said limit to the point of commencement containing 0.648 hectares (1.6 acres) more or less;
Title Number 191 049 429.

6.1.4 Request for Decision:

Resolution for Expropriation and Notice of Intention to Expropriate One Parcel for Berm Construction affecting Lot 18A, Block 10, Plan 9410239
492 Railway Avenue, Rosedale

[Request for Decision + Resolution + Notice of Intention to Expropriate](#)

Proposed Motion:

Moves that Council approve the Resolution for Expropriation and Notice of Intention to Expropriate pertaining to the parcel of land described as Lot 18A, Block 10, Plan 9410239; Title Number 201 030 219.

6.1.5 Request for Decision:

Resolution for Expropriation and Notice of Intention to Expropriate of a Partial Parcel for Berm Construction affecting Lot 6A, Block 10, Plan 0610286
503 Railway Avenue, Rosedale

[Request for Decision + Resolution + Notice of Intention to Expropriate](#)

Proposed Motion:

Moves that Council approve the Resolution for Expropriation and Notice of Intention to Expropriate pertaining to a portion of land described as Lot 6A, Block 10, Plan 0610286; Title Number 061 036 718 +1.

CORPORATE AND COMMUNITY SERVICES DEPARTMENT

EMERGENCY AND PROTECTIVE SERVICES

INFRASTRUCTURE DEPARTMENT

CLOSED SESSION

7. ADJOURNMENT

Proposed Motion:

That Council adjourn the meeting.



TOWN OF DRUMHELLER
REGULAR COUNCIL MEETING

MINUTES

TIME & DATE: 4:30 PM – Monday, February 20, 2024

LOCATION: Council Chambers, 224 Centre St and ZOOM Platform and
[Live Stream on Drumheller Valley YouTube Channel](#)

IN ATTENDANCE

Mayor Heather Colberg

Councillor Patrick Kolafa

Councillor Stephanie Price

Councillor Tony Lacher (Remote)

Councillor Crystal Sereda (Remote)

Councillor Lisa Hansen-Zacharuk

Councillor Tom Zariski

Chief Administrative Officer: Darryl Drohomerski

Director of Corporate & Community Services: Victoria Chan

Acting Director of Infrastructure: Kevin Blanchett

Dir. of Emergency and Protective Services: Greg Peters

Flood Mitigation Project Manager: Deighen Blakely

Communication Officer: Bret Crowle

Reality Bytes IT: David Vidal

Recording Secretary: Denise Lines

1. CALL TO ORDER

Mayor Colberg called the meeting to order at 4:30 PM

2. OPENING COMMENTS

Thanks to Family Day volunteers and volunteers for the Aaron Prichett concert.

The Town is continuing their initiative to sign-up residents to receive water bills via email rather than via mail, in order to make the process more convenient and to be environmentally friendly.

3. ADDITIONS TO THE AGENDA

4. ADOPTION OF AGENDA

4.1 Agenda for February 20, 2024, Regular Council Meeting

M2024.70 Moved by Councilor Zariski, Councillor Price
that Council adopt the amended agenda for the February 20, 2024, Regular Council
meeting as presented.

CARRIED UNANIMOUSLY

5. MEETING MINUTES

5.1 Minutes for February 5, 2024 Regular Council as presented.

Agenda Attachment: Regular Council Meeting – February 5, 2024 - Minutes

M2024.71 Moved by Councillor Price, Councillor Hansen-Zacharuk that Council approve the minutes for the February 5, 2024 Regular Council meeting as presented.

CARRIED UNANIMOUSLY

DELEGATION

COUNCIL BOARDS AND COMMITTEES

6. REPORTS FROM ADMINISTRATION

OFFICE OF THE CHIEF ADMINISTRATIVE OFFICER

6.1 Chief Administrative Officer
Timestamp: [4:08](#)

6.1.1 Request for Decision: Proposed Bylaw 10.24 Rosedale Railway Ave, Road Closure

Agenda Attachment: Request for Decision; Proposed Bylaw 10.24

M2024.72 Moved by Councillor Kolafa, Councillor Sereda that Council give first reading to Bylaw 10.24 Rosedale Railway Ave, Road Closure as presented and set a Public Hearing date for April 8, 2024.

CARRIED UNANIMOUSLY

Flood Resiliency Project Director

CORPORATE AND COMMUNITY SERVICES DEPARTMENT

6.2 Director of Corporate and Community Services
Timestamp: [13:03](#)

6.2.1 Request for Decision: Proposed Bylaw 13.24 Supplementary Tax Assessment

Agenda Attachment: Request for Decision; Proposed Bylaw 13.24

M2024.73 Moved by Councillor Hansen-Zacharuk, Councillor Kolafa
That Council give first reading to Bylaw 13.24 - Supplementary Assessment as presented.

CARRIED UNANIMOUSLY

M2024.74 Moved by Councillor Sereda, Councillor Hansen-Zacharuk
That Council give second reading to Bylaw 13.24 - Supplementary Assessment as presented.

CARRIED UNANIMOUSLY

M2024.75 Moved by Councillor Kolafa, Councillor Hansen-Zacharuk
That Council give unanimous consent for third reading to Bylaw 13.24 - Supplementary Assessment.

CARRIED UNANIMOUSLY

M2024.76 Moved by Councilor Zariski, Councillor Lacher
That Council give third reading to Bylaw 13.24 - Supplementary Assessment as presented.

CARRIED UNANIMOUSLY

EMERGENCY AND PROTECTIVE SERVICES

INFRASTRUCTURE DEPARTMENT

6.3 Director of Infrastructure
Timestamp: [23:18](#)

6.3.1 Request for Decision: 2023 & 2024 New Trail Development, Roadway Rehabilitation, Sidewalk Rehabilitation and Other Work Award

Agenda Attachment: Request for Decision

M2024.77 Moved by Councilor Zariski, Councillor Hansen-Zacharuk
That the award for the 2023 & 2024 New Trail Development, Roadway Rehabilitation, Sidewalk Rehabilitation and Other Work Request for Tender be awarded to Ruby Rock Asphalt Works Ltd. for the amount of \$1,231,154.97 excluding G.S.T.

CARRIED UNANIMOUSLY

7. CLOSED SESSION

7.1 Third Party Contract and Personnel
FOIP 16 – Disclosure harmful to business interest of a third party
FOIP 23 – Local public body confidences
FOIP 24 – Advice from Officials

M2024.78 Moved by Councillor Price, Councillor Hansen-Zacharuk
That Council close the meeting to the public to discuss Third Party Contract and Personnel as per
FOIP 16 – Disclosure harmful to business interest of a third party
FOIP 23 – Local public body confidences,
FOIP 24 – Advice from Officials

CARRIED UNANIMOUSLY

The meeting was closed to the public at 5:04pm

M2024.79 Moved by Councillor Lacher, Councillor Sereda
that Council open the meeting to the public

CARRIED UNANIMOUSLY

The meeting was opened to the public at 6:49pm

10. ADJOURNMENT

M2024.80 Moved by Councillor Price, Councillor Kolafa
that Council adjourn the meeting

CARRIED UNANIMOUSLY

The meeting was adjourned at 6:50pm

MAYOR

CHIEF ADMINISTRATIVE OFFICER

REQUEST FOR DECISION

| | |
|----------------------|--|
| TITLE: | Drumheller Resiliency and Flood Mitigation Program – Resolution for Expropriation of a Partial Parcel for Berm Construction affecting Plan Nacmine 7125DD, Block "B", Excepting that portion which lies to the east of a line drawn parallel with and one hundred and three (103) feet perpendicularly distant north westerly from the south easterly boundary of said block 44 2 Avenue, Nacmine |
| DATE: | February 26 th , 2024 |
| PRESENTED BY: | Deighen Blakely, P.Eng., Project Director Flood Resiliency Program |
| ATTACHMENTS: | Resolution to Expropriate Notice of Intention to Expropriate Parcel Map – Schedule 'A' |

SUMMARY:

Through the Drumheller Resiliency and Flood Mitigation Program, The Town of Drumheller is undertaking construction of structural flood mitigation in the form of berms. To proceed with construction of the Nacmine Berm starting in the spring of 2025, partial acquisition of land from this parcel is required. Negotiations with the impacted landowner began in August 2023, and have been on-going over the past several months. The subject partial acquisition property owner has not accepted our purchase offers of Fair Market Value, as determined by an appraisal, for the portion of the property needed for berm construction within the timelines given. As such, the next step in obtaining the land required for Nacmine Berm construction is expropriation. A Resolution Approving Expropriation must be passed by Council directing its officers and solicitors to take all necessary steps to complete the expropriation.

RECOMMENDATION:

Administration recommends that Council approve the Resolution for Expropriation and Notice of Intention to Expropriate pertaining to 44 2 Avenue (Plan Nacmine 7125DD, Block "B", Excepting that portion which lies to the east of a line drawn parallel with and one hundred and three (103) feet perpendicularly distant north westerly from the south easterly boundary of said block), as presented.

DISCUSSION:

Under Council Policy C-03-22 for Land Acquisition for the Drumheller Resiliency and Flood Mitigation Program, and the Provincial Grant Funding Agreement for 18GRSTR41, partial parcel acquisitions can be made at the higher of the appraised or assessed value. An offer has been made to the impacted property owner for the Nacmine Berm project on this basis and the offer has been rejected. Expropriation is the next step in acquiring the property needed to construct the berm.

FINANCIAL IMPACT:

The costs of the land purchase and associated legal fees for the proceedings are eligible for 100% funding under the Alberta Government 18GRSTR41 Grant. Alberta Environment and Protected Areas has indicated that they will not compensate for land acquisition over and above the appraised value of the land which has been their practice for all other flood mitigation

projects undertaken in the Province. Damages awarded to plaintiffs due to expropriation of their property may be considered for funding on a case-by-case basis by the Alberta Government. Alberta Environment and Protected Areas' legal team will review the particulars behind any damage award before a decision on whether 18GRSTR41 can be used to support these costs. Any costs deemed ineligible will be the responsibility of the Town.

STRATEGIC POLICY ALIGNMENT:

Town Bylaw 11.21 states that Council's Vision is "*through a proactive flood-mitigation strategy, we are committed to changing the channel on flood readiness with a sustainable plan to protect Drumheller from future flooding. Together, we will shape the future of our community by protecting our people, our property, our economic growth, our environment and our cultural heritage*". Completing the expropriation is required to obtain the property necessary for the berm construction and will allow the Town free access to manage and maintain the new berms and associated infrastructure moving forward.

COMMUNICATION STRATEGY:

Direct notice of the intended expropriation will be provided to the affected property owner, and all parties with a registered interest in the subject lands, as soon as practicably possible given the legislated considerations and the registration delays at Land Titles. Concurrent with the affected property owner being served with Notice of the Intention to Expropriate, same will be advertised twice in the local newspaper 7-14 days apart, as contemplated in the Expropriation Act.


MOTION:

Councillor _____ moves that Council approve the Resolution for Expropriation and Notice of Intention to Expropriate pertaining to a portion of land described as Plan Nacmine 7125DD, Block "B", Excepting that portion which lies to the east of a line drawn parallel with and one hundred and three (103) feet perpendicularly distant north westerly from the south easterly boundary of said block; Title Number 061 102 801.

SECONDED:



Prepared by:
Deighen Blakely, P.Eng.
DRFMO Project Director



Approved by:
Darryl E. Drohomerski, C.E.T.
Chief Administrative Officer

RESOLUTION

REGARDING EXPROPRIATION FOR THE PURPOSE OF ACQUIRING A FEE SIMPLE ESTATE
OVER CERTAIN LANDS LOCATED WITHIN THE TOWN OF DRUMHELLER

WHEREAS the **TOWN OF DRUMHELLER** is desirous of acquiring a fee simple estate for the purposes of facilitating the construction of flood mitigation works to protect surrounding lands from future flooding events in the following lands depicted on Schedule 'A' attached hereto and more particularly described as:

THAT PORTION OF:

"PLAN NACMINE 7125DD
BLOCK "B"
EXCEPTING THAT PORTION WHICH LIES TO THE EAST OF A LINE DRAWN
PARALLEL WITH AND ONE HUNDRED AND THREE (103) FEET PERPENDICULARLY
DISTANT NORTH WESTERLY FROM THE SOUTH EASTERLY BOUNDARY OF SAID
BLOCK
EXCEPTING THEREOUT ALL MINES AND MINERALS"

INCLUDING:

FEE SIMPLE ESTATE WHICH LIES WITHIN:

PLAN
AREA 'A'
EXCEPTING THEREOUT ALL MINES AND MINERALS

(such lands to be the subject of the taking hereinafter referred to as "the Lands").

AND WHEREAS pursuant to the provisions of the *Municipal Government Act*, RSA 2000, c. M-26, as amended, the **TOWN OF DRUMHELLER** has the authority to acquire a fee simple estate with respect to the Lands by expropriation;

AND WHEREAS the **TOWN OF DRUMHELLER** deems it to be in the public interest and good that the estate in fee simple in the Lands be acquired by expropriation;

AND WHEREAS the **TOWN OF DRUMHELLER** is desirous of acquiring the Lands pursuant to the provisions of the *Expropriation Act*, RSA 2000, c. E-13, as amended;

NOW THEREFORE BE IT RESOLVED:

1. THAT the proceedings shall be commenced by the **TOWN OF DRUMHELLER**, its servants, officers or agents to expropriate the Lands, in fee simple estate.
2. THAT the officers, servants or agents of the **TOWN OF DRUMHELLER** and the solicitors for the **TOWN OF DRUMHELLER** be, and are hereby authorized and directed to do all things necessary to initiate, carry out and conclude the expropriation proceedings under the provisions of the *Expropriation Act*, or otherwise and they are hereby authorized and empowered to sign, seal, serve and publish the necessary documents to initiate, proceed with and conclude the said expropriation, as applicable.

EXPROPRIATION ACT
R.S.A. 2000, Chapter E-13, as amended

RESOLUTION

REGARDING EXPROPRIATION FOR THE PURPOSE OF ACQUIRING A FEE SIMPLE ESTATE
OVER CERTAIN LANDS LOCATED WITHIN THE TOWN OF DRUMHELLER

MOVED AND PASSED by Council this ____ day of _____, 2024.

TOWN OF DRUMHELLER

Heather Colberg, Mayor

Darryl Drohomerski, C.E.T.,
Chief Administrative Officer

THE EXPROPRIATION ACT
RSA 2000, Ch. E-13 (Section 8)

NOTICE OF INTENTION TO EXPROPRIATE

1. TAKE NOTICE that the **TOWN OF DRUMHELLER** as Expropriating Authority intends to expropriate the following lands depicted on Schedule 'A' attached hereto and more particularly described as:

THAT PORTION OF:

“PLAN NACMINE 7125DD

BLOCK "B"

EXCEPTING THAT PORTION WHICH LIES TO THE EAST OF A LINE DRAWN

PARALLEL WITH AND ONE HUNDRED AND THREE (103) FEET PERPENDICULARLY

DISTANT NORTH WESTERLY FROM THE SOUTH EASTERLY BOUNDARY OF SAID BLOCK

EXCEPTING THEREOUT ALL MINES AND MINERALS”

INCLUDING:

FEE SIMPLE ESTATE WHICH LIES WITHIN:

PLAN

AREA 'A'

EXCEPTING THEREOUT ALL MINES AND MINERALS

(such lands to be the subject of the taking hereinafter referred to as “the Lands”)

2. The nature of the interest in the Lands intended to be expropriated is: the fee simple estate shown and marked as Area 'A' on Schedule 'A'.
3. The work or purpose for which the interest in the Lands is required is:
- Construction and/or enhancement of existing dikes, berms, retaining walls, erosion protection, overland drainage courses, storm water outfalls, control structures and associated appurtenances;
 - for the retention and development of Natural Areas, Environmental Reserves, Municipal Reserves, Public Utility Lots, and other uses as approved by approval authorities; and
 - access for purposes of construction and/or maintenance of the above.
4. Section 6 of the *Expropriation Act* provides that:

“6(1) No person may in any proceedings under this Act dispute the right of an expropriating authority to have recourse to expropriate.

(2) In any proceedings under this Act the owner may question whether the taking of the land, or the estate or interest therein, is fair, sound and reasonably necessary in the achievement of the objectives of the expropriating authority.”

5. Section 10 of the *Expropriation Act* provides that:

“10(1) An owner who desires an inquiry shall serve the approving authority with a notice of objection,

(a) in the case of an owner served in accordance with section 8(2), within 21 days after service on the owner of the notice of intention; and

(b) in any other case, within 21 days after the first publication of the notice of intention.

- (2) The notice of objection shall state:
- (a) the name and address of the person objecting;
 - (b) the nature of the objection;
 - (c) the grounds on which the objection is based; and
 - (d) the nature of the interest of the person objecting."

6. A person affected by the proposed expropriation does not need to serve an objection to the expropriation in order to preserve his right to have the amount of compensation payable determined by the Alberta Land and Property Rights Tribunal or the Court, as the case may be.
7. The Approving Authority with respect to this expropriation is the **TOWN OF DRUMHELLER** located at 224 Centre Street, Drumheller, Alberta, T0J 0Y4

Dated at the Town of Drumheller, in the Province of Alberta, this ____ day of _____, 2024.

TOWN OF DRUMHELLER

Per: _____
Heather Colberg, Mayor (c/s)

Per: _____
Darryl Drohomerski, C.E.T., Chief Administrative Officer

The full name and address of the expropriating authority is:

TOWN OF DRUMHELLER
Attention: Darryl Drohomerski, C.E.T.
Chief Administrative Officer
224 Centre Street
Drumheller, AB T0J 0Y4
Phone: 403-823-1312
Fax: 403-823-7739
ddrohomerski@drumheller.ca

N.W. 1/4 SEC. 8-29-20-4
(MIDLAND PROVINCIAL PARK)

RED DEER RIVER
RIGHT BANK OF MAIN CHANNEL BY G.W. WALLACE A.L.S. 2023

ISLAND
N.W. 1/4 SEC. 8-29-20-4

CENTRE LINE OF
ABANDONED
CHANNEL

REMAINING RED DEER RIVER SECONDARY CHANNEL

C. OF T.
191 049 429

LOT R
(RESERVE)
PLAN 1721 JK

AREA A
PART OF
BLOCK B
PLAN 7125 DD
C. OF T.
061 102 801

R/W
PLAN 931 2240

C. OF T.
001 142 256

1st STREET

3rd AVENUE

2nd STREET

PLAN 7125 DD

BLOCK 5
PLAN 7125 DD

2nd AVENUE

PLAN 7125 DD
BLOCK A

SEWER LINE R/W

N.A.C. DITCH

LOT 24
BLOCK 11
PLAN 031 1216

LOT 4
BLOCK D
PLAN 3686 JK

BLOCK 4

BLOCK 5

BLOCK 6

BLOCK 7

BLOCK 8

BLOCK 9

BLOCK 10

BLOCK 11

BLOCK 12


**NACMINE DISTRICT
DRUMHELLER, ALBERTA**

PLAN SHOWING AREA TO BE ACQUIRED BY
EXPROPRIATION FOR FLOOD MITIGATION
PURPOSES

AFFECTING PART OF BLOCK B, PLAN 7125 DD
CERTIFICATE OF TITLE NO 061 102 801
WITHIN THE

N.W. 1/4 SEC. 8, TWP. 29, RGE. 20, W. 4M.
SCALE= 1:1000 — 2023-24 — W.R.HUNTER, A.L.S.

LEGEND:

Distances are in metres and decimals thereof.
Area affected by this plan is shown thus... 
And contains 2594.8sq.m. = 27930sq.ft.

| REV. | DATE | DESCRIPTION |
|------|---------------|---------------------------------------|
| 2 | Feb. 20, 2024 | REVISED BOUNDARY LINE |
| 1 | Feb. 7, 2024 | TRAVERSED REMAINING RIVER CHANNEL ADD |
| 0 | Nov. 25, 2023 | ISSUED |

HUNTER SURVEY SYSTEMS LTD.
CALGARY, ALBERTA
FILE: 23-256-C OF T-2AVE NACMINE

REQUEST FOR DECISION

| | |
|----------------------|---|
| TITLE: | Drumheller Resiliency and Flood Mitigation Program – Resolution for Expropriation of a Partial Parcel for Berm Construction affecting Plan Nacmine 7125DD, that portion of the south easterly thirty one and forty hundredths (31.40) metres in perpendicular width of Block "B" which lies to the north east of the south west twenty two and eighty six hundredths (22.86) metres of the said Block "B", excepting thereout: Subdivision Plan 9312239 containing 0.072 hectares (0.180 acres) more or less 287 1 Street, Nacmine |
| DATE: | February 26 th , 2024 |
| PRESENTED BY: | Deighen Blakely, P.Eng., Project Director Flood Resiliency Program |
| ATTACHMENTS: | Resolution to Expropriate Notice of Intention to Expropriate Parcel Map – Schedule 'A' |

SUMMARY:

Through the Drumheller Resiliency and Flood Mitigation Program, The Town of Drumheller is undertaking construction of structural flood mitigation in the form of berms. To proceed with construction of the Nacmine Berm starting in the spring of 2025, partial acquisition of land from this parcel is required. Negotiations with the impacted landowners began in August 2023, and have been on-going over the past several months. The subject partial acquisition property owners have not accepted our purchase offers of Fair Market Value, as determined by an appraisal, for the portion of the property needed for berm construction within the timelines given. As such, the next step in obtaining the land required for Nacmine Berm construction is expropriation. A Resolution Approving Expropriation must be passed by Council directing its officers and solicitors to take all necessary steps to complete the expropriation.

RECOMMENDATION:

Administration recommends that Council approve the Resolution for Expropriation and Notice of Intention to Expropriate pertaining to 287 1 Street (Plan Nacmine 7125DD, that portion of the south easterly thirty one and forty hundredths (31.40) metres in perpendicular width of Block "B" which lies to the north east of the south west twenty two and eighty six hundredths (22.86) metres of the said Block "B", excepting thereout: Subdivision Plan 9312239 containing 0.072 hectares (0.180 acres) more or less), as presented.

DISCUSSION:

Under Council Policy C-03-22 for Land Acquisition for the Drumheller Resiliency and Flood Mitigation Program, and the Provincial Grant Funding Agreement for 18GRSTR41, partial parcel acquisitions can be made at the higher of the appraised or assessed value. An offer has been made to the impacted property owners for the Nacmine Berm project on this basis and the offer has been rejected. Expropriation is the next step in acquiring the property needed to construct the berm.

FINANCIAL IMPACT:

The costs of the land purchase and associated legal fees for the proceedings are eligible for 100% funding under the Alberta Government 18GRSTR41 Grant. Alberta Environment and Protected Areas has indicated that they will not compensate for land acquisition over and above the appraised value of the land which has been their practice for all other flood mitigation projects undertaken in the Province. Damages awarded to plaintiffs due to expropriation of their property may be considered for funding on a case-by-case basis by the Alberta Government. Alberta Environment and Protected Areas' legal team will review the particulars behind any damage award before a decision on whether 18GRSTR41 can be used to support these costs. Any costs deemed ineligible will be the responsibility of the Town.

STRATEGIC POLICY ALIGNMENT:

Town Bylaw 11.21 states that Council's Vision is "*through a proactive flood-mitigation strategy, we are committed to changing the channel on flood readiness with a sustainable plan to protect Drumheller from future flooding. Together, we will shape the future of our community by protecting our people, our property, our economic growth, our environment and our cultural heritage*". Completing the expropriation is required to obtain the property necessary for the berm construction and will allow the Town free access to manage and maintain the new berms and associated infrastructure moving forward.


COMMUNICATION STRATEGY:

Direct notice of the intended expropriation will be provided to the affected property owners, and all parties with a registered interest in the subject lands, as soon as practicably possible given the legislated considerations and the registration delays at Land Titles. Concurrent with the affected property owners being served with Notice of the Intention to Expropriate, same will be advertised twice in the local newspaper 7-14 days apart, as contemplated in the Expropriation Act.


MOTION:

Councillor _____ moves that Council approve the Resolution for Expropriation and Notice of Intention to Expropriate pertaining to a portion of land described as Plan Nacmine 7125DD, that portion of the south easterly thirty one and forty hundredths (31.40) metres in perpendicular width of Block "B" which lies to the north east of the south west twenty two and eighty six hundredths (22.86) metres of the said Block "B", excepting thereout: Subdivision Plan 9312239 containing 0.072 hectares (0.180 acres) more or less; Title Number 001 142 256.

SECONDED:



Prepared by:
Deighen Blakely, P.Eng.
DRFMO Project Director



Approved by:
Darryl E. Drohomerski, C.E.T.
Chief Administrative Officer

EXPROPRIATION ACT
R.S.A. 2000, Chapter E-13, as amended

RESOLUTION

REGARDING EXPROPRIATION FOR THE PURPOSE OF ACQUIRING A FEE SIMPLE ESTATE
OVER CERTAIN LANDS LOCATED WITHIN THE TOWN OF DRUMHELLER

WHEREAS the **TOWN OF DRUMHELLER** is desirous of acquiring a fee simple estate for the purposes of facilitating the construction of flood mitigation works to protect surrounding lands from future flooding events in the following lands depicted on Schedule 'A' attached hereto and more particularly described as:

THAT PORTION OF:

"PLAN NACMINE 7125DD
THAT PORTION OF THE SOUTH EASTERLY THIRTY ONE AND FORTY
HUNDREDTHS
(31.40) METRES IN PERPENDICULAR WIDTH OF BLOCK "B" WHICH LIES TO
THE NORTH EAST OF THE SOUTH WEST TWENTY TWO AND EIGHTY SIX
HUNDREDTHS (22.86) METRES OF THE SAID BLOCK "B"
EXCEPTING THEREOUT:
SUBDIVISION PLAN 9312239 CONTAINING 0.072 HECTARES
(0.180 ACRES) MORE OR LESS
EXCEPTING THEREOUT ALL MINES AND MINERALS"

INCLUDING:

FEE SIMPLE ESTATE WHICH LIES WITHIN:

PLAN
AREA 'A'
EXCEPTING THEREOUT ALL MINES AND MINERALS

(such lands to be the subject of the taking hereinafter referred to as "the Lands").

AND WHEREAS pursuant to the provisions of the *Municipal Government Act*, RSA 2000, c. M-26, as amended, the **TOWN OF DRUMHELLER** has the authority to acquire a fee simple estate with respect to the Lands by expropriation;

AND WHEREAS the **TOWN OF DRUMHELLER** deems it to be in the public interest and good that the estate in fee simple in the Lands be acquired by expropriation;

AND WHEREAS the **TOWN OF DRUMHELLER** is desirous of acquiring the Lands pursuant to the provisions of the *Expropriation Act*, RSA 2000, c. E-13, as amended;

NOW THEREFORE BE IT RESOLVED:

1. THAT the proceedings shall be commenced by the **TOWN OF DRUMHELLER**, its servants, officers or agents to expropriate the Lands, in fee simple estate.
2. THAT the officers, servants or agents of the **TOWN OF DRUMHELLER** and the solicitors for the **TOWN OF DRUMHELLER** be, and are hereby authorized and directed to do all things necessary to initiate, carry out and conclude the expropriation proceedings under the provisions of the *Expropriation Act*, or otherwise and they are hereby authorized and empowered to sign, seal, serve and publish the necessary documents to initiate, proceed with and conclude the said expropriation, as applicable.

EXPROPRIATION ACT
R.S.A. 2000, Chapter E-13, as amended

RESOLUTION

REGARDING EXPROPRIATION FOR THE PURPOSE OF ACQUIRING A FEE SIMPLE ESTATE
OVER CERTAIN LANDS LOCATED WITHIN THE TOWN OF DRUMHELLER

MOVED AND PASSED by Council this _____ day of _____, 2024.

TOWN OF DRUMHELLER

Heather Colberg, Mayor

Darryl Drohomerski, C.E.T.,
Chief Administrative Officer

THE EXPROPRIATION ACT
RSA 2000, Ch. E-13 (Section 8)

NOTICE OF INTENTION TO EXPROPRIATE

1. TAKE NOTICE that the **TOWN OF DRUMHELLER** as Expropriating Authority intends to expropriate the following lands depicted on Schedule 'A' attached hereto and more particularly described as:

THAT PORTION OF:

“PLAN NACMINE 7125DD

THAT PORTION OF THE SOUTH EASTERLY THIRTY ONE AND FORTY HUNDREDTHS (31.40) METRES IN PERPENDICULAR WIDTH OF BLOCK "B" WHICH LIES TO THE NORTH EAST OF THE SOUTH WEST TWENTY TWO AND EIGHTY SIX HUNDREDTHS (22.86) METRES OF THE SAID BLOCK "B"

EXCEPTING THEREOUT:

SUBDIVISION PLAN 9312239 CONTAINING 0.072 HECTARES

(0.180 ACRES) MORE OR LESS

EXCEPTING THEREOUT ALL MINES AND MINERALS”

INCLUDING:

FEE SIMPLE ESTATE WHICH LIES WITHIN:

PLAN

AREA 'A'

EXCEPTING THEREOUT ALL MINES AND MINERALS

(such lands to be the subject of the taking hereinafter referred to as “the Lands”)

2. The nature of the interest in the Lands intended to be expropriated is: the fee simple estate shown and marked as Area 'A' on Schedule 'A'.

3. The work or purpose for which the interest in the Lands is required is:

- Construction and/or enhancement of existing dikes, berms, retaining walls, erosion protection, overland drainage courses, storm water outfalls, control structures and associated appurtenances;
- for the retention and development of Natural Areas, Environmental Reserves, Municipal Reserves, Public Utility Lots, and other uses as approved by approval authorities; and
- access for purposes of construction and/or maintenance of the above.

4. Section 6 of the *Expropriation Act* provides that:

“6(1) No person may in any proceedings under this Act dispute the right of an expropriating authority to have recourse to expropriate.

(2) In any proceedings under this Act the owner may question whether the taking of the land, or the estate or interest therein, is fair, sound and reasonably necessary in the achievement of the objectives of the expropriating authority.”

5. Section 10 of the *Expropriation Act* provides that:

“10(1) An owner who desires an inquiry shall serve the approving authority with a notice of objection,

(a) in the case of an owner served in accordance with section 8(2), within 21 days after service on the owner of the notice of intention; and

(b) in any other case, within 21 days after the first publication of the notice of intention.

- (2) The notice of objection shall state:
- (a) the name and address of the person objecting;
 - (b) the nature of the objection;
 - (c) the grounds on which the objection is based; and
 - (d) the nature of the interest of the person objecting."

6. A person affected by the proposed expropriation does not need to serve an objection to the expropriation in order to preserve his right to have the amount of compensation payable determined by the Alberta Land and Property Rights Tribunal or the Court, as the case may be.
7. The Approving Authority with respect to this expropriation is the **TOWN OF DRUMHELLER** located at 224 Centre Street, Drumheller, Alberta, T0J 0Y4

Dated at the Town of Drumheller, in the Province of Alberta, this ____ day of _____, 2024.

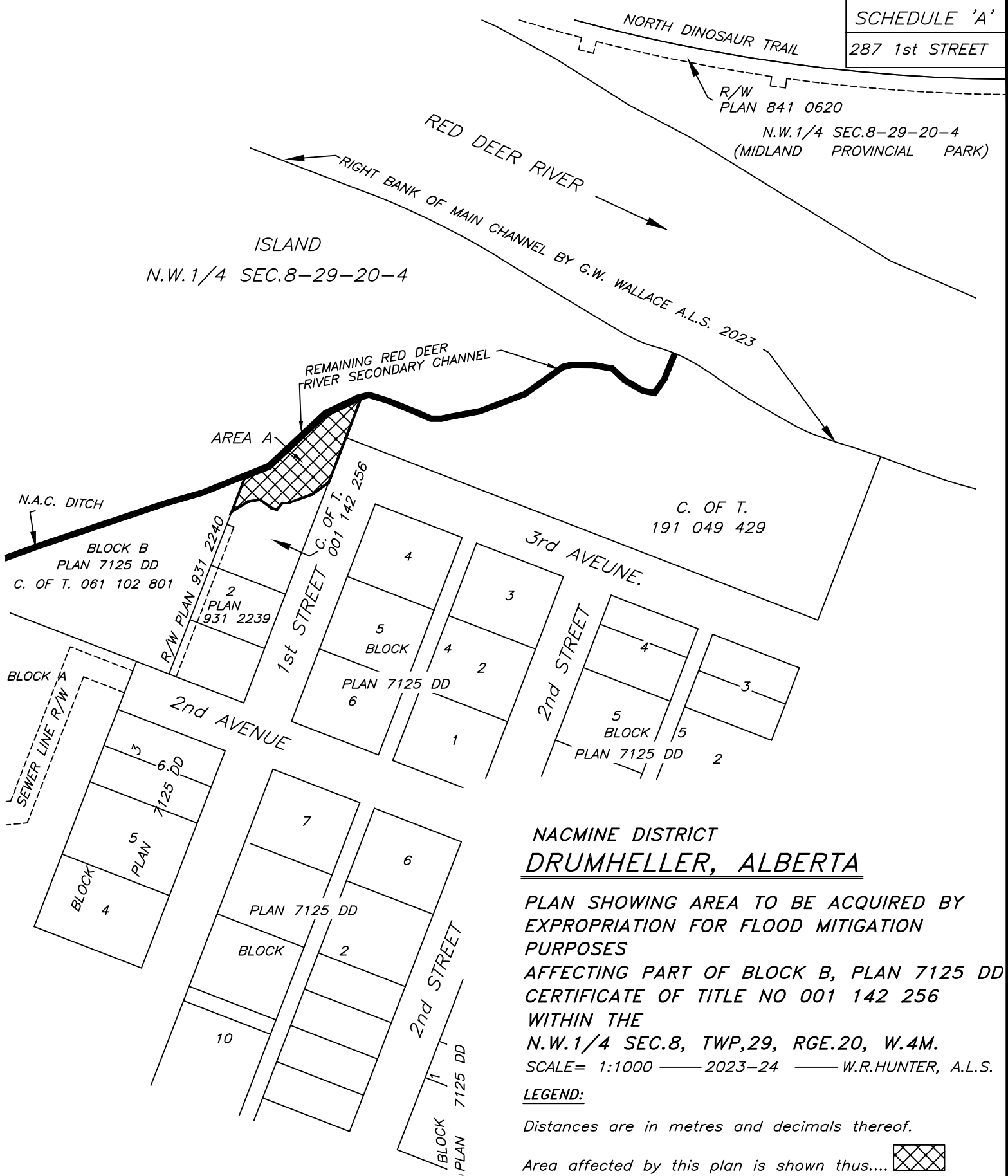
TOWN OF DRUMHELLER

Per: _____
Heather Colberg, Mayor (c/s)

Per: _____
Darryl Drohomerski, C.E.T., Chief Administrative Officer


The full name and address of the expropriating authority is:

TOWN OF DRUMHELLER
Attention: Darryl Drohomerski, C.E.T.
Chief Administrative Officer
224 Centre Street
Drumheller, AB T0J 0Y4
Phone: 403-823-1312
Fax: 403-823-7739
ddrohomerski@drumheller.ca



**NACMINE DISTRICT
DRUMHELLER, ALBERTA**

PLAN SHOWING AREA TO BE ACQUIRED BY
EXPROPRIATION FOR FLOOD MITIGATION
PURPOSES
AFFECTING PART OF BLOCK B, PLAN 7125 DD
CERTIFICATE OF TITLE NO 001 142 256
WITHIN THE
N.W.1/4 SEC.8, TWP,29, RGE.20, W.4M.
SCALE= 1:1000 — 2023-24 — W.R.HUNTER, A.L.S.

LEGEND:
Distances are in metres and decimals thereof.
Area affected by this plan is shown thus.... 
And contains 820sq.m. = 8828sq.ft.

| REV. | DATE | DESCRIPTION |
|------|---------------|---------------------------------------|
| 2 | Feb 12, 2024 | TITLE NUMBER CORRECTION |
| 1 | Feb 7, 2024 | TRAVERSED REMAINING RIVER CHANNEL ADD |
| 0 | Nov. 27, 2023 | ISSUED |

HUNTER SURVEY SYSTEMS LTD.
CALGARY, ALBERTA
FILE: 23-256-C OF T-1ST NACMINE

REQUEST FOR DECISION

| | |
|----------------------|---|
| TITLE: | Drumheller Resiliency and Flood Mitigation Program – Resolution for Expropriation of a Partial Parcel for Berm Construction affecting That portion of the north west quarter of Section 8 Township 29 Range 20 West of the 4 Meridian described as follows: commencing at the point of intersection of the north easterly limit of 3 Avenue with the northerly production of the north westerly limit of 3 Street as said avenue and street are shown on Plan Nacmine 7125DD thence northerly along said production of said limit of 3 Street to the right bank of the Red Deer River shown on Plan 53/46 thence westerly along said right bank to its intersection with the said north easterly limit of 3 Avenue thence south easterly along said limit to the point of commencement containing 0.648 hectares (1.6 acres) more or less 301 3 Street, Nacmine |
| DATE: | February 26 th , 2024 |
| PRESENTED BY: | Deighen Blakely, P.Eng., Project Director Flood Resiliency Program |
| ATTACHMENTS: | Resolution to Expropriate Notice of Intention to Expropriate Parcel Map – Schedule ‘A’ |

SUMMARY:

Through the Drumheller Resiliency and Flood Mitigation Program, The Town of Drumheller is undertaking construction of structural flood mitigation in the form of berms. To proceed with construction of the Nacmine Berm starting in the spring of 2025, partial acquisition of land from this parcel is required. Negotiations with the impacted landowner began in August 2023, and have been on-going over the past several months. The subject partial acquisition property owner has not accepted our purchase offers of Fair Market Value, as determined by an appraisal, for the portion of the property needed for berm construction within the timelines given. As such, the next step in obtaining the land required for Nacmine Berm construction is expropriation. A Resolution Approving Expropriation was originally approved by Council on December 4, 2023, however, it was not subsequently registered with Land Titles, as further clarification was required regarding the actual land boundary. Alberta Public Lands Water Boundaries Group has recently provided feedback on the riverside boundary of this lot and a new Resolution Approving Expropriation is being submitted with the amended area of the taking. The amended Resolution Approving Expropriation must be passed by Council directing its officers and solicitors to take all necessary steps to complete the expropriation.

RECOMMENDATION:

Administration recommends that Council approve the Resolution for Expropriation and Notice of Intention to Expropriate pertaining to 301 3 Street (that portion of the north west quarter of Section 8 Township 29 Range 20 West of the 4 Meridian described as follows: commencing at the point of intersection of the north easterly limit of 3 Avenue with the northerly production of the north westerly limit of 3 Street as said avenue and street are shown on Plan Nacmine 7125DD thence northerly along said production of said limit of 3 Street to the right bank of the Red Deer River shown on Plan 53/46 thence westerly along said right bank to its intersection with the said north easterly limit of 3 Avenue thence south easterly along said limit to the point of commencement containing 0.648 hectares (1.6 acres) more or less), as presented.

DISCUSSION:

Under Council Policy C-03-22 for Land Acquisition for the Drumheller Resiliency and Flood

Mitigation Program, and the Provincial Grant Funding Agreement for 18GRSTR41, partial parcel acquisitions can be made at the higher of the appraised or assessed value. An offer has been made to the impacted property owner for the Nacmine Berm project on this basis and the offer has been rejected. Expropriation is the next step in acquiring the property needed to construct the berm.

FINANCIAL IMPACT:

The costs of the land purchase and associated legal fees for the proceedings are eligible for 100% funding under the Alberta Government 18GRSTR41 Grant. Alberta Environment and Protected Areas has indicated that they will not compensate for land acquisition over and above the appraised value of the land which has been their practice for all other flood mitigation projects undertaken in the Province. Damages awarded to plaintiffs due to expropriation of their property may be considered for funding on a case-by-case basis by the Alberta Government. Alberta Environment and Protected Areas' legal team will review the particulars behind any damage award before a decision on whether 18GRSTR41 can be used to support these costs. Any costs deemed ineligible will be the responsibility of the Town.

STRATEGIC POLICY ALIGNMENT:

Town Bylaw 11.21 states that Council's Vision is *"through a proactive flood-mitigation strategy, we are committed to changing the channel on flood readiness with a sustainable plan to protect Drumheller from future flooding. Together, we will shape the future of our community by protecting our people, our property, our economic growth, our environment and our cultural heritage"*. Completing the expropriation is required to obtain the property necessary for the berm construction and will allow the Town free access to manage and maintain the new berms and associated infrastructure moving forward.


COMMUNICATION STRATEGY:


Direct notice of the intended expropriation will be provided to the affected property owner, and all parties with a registered interest in the subject lands, as soon as practicably possible given the legislated considerations and the registration delays at Land Titles. Concurrent with the affected property owner being served with Notice of the Intention to Expropriate, same will be advertised twice in the local newspaper 7-14 days apart, as contemplated in the Expropriation Act.

MOTION:

Councillor _____ moves that Council approve the Resolution for Expropriation and Notice of Intention to Expropriate pertaining to a portion of land described as that portion of the north west quarter of Section 8 Township 29 Range 20 West of the 4 Meridian described as follows: commencing at the point of intersection of the north easterly limit of 3 Avenue with the northerly production of the north westerly limit of 3 Street as said avenue and street are shown on Plan Nacmine 7125DD thence northerly along said production of said limit of 3 Street to the right bank of the Red Deer River shown on Plan 53/46 thence westerly along said right bank to its intersection with the said north easterly limit of 3 Avenue thence south easterly along said limit to the point of commencement containing 0.648 hectares (1.6 acres) more or less; Title Number 191 049 429.

SECONDED:


Prepared by:
Deighen Blakely, P.Eng.
DRFMO Project Director


Approved by:
Darryl E. Drohomerski, C.E.T.
Chief Administrative Officer

RESOLUTION

REGARDING EXPROPRIATION FOR THE PURPOSE OF ACQUIRING A FEE SIMPLE ESTATE
OVER CERTAIN LANDS LOCATED WITHIN THE TOWN OF DRUMHELLER

WHEREAS the **TOWN OF DRUMHELLER** is desirous of acquiring a fee simple estate for the purposes of facilitating the construction of flood mitigation works to protect surrounding lands from future flooding events in the following lands depicted on Schedule 'A' attached hereto and more particularly described as:

THAT PORTION OF:

"THE NORTH WEST QUARTER OF SECTION 8
TOWNSHIP 29
RANGE 20

WEST OF THE 4 MERIDIAN

DESCRIBED AS FOLLOWS:

COMMENCING AT THE POINT OF INTERSECTION OF THE NORTH EASTERLY LIMIT
OF 3 AVENUE WITH THE NORTHERLY PRODUCTION OF THE NORTH WESTERLY LIMIT
OF 3 STREET AS SAID AVENUE AND STREET ARE SHOWN ON PLAN NACMINE 7125DD
THENCE NORTHERLY ALONG SAID PRODUCTION OF SAID LIMIT OF 3 STREET TO THE
RIGHT BANK OF THE RED DEER RIVER SHOWN ON PLAN 53/46
THENCE WESTERLY ALONG SAID RIGHT BANK TO ITS INTERSECTION WITH
THE SAID NORTH EASTERLY LIMIT OF 3 AVENUE
THENCE SOUTH EASTERLY ALONG SAID LIMIT TO THE POINT OF COMMENCEMENT
CONTAINING 0.648 HECTARES (1.6 ACRES) MORE OR LESS
EXCEPTING THEREOUT ALL MINES AND MINERALS"

INCLUDING:

FEE SIMPLE ESTATE WHICH LIES WITHIN:

PLAN

AREA 'A'

EXCEPTING THEREOUT ALL MINES AND MINERALS

(such lands to be the subject of the taking hereinafter referred to as "the Lands").

AND WHEREAS pursuant to the provisions of the *Municipal Government Act*, RSA 2000, c. M-26, as amended, the **TOWN OF DRUMHELLER** has the authority to acquire a fee simple estate with respect to the Lands by expropriation;

AND WHEREAS the **TOWN OF DRUMHELLER** deems it to be in the public interest and good that the estate in fee simple in the Lands be acquired by expropriation;

AND WHEREAS the **TOWN OF DRUMHELLER** is desirous of acquiring the Lands pursuant to the provisions of the *Expropriation Act*, RSA 2000, c. E-13, as amended;

NOW THEREFORE BE IT RESOLVED:

1. THAT the proceedings shall be commenced by the **TOWN OF DRUMHELLER**, its servants, officers or agents to expropriate the Lands, in fee simple estate.

2. THAT the officers, servants or agents of the **TOWN OF DRUMHELLER** and the solicitors for the **TOWN OF DRUMHELLER** be, and are hereby authorized and directed to do all things necessary to initiate, carry out and conclude the expropriation proceedings under the provisions of the *Expropriation Act*, or otherwise and they are hereby authorized and empowered to sign, seal, serve and publish the necessary documents to initiate, proceed with and conclude the said expropriation, as applicable.

EXPROPRIATION ACT
R.S.A. 2000, Chapter E-13, as amended

RESOLUTION

REGARDING EXPROPRIATION FOR THE PURPOSE OF ACQUIRING A FEE SIMPLE ESTATE
OVER CERTAIN LANDS LOCATED WITHIN THE TOWN OF DRUMHELLER

MOVED AND PASSED by Council this _____ day of _____, 2024.

TOWN OF DRUMHELLER

Heather Colberg, Mayor

Darryl Drohomerski, C.E.T.,
Chief Administrative Officer

THE EXPROPRIATION ACT
RSA 2000, Ch. E-13 (Section 8)

NOTICE OF INTENTION TO EXPROPRIATE

1. TAKE NOTICE that the **TOWN OF DRUMHELLER** as Expropriating Authority intends to expropriate the following lands depicted on Schedule 'A' attached hereto and more particularly described as:

THAT PORTION OF:

“THE NORTH WEST QUARTER OF SECTION 8
TOWNSHIP 29
RANGE 20

WEST OF THE 4 MERIDIAN

DESCRIBED AS FOLLOWS:

COMMENCING AT THE POINT OF INTERSECTION OF THE NORTH EASTERLY LIMIT OF 3 AVENUE WITH THE NORTHERLY PRODUCTION OF THE NORTH WESTERLY LIMIT OF 3 STREET AS SAID AVENUE AND STREET ARE SHOWN ON PLAN NACMINE 7125DD THENCE NORTHERLY ALONG SAID PRODUCTION OF SAID LIMIT OF 3 STREET TO THE RIGHT BANK OF THE RED DEER RIVER SHOWN ON PLAN 53/46 THENCE WESTERLY ALONG SAID RIGHT BANK TO ITS INTERSECTION WITH THE SAID NORTH EASTERLY LIMIT OF 3 AVENUE THENCE SOUTH EASTERLY ALONG SAID LIMIT TO THE POINT OF COMMENCEMENT CONTAINING 0.648 HECTARES (1.6 ACRES) MORE OR LESS EXCEPTING THEREOUT ALL MINES AND MINERALS”

INCLUDING:

FEE SIMPLE ESTATE WHICH LIES WITHIN:

PLAN

AREA 'A'

EXCEPTING THEREOUT ALL MINES AND MINERALS

(such lands to be the subject of the taking hereinafter referred to as “the Lands”)

2. The nature of the interest in the Lands intended to be expropriated is: the fee simple estate shown and marked as Area 'A' on Schedule 'A'.
3. The work or purpose for which the interest in the Lands is required is:
- Construction and/or enhancement of existing dikes, berms, retaining walls, erosion protection, overland drainage courses, storm water outfalls, control structures and associated appurtenances;
 - for the retention and development of Natural Areas, Environmental Reserves, Municipal Reserves, Public Utility Lots, and other uses as approved by approval authorities; and
 - access for purposes of construction and/or maintenance of the above.
4. Section 6 of the *Expropriation Act* provides that:
- “6(1) No person may in any proceedings under this Act dispute the right of an expropriating authority to have recourse to expropriate.
- (2) In any proceedings under this Act the owner may question whether the taking of the land, or the estate or interest therein, is fair, sound and reasonably necessary in the achievement of the objectives of the expropriating authority.”
5. Section 10 of the *Expropriation Act* provides that:

- “10(1) An owner who desires an inquiry shall serve the approving authority with a notice of objection,
- (a) in the case of an owner served in accordance with section 8(2), within 21 days after service on the owner of the notice of intention; and
 - (b) in any other case, within 21 days after the first publication of the notice of intention.
- (2) The notice of objection shall state:
- (a) the name and address of the person objecting;
 - (b) the nature of the objection;
 - (c) the grounds on which the objection is based; and
 - (d) the nature of the interest of the person objecting.”

- 6. A person affected by the proposed expropriation does not need to serve an objection to the expropriation in order to preserve his right to have the amount of compensation payable determined by the Alberta Land and Property Rights Tribunal or the Court, as the case may be.
- 7. The Approving Authority with respect to this expropriation is the **TOWN OF DRUMHELLER** located at 224 Centre Street, Drumheller, Alberta, T0J 0Y4

Dated at the Town of Drumheller, in the Province of Alberta, this ____ day of _____, 2024.

TOWN OF DRUMHELLER

Per: _____
Heather Colberg, Mayor (c/s)

Per: _____
Darryl Drohomerski, C.E.T., Chief Administrative Officer

The full name and address of the expropriating authority is:

TOWN OF DRUMHELLER
Attention: Darryl Drohomerski, C.E.T.
Chief Administrative Officer
224 Centre Street
Drumheller, AB T0J 0Y4
Phone: 403-823-1312
Fax: 403-823-7739
ddrohomerski@drumheller.ca

NORTH DINOSAUR TRAIL

R/W
PLAN 841 0620

N.W.1/4 SEC.8-29-20-4
(MIDLAND PROVINCIAL PARK)

RIGHT BANK OF MAIN CHANNEL BY G.W. WALLACE A.L.S. 2023
RED DEER RIVER

ISLAND
N.W.1/4 SEC.8-29-20-4

REMAINING RED DEER RIVER SECONDARY CHANNEL

N.A.C. DITCH

N.W.1/4 SEC.8-29-20-4
AREA A

C. OF T.
191 049 429

3rd AVENUE

7125 DD
B

1st STREET

PLAN 7125 DD
6

2nd STREET

PLAN 7125 DD
2

3rd STREET

PLAN 7935 EM


2nd AVENUE

**NACMINE DISTRICT
DRUMHELLER, ALBERTA**

PLAN SHOWING AREA TO BE ACQUIRED BY EXPROPRIATION FOR FLOOD MITIGATION PURPOSES AFFECTING PART OF C. OF T. 191 049 429 WITHIN THE N.W.1/4 SEC.8, TWP,29, RGE.20, W.4M. SCALE= 1:1000 — 2023-24 — W.R.HUNTER, A.L.S.

LEGEND:

Distances are in metres and decimals thereof.

Area affected by this plan is shown thus... 
And contains 7481sq.m. = 80525sq.ft.



| REV. | DATE | DESCRIPTION |
|------|---------------|---------------------------------------|
| 1 | Feb. 7, 2024 | TRAVERSED REMAINING RIVER CHANNEL ADD |
| 0 | Nov. 27, 2023 | ISSUED |

HUNTER SURVEY SYSTEMS LTD.
CALGARY, ALBERTA
FILE: 23-256-C OF T NACMINE

REQUEST FOR DECISION

| | |
|----------------------|---|
| TITLE: | Drumheller Resiliency and Flood Mitigation Program – Resolution for Expropriation of One Parcel for Berm Construction affecting Lot 18A, Block 10, Plan 9410239 492 Railway Avenue, Rosedale |
| DATE: | February 26 th , 2024 |
| PRESENTED BY: | Deighen Blakely, P.Eng., Project Director Flood Resiliency Program |
| ATTACHMENTS: | Resolution to Expropriate Notice of Intent to Expropriate Parcel Map – Schedule ‘A’ |

SUMMARY:

Through the Drumheller Resiliency and Flood Mitigation Program, The Town of Drumheller is undertaking construction of structural flood mitigation in the form of berms. To proceed with construction of the Rosedale Berm starting in the spring of 2025, full acquisition of this parcel is required. Negotiations with the impacted landowner began in October 2023, and have been ongoing over the past several months. The subject full acquisition property owner has not accepted our purchase offers of Fair Market Value, as determined by an appraisal, within the timelines given. As such, the next step in obtaining the land required for Rosedale Berm construction is expropriation. A Resolution Approving Expropriation must be passed by Council directing its officers and solicitors to take all necessary steps to complete the expropriation.

RECOMMENDATION:

Administration recommends that Council approve the Resolution for Expropriation and Notice of Intention to Expropriate pertaining to 492 Railway Avenue (9410239;10;18A), as presented.

DISCUSSION:

Under Council Policy C-03-22 for Land Acquisition for the Drumheller Resiliency and Flood Mitigation Program, and the Provincial Grant Funding Agreement for 18GRSTR41, parcel acquisitions can be made at the higher of the appraised or assessed value. An offer has been made to the impacted property owner for the Rosedale Berm project on this basis and the offer has been rejected. Expropriation is the next step in acquiring the property needed to construct the berm.

FINANCIAL IMPACT:

The costs of the land purchase and associated legal fees for the proceedings are eligible for 100% funding under the Alberta Government 18GRSTR41 Grant. Alberta Environment and Protected Areas has indicated that they will not compensate for land acquisition over and above the appraised value of the land which has been their practice for all other flood mitigation projects undertaken in the Province. Damages awarded to plaintiffs due to expropriation of their property may be considered for funding on a case-by-case basis by the Alberta Government. Alberta Environment and Protected Areas’ legal team will review the particulars behind any damage award before a decision on whether 18GRSTR41 can be used to support these costs. Any costs deemed ineligible will be the responsibility of the Town.

STRATEGIC POLICY ALIGNMENT:

Town Bylaw 11.21 states that Council's Vision is "*through a proactive flood-mitigation strategy, we are committed to changing the channel on flood readiness with a sustainable plan to protect Drumheller from future flooding. Together, we will shape the future of our community by protecting our people, our property, our economic growth, our environment and our cultural heritage*". Completing the expropriation is required to obtain the property necessary for the berm construction and will allow the Town free access to manage and maintain the new berms and associated infrastructure moving forward.

COMMUNICATION STRATEGY:

Direct notice of the intended expropriation will be provided to the affected property owner, and all parties with a registered interest in the subject lands, as soon as practicably possible given the legislated considerations and the registration delays at Land Titles. Concurrent with the affected property owner being served with Notice of the Intention to Expropriate, same will be advertised twice in the local newspaper 7-14 days apart, as contemplated in the Expropriation Act.

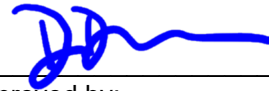
MOTION:

Councillor _____ moves that Council approve the Resolution for Expropriation and Notice of Intention to Expropriate pertaining to the parcel of land described as Lot 18A, Block 10, Plan 9410239; Title Number 201 030 219.

SECONDED:



Prepared by:
Deighen Blakely, P.Eng.
DRFMO Project Director



Approved by:
Darryl E. Drohomerski, C.E.T.
Chief Administrative Officer

RESOLUTION

REGARDING EXPROPRIATION FOR THE PURPOSE OF ACQUIRING A FEE SIMPLE ESTATE
OVER CERTAIN LANDS LOCATED WITHIN THE TOWN OF DRUMHELLER

WHEREAS the **TOWN OF DRUMHELLER** is desirous of acquiring a fee simple estate for the purposes of facilitating the construction of flood mitigation works to protect surrounding lands from future flooding events in the following lands depicted on Schedule 'A' attached hereto and more particularly described as:

PLAN 9410239
BLOCK 10
LOT 18A
EXCEPTING THEREOUT ALL MINES AND MINERALS

(such lands to be the subject of the taking hereinafter referred to as "the Lands").

AND WHEREAS pursuant to the provisions of the *Municipal Government Act*, RSA 2000, c. M-26, as amended, the **TOWN OF DRUMHELLER** has the authority to acquire a fee simple estate with respect to the Lands by expropriation;

AND WHEREAS the **TOWN OF DRUMHELLER** deems it to be in the public interest and good that the estate in fee simple in the Lands be acquired by expropriation;

AND WHEREAS the **TOWN OF DRUMHELLER** is desirous of acquiring the Lands pursuant to the provisions of the *Expropriation Act*, RSA 2000, c. E-13, as amended;

NOW THEREFORE BE IT RESOLVED:

1. THAT the proceedings shall be commenced by the **TOWN OF DRUMHELLER**, its servants, officers or agents to expropriate the Lands, in fee simple estate.
2. THAT the officers, servants or agents of the **TOWN OF DRUMHELLER** and the solicitors for the **TOWN OF DRUMHELLER** be, and are hereby authorized and directed to do all things necessary to initiate, carry out and conclude the expropriation proceedings under the provisions of the *Expropriation Act*, or otherwise and they are hereby authorized and empowered to sign, seal, serve and publish the necessary documents to initiate, proceed with and conclude the said expropriation, as applicable.

MOVED AND PASSED by Council this _____ day of _____, 2024.

TOWN OF DRUMHELLER

Heather Colberg, Mayor

Darryl Drohomerski, C.E.T.,
Chief Administrative Officer

THE EXPROPRIATION ACT
RSA 2000, Ch. E-13 (Section 8)

NOTICE OF INTENTION TO EXPROPRIATE

1. TAKE NOTICE that the **TOWN OF DRUMHELLER** as Expropriating Authority intends to expropriate the following lands depicted on Schedule 'A' attached hereto and more particularly described as:

PLAN 9410239
BLOCK 10
LOT 18A
EXCEPTING THEREOUT ALL MINES AND MINERALS

(such lands to be the subject of the taking hereinafter referred to as "the Lands")

2. The nature of the interest in the Lands intended to be expropriated is: fee simple.
3. The work or purpose for which the interest in the Lands is required is:
- Construction and/or enhancement of existing dikes, berms, retaining walls, erosion protection, overland drainage courses, storm water outfalls, control structures and associated appurtenances;
 - for the retention and development of Natural Areas, Environmental Reserves, Municipal Reserves, Public Utility Lots, and other uses as approved by approval authorities; and
 - access for purposes of construction and/or maintenance of the above.
4. Section 6 of the *Expropriation Act* provides that:
- "6(1) No person may in any proceedings under this Act dispute the right of an expropriating authority to have recourse to expropriate.
 - (2) In any proceedings under this Act the owner may question whether the taking of the land, or the estate or interest therein, is fair, sound and reasonably necessary in the achievement of the objectives of the expropriating authority."
5. Section 10 of the *Expropriation Act* provides that:
- "10(1) An owner who desires an inquiry shall serve the approving authority with a notice of objection,
 - (a) in the case of an owner served in accordance with section 8(2), within 21 days after service on the owner of the notice of intention; and
 - (b) in any other case, within 21 days after the first publication of the notice of intention.
 - (2) The notice of objection shall state:
 - (a) the name and address of the person objecting;
 - (b) the nature of the objection;
 - (c) the grounds on which the objection is based; and
 - (d) the nature of the interest of the person objecting."
6. A person affected by the proposed expropriation does not need to serve an objection to the expropriation in order to preserve his right to have the amount of compensation payable determined by the Alberta Land and Property Rights Tribunal or the Court, as the case may be.

7. The Approving Authority with respect to this expropriation is the **TOWN OF DRUMHELLER** located at 224 Centre Street, Drumheller, Alberta, T0J 0Y4

Dated at the Town of Drumheller, in the Province of Alberta, this ____ day of _____, 2024.

TOWN OF DRUMHELLER

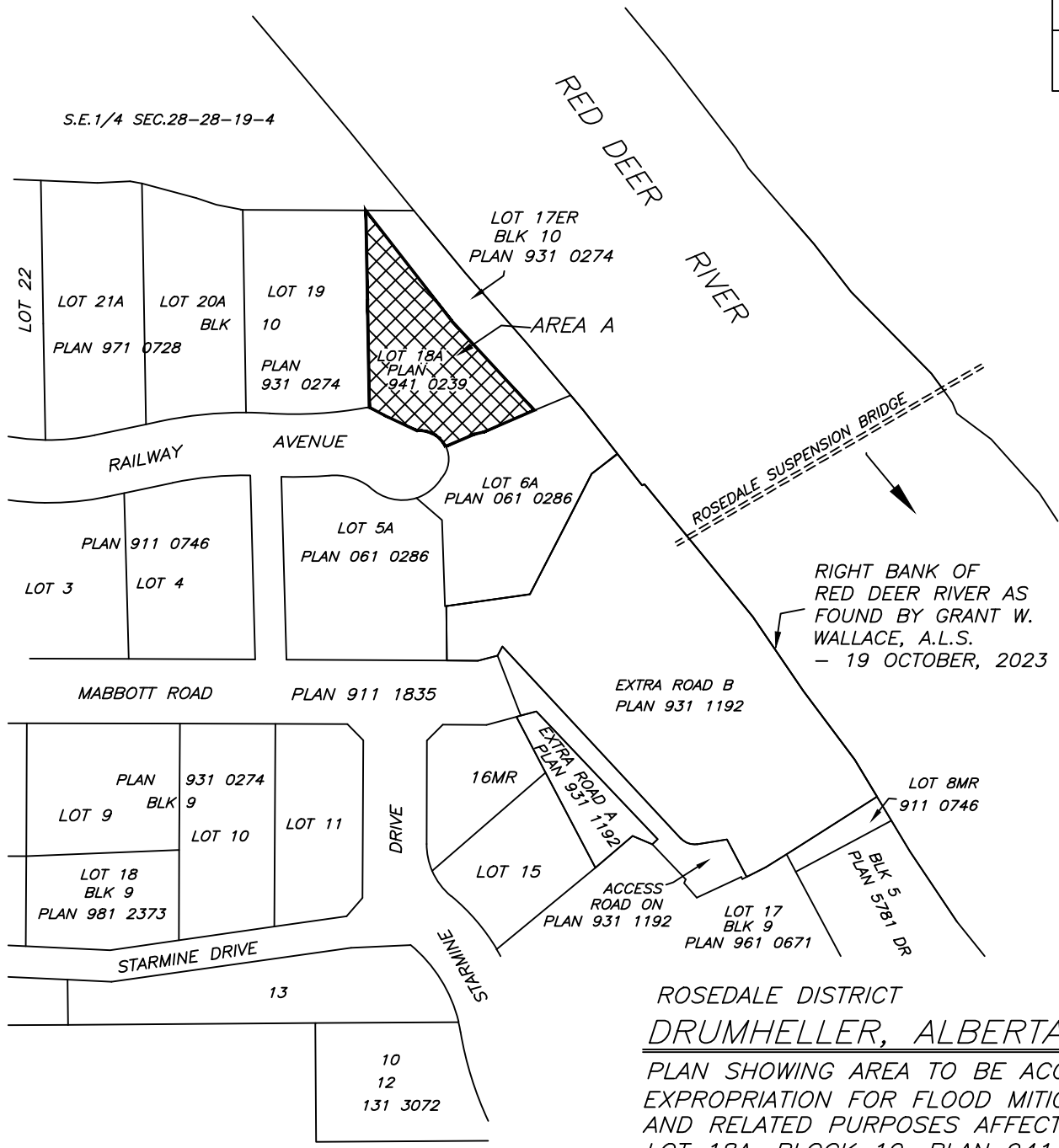
Per: _____
Heather Colberg, Mayor (c/s)

Per: _____
Darryl Drohomerski, C.E.T., Chief Administrative Officer

The full name and address of the expropriating authority is:

TOWN OF DRUMHELLER
Attention: Darryl Drohomerski, C.E.T.
Chief Administrative Officer
224 Centre Street
Drumheller, AB T0J 0Y4
Phone: 403-823-1312
Fax: 403-823-7739
ddrohomerski@drumheller.ca


S.E.1/4 SEC.28-28-19-4



ROSEDALE DISTRICT
DRUMHELLER, ALBERTA

PLAN SHOWING AREA TO BE ACQUIRED BY EXPROPRIATION FOR FLOOD MITIGATION AND RELATED PURPOSES AFFECTING LOT 18A, BLOCK 10, PLAN 941 0239 WITHIN THE S.E.1/4 SEC.28, TWP.28, RGE.19, W.4M. SCALE= 1:2000 — 2024 — W.R.HUNTER, A.L.S.

LEGEND:

Area affected by this plan is shown thus... 
And contains 1830.8sq.m. = 19706sq.ft.

| REVISION TABLE | | |
|----------------|--------------|--------|
| 0 | Feb. 9, 2024 | ISSUED |

HUNTER SURVEY SYSTEMS LTD.
CALGARY, ALBERTA
FILE: 23-260-L18A-ROSEDALE

REQUEST FOR DECISION

| | |
|----------------------|--|
| TITLE: | Drumheller Resiliency and Flood Mitigation Program – Resolution for Expropriation of a Partial Parcel for Berm Construction affecting Lot 6A, Block 10, Plan 0610286 503 Railway Avenue, Rosedale |
| DATE: | February 26 th , 2024 |
| PRESENTED BY: | Deighen Blakely, P.Eng., Project Director Flood Resiliency Program |
| ATTACHMENTS: | Resolution to Expropriate Notice of Intention to Expropriate Parcel Map – Schedule ‘A’ |

SUMMARY:

Through the Drumheller Resiliency and Flood Mitigation Program, The Town of Drumheller is undertaking construction of structural flood mitigation in the form of berms. To proceed with construction of the Rosedale Berm starting in the spring of 2025, partial acquisition of land from this parcel is required. Negotiations with the impacted landowners began in October 2023, and have been on-going over the past several months. The subject partial acquisition property owners have not accepted our purchase offers of Fair Market Value, as determined by an appraisal, for the portion of the property needed for berm construction within the timelines given. As such, the next step in obtaining the land required for Rosedale Berm construction is expropriation. A Resolution Approving Expropriation must be passed by Council directing its officers and solicitors to take all necessary steps to complete the expropriation.

RECOMMENDATION:

Administration recommends that Council approve the Resolution for Expropriation and Notice of Intention to Expropriate pertaining to 503 Railway Avenue (0610286;10;6A), as presented.

DISCUSSION:

Under Council Policy C-03-22 for Land Acquisition for the Drumheller Resiliency and Flood Mitigation Program, and the Provincial Grant Funding Agreement for 18GRSTR41, partial parcel acquisitions can be made at the higher of the appraised or assessed value. An offer has been made to the impacted property owners for the Rosedale Berm project on this basis and the offer has been rejected. Expropriation is the next step in acquiring the property needed to construct the berm.

FINANCIAL IMPACT:

The costs of the land purchase and associated legal fees for the proceedings are eligible for 100% funding under the Alberta Government 18GRSTR41 Grant. Alberta Environment and Protected Areas has indicated that they will not compensate for land acquisition over and above the appraised value of the land which has been their practice for all other flood mitigation projects undertaken in the Province. Damages awarded to plaintiffs due to expropriation of their property may be considered for funding on a case-by-case basis by the Alberta Government. Alberta Environment and Protected Areas’ legal team will review the particulars behind any damage award before a decision on whether 18GRSTR41 can be used to support these costs. Any costs deemed ineligible will be the responsibility of the Town.

STRATEGIC POLICY ALIGNMENT:

Town Bylaw 11.21 states that Council's Vision is "*through a proactive flood-mitigation strategy, we are committed to changing the channel on flood readiness with a sustainable plan to protect Drumheller from future flooding. Together, we will shape the future of our community by protecting our people, our property, our economic growth, our environment and our cultural heritage*". Completing the expropriation is required to obtain the property necessary for the berm construction and will allow the Town free access to manage and maintain the new berms and associated infrastructure moving forward.

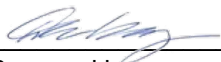
COMMUNICATION STRATEGY:

Direct notice of the intended expropriation will be provided to the affected property owners, and all parties with a registered interest in the subject lands, as soon as practicably possible given the legislated considerations and the registration delays at Land Titles. Concurrent with the affected property owners being served with Notice of the Intention to Expropriate, same will be advertised twice in the local newspaper 7-14 days apart, as contemplated in the Expropriation Act.

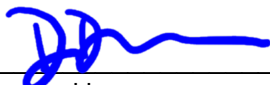
MOTION:

Councillor _____ moves that Council approve the Resolution for Expropriation and Notice of Intention to Expropriate pertaining to a portion of land described as Lot 6A, Block 10, Plan 0610286; Title Number 061 036 718 +1.

SECONDED:



Prepared by:
Deighen Blakely, P.Eng.
DRFMO Project Director



Approved by:
Darryl E. Drohomerski, C.E.T.
Chief Administrative Officer

EXPROPRIATION ACT
R.S.A. 2000, Chapter E-13, as amended

RESOLUTION

REGARDING EXPROPRIATION FOR THE PURPOSE OF ACQUIRING A FEE SIMPLE ESTATE
OVER CERTAIN LANDS LOCATED WITHIN THE TOWN OF DRUMHELLER

WHEREAS the **TOWN OF DRUMHELLER** is desirous of acquiring a fee simple estate for the purposes of facilitating the construction of flood mitigation works to protect surrounding lands from future flooding events in the following lands depicted on Schedule 'A' attached hereto and more particularly described as:

THAT PORTION OF:

"PLAN 0610286
BLOCK 10
LOT 6A
EXCEPTING THEREOUT ALL MINES AND MINERALS"

INCLUDING:

FEE SIMPLE ESTATE WHICH LIES WITHIN:

PLAN
AREA 'A'
EXCEPTING THEREOUT ALL MINES AND MINERALS

(such lands to be the subject of the taking hereinafter referred to as "the Lands").

AND WHEREAS pursuant to the provisions of the *Municipal Government Act*, RSA 2000, c. M-26, as amended, the **TOWN OF DRUMHELLER** has the authority to acquire a fee simple estate with respect to the Lands by expropriation;

AND WHEREAS the **TOWN OF DRUMHELLER** deems it to be in the public interest and good that the estate in fee simple in the Lands be acquired by expropriation;

AND WHEREAS the **TOWN OF DRUMHELLER** is desirous of acquiring the Lands pursuant to the provisions of the *Expropriation Act*, RSA 2000, c. E-13, as amended;

NOW THEREFORE BE IT RESOLVED:

1. THAT the proceedings shall be commenced by the **TOWN OF DRUMHELLER**, its servants, officers or agents to expropriate the Lands, in fee simple estate.

2. THAT the officers, servants or agents of the **TOWN OF DRUMHELLER** and the solicitors for the **TOWN OF DRUMHELLER** be, and are hereby authorized and directed to do all things necessary to initiate, carry out and conclude the expropriation proceedings under the provisions of the *Expropriation Act*, or otherwise and they are hereby authorized and empowered to sign, seal, serve and publish the necessary documents to initiate, proceed with and conclude the said expropriation, as applicable.

EXPROPRIATION ACT
R.S.A. 2000, Chapter E-13, as amended

RESOLUTION

REGARDING EXPROPRIATION FOR THE PURPOSE OF ACQUIRING A FEE SIMPLE ESTATE
OVER CERTAIN LANDS LOCATED WITHIN THE TOWN OF DRUMHELLER

MOVED AND PASSED by Council this ____ day of _____, 2024.

TOWN OF DRUMHELLER

Heather Colberg, Mayor

Darryl Drohomerski, C.E.T.,
Chief Administrative Officer

THE EXPROPRIATION ACT
RSA 2000, Ch. E-13 (Section 8)

NOTICE OF INTENTION TO EXPROPRIATE

1. TAKE NOTICE that the **TOWN OF DRUMHELLER** as Expropriating Authority intends to expropriate the following lands depicted on Schedule 'A' attached hereto and more particularly described as:

THAT PORTION OF:

“PLAN 0610286

BLOCK 10

LOT 6A

EXCEPTING THEREOUT ALL MINES AND MINERALS”

INCLUDING:

FEE SIMPLE ESTATE WHICH LIES WITHIN:

PLAN

AREA 'A'

EXCEPTING THEREOUT ALL MINES AND MINERALS

(such lands to be the subject of the taking hereinafter referred to as “the Lands”)

2. The nature of the interest in the Lands intended to be expropriated is: the fee simple estate shown and marked as Area 'A' on Schedule 'A'.
3. The work or purpose for which the interest in the Lands is required is:
- Construction and/or enhancement of existing dikes, berms, retaining walls, erosion protection, overland drainage courses, storm water outfalls, control structures and associated appurtenances;
 - for the retention and development of Natural Areas, Environmental Reserves, Municipal Reserves, Public Utility Lots, and other uses as approved by approval authorities; and
 - access for purposes of construction and/or maintenance of the above.
4. Section 6 of the *Expropriation Act* provides that:

“6(1) No person may in any proceedings under this Act dispute the right of an expropriating authority to have recourse to expropriate.

(2) In any proceedings under this Act the owner may question whether the taking of the land, or the estate or interest therein, is fair, sound and reasonably necessary in the achievement of the objectives of the expropriating authority.”

5. Section 10 of the *Expropriation Act* provides that:

“10(1) An owner who desires an inquiry shall serve the approving authority with a notice of objection,

(a) in the case of an owner served in accordance with section 8(2), within 21 days after service on the owner of the notice of intention; and

(b) in any other case, within 21 days after the first publication of the notice of intention.

(2) The notice of objection shall state:

(a) the name and address of the person objecting;

- (b) the nature of the objection;
- (c) the grounds on which the objection is based; and
- (d) the nature of the interest of the person objecting."

- 6. A person affected by the proposed expropriation does not need to serve an objection to the expropriation in order to preserve his right to have the amount of compensation payable determined by the Alberta Land and Property Rights Tribunal or the Court, as the case may be.
- 7. The Approving Authority with respect to this expropriation is the **TOWN OF DRUMHELLER** located at 224 Centre Street, Drumheller, Alberta, T0J 0Y4

Dated at the Town of Drumheller, in the Province of Alberta, this ____ day of _____, 2024.

TOWN OF DRUMHELLER

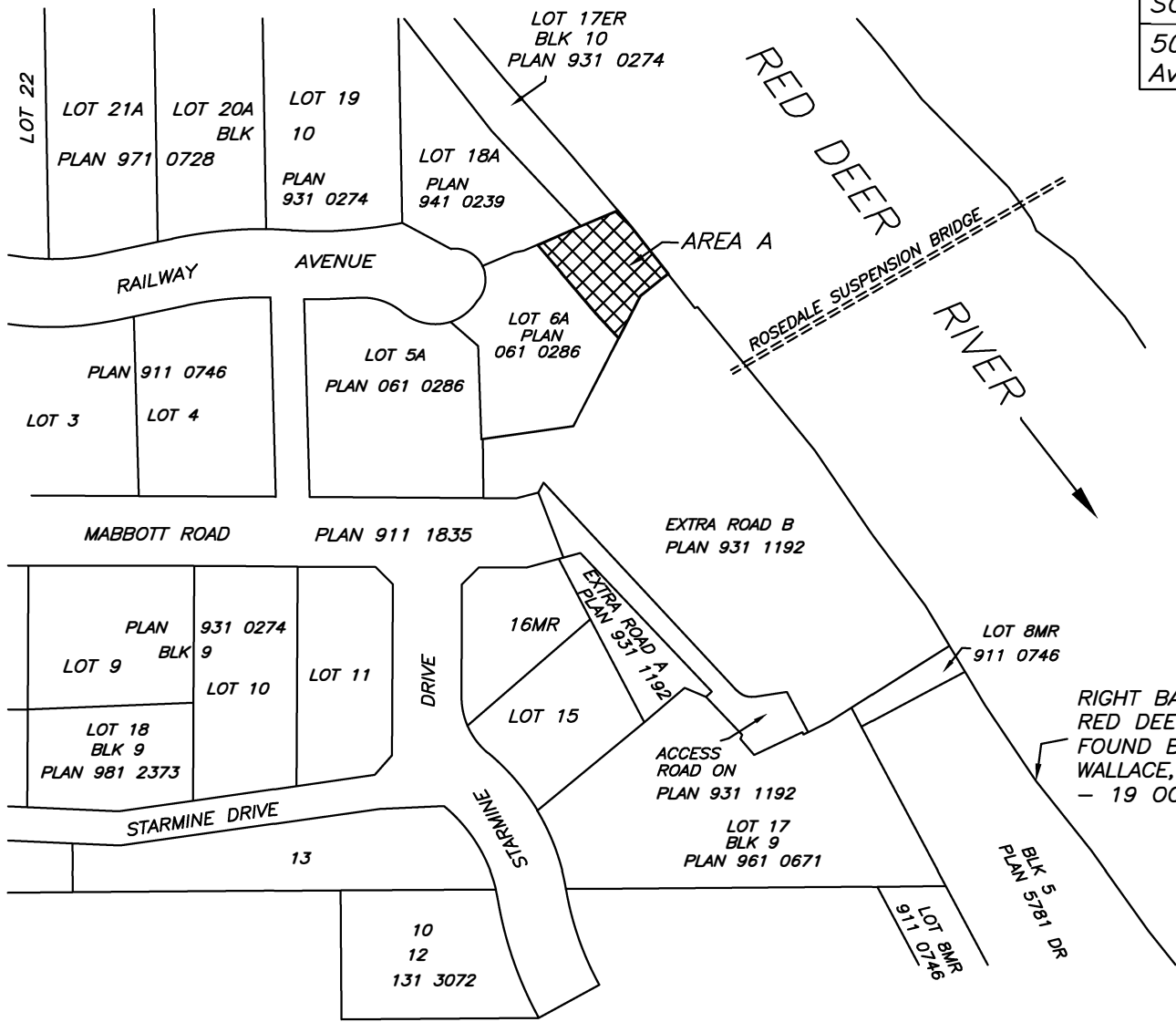
Per: _____
Heather Colberg, Mayor (c/s)

Per: _____
Darryl Drohomerski, C.E.T., Chief Administrative Officer

The full name and address of the expropriating authority is:

TOWN OF DRUMHELLER
Attention: Darryl Drohomerski, C.E.T.
Chief Administrative Officer
224 Centre Street
Drumheller, AB T0J 0Y4
Phone: 403-823-1312
Fax: 403-823-7739
ddrohomerski@drumheller.ca

SCHEDULE 'A'
503 Railway Avenue




RIGHT BANK OF RED DEER RIVER AS FOUND BY GRANT W. WALLACE, A.L.S. - 19 OCTOBER, 2023

S.E.1/4 SEC.28-28-19-4

ROSEDALE DISTRICT
DRUMHELLER, ALBERTA

PLAN SHOWING AREA TO BE ACQUIRED BY EXPROPRIATION FOR FLOOD MITIGATION AND RELATED PURPOSES AFFECTING LOT 6A, BLOCK 10, PLAN 061 0286 WITHIN THE S.E.1/4 SEC.28, TWP.28, RGE.19, W.4M. SCALE= 1:2000 — 2024 — W.R.HUNTER, A.L.S.

LEGEND:

Area affected by this plan is shown thus...  And contains 677.8sq.m. = 7296sq.ft.

| REVISION TABLE | | |
|----------------|--------------|--------|
| 0 | Feb. 9, 2024 | ISSUED |

HUNTER SURVEY SYSTEMS LTD.
CALGARY, ALBERTA
FILE: 23-260-L6A-ROSEDALE