

# Expropriation of Land

## Recommendation:

That Executive Committee recommend to City Council:

1. That the commencement of the expropriation process to acquire a temporary interest in the property shown on Attachment 1 and legally described in Attachment 2 of the September 9, 2013, Sustainable Development report CR\_527, be approved.
2. That Administration be authorized to enter into an agreement pursuant to Section 30 of the *Expropriation Act* (Section 30 Agreement) with the owner of the property described in Attachment 2 of the September 9, 2013, Sustainable Development report CR\_527, if the owner is willing to consent to the expropriation.

## Report Summary

**City Council approval is required to commence the expropriation process or to enter into a Section 30 Agreement with the owner to acquire a temporary interest in the property described in Attachment 2 of this report.**

## Previous Council/Committee Action

At the July 17, 2013, City Council meeting, the following motion was carried:

That actions as detailed in Attachment 3 of the July 17, 2013, Sustainable Development report CR\_403, be approved and remain private pursuant to sections 23 and 25 of the *Freedom*

*of Information and Protection of Privacy Act.*

At the July 9, 2013, Community Services Committee meeting, the following motion was passed:

That Administration further review the construction access and on-going public access to the bridge and provide a report to the July 17, 2013, City Council meeting.

## Report

During November of 2012, the Building Canada Fund provided approval in principle for the funding of Terwillegar Park Foot Bridge.

During the December 2012 Capital Budget deliberations, City Council approved funding under CPP 12-17-6100 (RVA Connective Infrastructure) for bridge construction.

Administration requires the subject property in connection with the footbridge construction from Terwillegar Park to Oleskiw parkland.

Construction on this project is scheduled to commence in June 2014, and be completed in the fall of 2015.

Use of and access to this land by way of a temporary working easement is required prior to awarding the contract tender for this project.

Negotiations with the owners have failed to result in agreement being reached.

Commencement of the expropriation process will allow Administration to either negotiate the acquisition of the temporary interest in the required

property by way of settlement or Section 30 Agreement or to expropriate the temporary interest in the required property. This will ensure that the City obtains timely use of and access to this property to facilitate the construction schedule for this project.

### **Policy**

The policy for this report falls under the *Expropriation Act*.

### **Corporate Outcomes**

*The Way Ahead*, City of Edmonton Strategic Plan, 2009-2018:

- Transform Edmonton's Urban Form
- Improve Edmonton's Livability
- Preserve and Sustain Edmonton's Environment
- Shift Edmonton's Transportation Mode
- Ensure Edmonton's Financial Sustainability

### **Budget/Financial Implications**

Funding for the acquisition of the interest/access to the land required for this project is available through Capital Profile CPP 12-17-6100.

### **Legal Implications**

Expropriation of the property described in Attachment 2 must be carried out in compliance with the procedures set out in the *Expropriation Act*.

Affected owners have the right to object to the intended expropriation and have an Inquiry Officer appointed by the Province to conduct an inquiry into whether the intended expropriation is fair, sound and reasonably necessary in order to achieve the City's objectives.

Section 30 of the *Expropriation Act* allows an owner, through a written agreement with the City, to consent to the expropriation (thereby avoiding an inquiry hearing) subject to the condition that compensation shall be determined by the Land Compensation Board if the parties cannot reach an agreement. A Section 30 Agreement enables the City to obtain use of and access to the property at a date amenable to both parties.

If an owner does not consent to the expropriation, the City is obliged to follow all of the steps prescribed in the *Expropriation Act* and the City typically obtains the expropriated interest in the property within 120 days of commencement of the taking (i.e. filing of expropriation notice at Land Titles). It takes a further 90 days, at minimum, for the City to obtain use of and access to the property.

The *Expropriation Act* also governs the City's proposed payment of compensation to an owner and empowers the Land Compensation Board to determine the amount of compensation payable to an owner if the owner and City cannot reach an agreement.

### Justification of Recommendation

1. Commencement of the expropriation process is required in order to ensure that the City gains temporary use of and access to the land required for the construction of a temporary access road in a timely manner for the construction of the proposed Terwillegar Park Foot Bridge.

2. Utilizing a Section 30 Agreement, if the owner is willing, will enable the City to acquire ownership and vacant possession of the property within acceptable time limits while leaving the owner the right to compensation under the *Expropriation Act*.

### Attachments

1. Site Plan
2. Legal Description and Registered Interest

### Others Reviewing this Report

- D. Wandzura, General Manager, Transportation Services
- L. Rosen, Chief Financial Officer and Treasurer
- D. H. Edey, General Manager, Corporate Services
- L. Cochrane, General Manager, Community Services