

Approval of Partial Expropriation

50 Street CP Rail Grade Separation

Recommendation

1. That the expropriation of the portion of the property as shown and legally described in Attachment 1 of the August 30, 2021, Office of the City Manager report OCM00749, (the “Property”), be approved.
2. That all steps under the *Expropriation Act*, RSA 2000, c. E-13 (the “Act”) be taken to complete the expropriation, including but not limited to, registering a certificate of approval of expropriation, and serving the notice of expropriation, notice of proposed payment, and notice of possession.

Executive Summary

City Council is required to approve or disapprove the expropriation of the Property, which is required to construct the work required to facilitate the 50 Street grade separation work between Sherwood Park Freeway and 90 Avenue.

Report

Expropriation Steps

On August 31, 2020, City Council approved the commencement of the expropriation process to acquire the Property.

In June 2021, Administration registered a notice of intention to expropriate on the title to the Property. Between June 21 - 23, 2021, Administration served the notices of intention to expropriate on the owners, and published the notices of intention to expropriate in the Edmonton Journal. An owner has 21 days after being served with a notice of intention to expropriate to file an objection.

The City received no objection to the notices of intention to expropriate. Accordingly, City Council shall approve or disapprove the proposed expropriations upon proof of service and proof of publication of the notices of intention to expropriate. Attachment 2 are copies of the Affidavits of Service and Publication (exhibits excluded but available) evidencing proof of service on the owners and publication of the notices of intention to expropriate.

If City Council approves the expropriation of the Property, Administration will register a certificate of approval on the land title for the Property. If a certificate of approval is not registered within the timelines in the Act, the expropriation is deemed abandoned.

Budget/Financial Implications

Funding to acquire land required for the 50 Street CP rail grade separation project is available within the approved Capital Profile 18-66-6503.

Legal Implications

1. An owner may object to an expropriation within 21 days of being served with a notice of intention to expropriate.
2. A notice of intention to expropriate was advertised twice in the Edmonton Journal.
3. If an objection is filed, the Province will appoint an inquiry officer to conduct a hearing into whether the expropriation is fair, sound, and reasonably necessary.
4. If no objection is filed, City Council may approve or disapprove the proposed expropriation upon proof of service and proof of publication in compliance with the Act. No objection was filed with respect to the Property.
5. If City Council approves the expropriation, a certificate of approval of expropriation will be registered making the City the owner of the land. If a certificate of approval is not registered within the timeline in the Act, the expropriation is deemed abandoned.
6. If an expropriation is abandoned, the City must pay any actual loss sustained by an owner and the reasonable legal, appraisal and other costs incurred by the owner up to the abandonment.
7. After a certificate of approval is registered and served, the City must serve the owner with a notice of possession stating the date the City is entitled to possession.
8. An owner will receive compensation in accordance with the Act. The City is required to provide an owner with an appraisal setting out the market value.
9. The Land and Property Right Tribunal will determine the final compensation if the parties cannot agree.
10. Reasonable legal, appraisal and other costs actually incurred by an owner in order to determine compensation are paid by the City.

Public Engagement

Public engagement for this project was completed during the concept planning process to identify business/resident concerns, business operations/future plans. Further discussions were undertaken with potentially impacted property owners and residents through the concept validation and preliminary design phases. A public information session was held on June 26, 2018, and was attended by 175 people.

Public engagement and communications plans for the project were developed in alignment with the City’s Public Engagement Policy C593A to support upcoming planning and design work along 50 Street.

Discussions, engagement and negotiations are ongoing with the owner of the Property.

Corporate Outcomes and Performance Management

Corporate Outcome(s): Goods and services move efficiently			
Outcome(s)	Measure(s)	Result(s)	Target(s)
Goods and services move efficiently	Business Satisfaction: Goods and Services Transportation (% of survey respondents who are satisfied/very satisfied)	50.5% (2017)	53.0% (2018)
	Travel Time and Reliability for Goods and Services Movement (time in minutes: seconds to drive 10 km route)	10:09 (2017) - 50% of the time 13:35 (2017) - 85% of the time	<12:30 (2018) 50% of the time <16:00 (2018) - 85% of the time

Corporate Outcome(s): Edmonton is a safe city			
Outcome(s)	Measure(s)	Result(s)	Target(s)
Minimize traffic disruptions on intersections through collision reduction	Rate of inner-ring road (75 St, Whitemud Drive, 170 St, Yellowhead Trail) intersection collisions per million vehicles	1.01 (2017)	0.99 (2018)
	Rate of inner-ring road (75 St, Whitemud Drive, 170 St, Yellowhead Trail) midblock collisions per million vehicles-km of travel	0.79 (2017)	0.99 (2018)

Corporate Outcome(s): The City of Edmonton has sustainable and accessible infrastructure			
Outcome(s)	Measure(s)	Result(s)	Target(s)
Facilities, programs, and services are accessible for all	Edmontonians’ Assessment: Access to Amenities and Services that Improve Quality of Life (% of survey respondents who agree/strongly agree)	68% (2017)	70% (2018)

Risk Assessment

Risk Element	Risk Description	Likelihood	Impact	Risk Score (with current mitigations)	Current Mitigations	Potential Future Mitigations
Project Management	Project is delayed or over budget due to land acquisition delays	3 - Possible	3 - Major	9 - Medium	Follow Project Management Reference Guide practices, including early discussions with property owners, exploring design alternatives, and/or seeking approval to commence expropriation process while continuing negotiations.	Develop proactive action plans to mitigate impact to project schedule and budget.
Financial	Delays result in program completion to extend past the timeline set for federal and provincial funding	2 - Unlikely	4 - Severe	8 - Medium	Acquisition process starting early in the overall freeway conversion program and delays can be addressed with revised project schedule	Develop proactive action plans to mitigate impact to project schedule and budget.
Financial	Property values increase	3 - Possible	2 - Moderate	6 - Low	Opportunity purchases of properties as they become available; early negotiation with land owners; work with owners to mitigate impacts to reduce cost where possible.	Proactive acquisition of required properties.
Environmental	Increased costs or delays to project due to unexpected contamination	2 - Unlikely	2 - Moderate	4 - Low	Review of available environmental information prior to acquisition; undertake additional environmental testing during acquisition process if required.	Develop plan to manage impact to schedule or budget if contamination is found.

Legal	If a certificate of approval of expropriation is not registered within the required timeline, the proposed expropriation is deemed abandoned.	2- Unlikely	3- Major	6- Low	Recommendation that City Council approve the proposed expropriation of the identified utility right of ways.	Complete the steps required under the <i>Expropriation Act</i> to finalize the expropriation, including registering a certificate of approval of expropriation.
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Attachments

1. Map and legal description of the Property, including registered and non-registered interests
2. Affidavit of Service & Publication (exhibits excluded)

Others Reviewing this Report

- C. Hodgson, Acting Deputy City Manager, Financial and Corporate Services
- O. Zakoc, Acting Chief Financial Officer, Financial and Corporate Services
- A. Laughlin, Deputy City Manager, Integrated Infrastructure Services