

Approval to Commence Expropriation of Interests in Property

Yellowhead Trail Freeway Conversion Program

Recommendation

That Urban Planning Committee recommend to City Council, in its capacity as the Expropriating Authority under the *Expropriation Act*, RSA 2000, c E-13 (the “Act”), that:

1. The commencement of the expropriation process under the Act be approved to acquire:
 - a. the lands shown on Attachment 1, and legally described in Attachment 2 of the June 19, 2018, Integrated Infrastructure Services report CR_5739 (the “Subject Properties”); and
 - b. the interests in the Subject Properties described in Attachment 2 of the June 19, 2018, Integrated Infrastructure Services report CR_5739 (the “Interests”).
2. Administration be approved to enter into an agreement(s) pursuant to Section 30 of the Act (“Section 30 Agreement”) with an owner, as described in Attachment 2 of the June 19, 2018, Integrated Infrastructure Services report CR_5739, where the owner is willing to consent to the acquisition.
3. Administration be approved, pursuant to sections 15(10), 35, and 39 of the Act to pay:
 - a. the reasonable appraisal and other costs incurred by it; and
 - b. the reasonable legal, appraisal and other costs actually and reasonably incurred by an owner described in Attachment 2 of the June 19, 2018, Integrated Infrastructure Services report CR_5739.

Executive Summary

As Expropriating Authority under the Act, City Council approval is required for Administration to commence the expropriation process to acquire the Subject Properties and Interests and, where an owner is willing to consent to an acquisition, enter into a Section 30 Agreement.

The acquisition of the Subject Properties and Interests will facilitate construction of the Yellowhead Trail Freeway Conversion Program.

Report

Background

In 2011-2012, the City of Edmonton completed and endorsed the Yellowhead Trail Strategic Plan (the Yellowhead Trail Freeway Conversion Program), as shown in Attachment 3, for the development of Yellowhead Trail into a free-flowing roadway through Edmonton. The Yellowhead Trail Freeway Conversion Program is intended to improve the operational capacity, safety, and level of service of the corridor. On February 10, 2015, Council passed a motion designating the Yellowhead Trail Freeway Conversion Program the City's priority project under the National Infrastructure Component of the Federal Government's New Building Canada Fund, recognizing the national significance of Yellowhead Trail as part of the Trans Canada Highway.

At the conclusion of the Yellowhead Trail Freeway Conversion Program, Yellowhead Trail freeway will consist of six core lanes with additional lanes in congested areas. The freeway will target an operating speed of 80 km/hr, where possible, and will be free-flow. In some locations, improvements to parallel or intersecting roadways will be completed to ensure that traffic, which must be rerouted from previously existing direct connections to Yellowhead Trail, will be able to travel to alternative connections more easily. The Yellowhead Trail Freeway Conversion Program consists of numerous improvements, including:

- access modifications and road network improvements near 149 Street;
- interchange construction at 127 Street;
- interchange construction at 121 Street;
- access modifications and road network improvements near 89 Street;
- Fort Road widening (north of Yellowhead Trail to 66 Street), including widening and upgrades to the CN Rail underpass;
- access modifications and road network improvements near 66 Street; and
- Yellowhead Trail widening from west of 50 Street to the North Saskatchewan River.

Administration requires the Subject Properties outlined in Attachment 1 and described in Attachment 2 for the Yellowhead Trail Freeway Conversion Program. The configuration for the Yellowhead Trail Freeway, and the associated land requirements, was determined through a process of public engagement, strategic planning, conceptual planning and design efforts.

Construction for the Yellowhead Trail Freeway Conversion Program is scheduled to commence in the spring of 2019. Negotiations with the owners of the Subject Properties have occurred but, to date, have not resulted in agreements being reached to purchase these properties. As a result, commencement of the expropriation process will allow Administration to either negotiate the acquisition of the Subject Properties (by way of settlement or Section 30 Agreements) or, if needed, expropriate the properties. This will ensure that the City obtains ownership and vacant possession of the Subject Properties to facilitate construction of the Yellowhead Trail Freeway Conversion Program.

Budget/Financial

Funding for the acquisition of lands required for the Yellowhead Trail Freeway Conversion Program will be through the approved Capital Profiles that comprise the Yellowhead Trail Freeway Conversion Program. These profiles include:

- 15-66-2224: Yellowhead Trail - 89 Street and 66 Street Improvements
- 16-66-2214: Fort Road (Yellowhead Trail - 66 Street) 6 Lane Widening
- 17-66-2216: Yellowhead Trail (66 Street - River) 6 Lane Widening
- 17-66-2307: Yellowhead Trail - 149 Street Freeway Conversion
- 22-66-2314: Yellowhead Trail 127 Street Interchange
- 23-66-2317: Yellowhead Trail 121 Street Interchange

Legal

1. Expropriation is a legal right given to expropriating authorities, such as municipalities, to acquire land from a party who may otherwise be unwilling to sell it.
2. Section 14(2) of the *Municipal Government Act* gives City Council the right to acquire interests in land by expropriation.
3. An expropriation must be carried out in accordance with the Act.
4. An expropriation is commenced by filing a Notice of Intention to Expropriate (the "Notice"), in the prescribed form, on the certificate of title to the property being expropriated.
5. Each interest registered on title, and each owner (as defined in the Act), which includes every person in possession or occupation of any portion of any property being expropriated, must be served with a copy of the Notice. The Notice is intended to ensure that a potentially impacted party understands how the proposed expropriation may impact them. After being served with a Notice, an owner may object to the proposed expropriation.
6. If no objection is made within the prescribed period, City Council, as approving authority, will determine whether to approve the expropriation. If approved, the

City will proceed to take title or register its interest on title, and take possession in accordance with the provisions of the Act.

7. If an objection is filed, the Province will appoint an inquiry officer to conduct an inquiry into whether the intended expropriation is “fair, sound and reasonably necessary” to achieve the City’s objectives. Within 30 days of the appointment of the inquiry officer, subject to any extension granted, the inquiry officer must make a report in writing to the approving authority. City Council, as approving authority, must consider the inquiry officer’s written report and shall thereafter approve or disapprove the proposed expropriation.
8. Section 30 of the Act allows an owner to consent to the acquisition by the expropriating authority, subject to the condition that compensation be determined by the Land Compensation Board if the parties cannot reach an agreement. A Section 30 Agreement must be in writing and enables the parties to negotiate the date of transfer of interest and the date of possession, as opposed to being restricted to complying with the strict timelines prescribed in the Act.
9. The Act governs the payment of costs to an owner. The reasonable legal, appraisal and other costs actually incurred by the owner for the purpose of determining the compensation payable are paid by the City, as expropriating authority.
10. The Act governs the payment of compensation to an owner and appoints the Land Compensation Board to determine the amount of compensation payable if the owner and City cannot reach an agreement.

Public Engagement

For the Fort Road area, public engagement was not completed during the concept planning process as the constraints in the area (historical sites, existing CN Rail underpass, existing Fort Road interchange, and 66 Street intersection) limited the ability for public input to influence the concept plan.

Through land negotiations, engagement with the owners of the Subject Properties has been undertaken on a property-by-property basis related to road changes and land requirements.

Public engagement will be an important part of the next stages of design to further refine design plans and land requirements. Public engagement and communications plans for the Yellowhead Trail Freeway Conversion are being developed in alignment with the City’s Public Engagement Policy C593 to support upcoming planning and design work along Yellowhead Trail.

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As design continues to be refined, Administration will continue to explore opportunities to minimize property impacts where possible.

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)

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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	Property value 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.
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.

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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.
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Attachments

1. Map of Subject Properties
2. Legal Description and Interests of the Subject Properties
3. Yellowhead Trail Strategic Plan

Others Reviewing this Report

- S. Padbury / R. Kits, Acting Deputy City Managers, Financial and Corporate Services
- M. Sturgeon, Acting Deputy City Manager, Communications and Engagement