

# Approval to Commence Expropriation of Interests in Property

## Yellowhead Trail Freeway Conversion Program

### Recommendation

That Executive Committee recommend to City Council:

1. That commencement of the expropriation process under the *Expropriation Act*, RSA 2000, c E-13 (the “*Act*”) to expropriate the land requirements, including all interests therein, in the lands shown in Attachment 1, and legally described in Attachment 2 of the November 9, 2020, Integrated Infrastructure Services report IIS00039 (the “Subject Properties”), be approved.
2. That Administration be approved to enter into an agreement(s) with an owner, pursuant to Section 30 of the *Act* (“Section 30 Agreement”), where the owner is willing to consent to the acquisition.
3. That 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.

### Executive Summary

City Council approval is required, as Expropriating Authority, to commence the expropriation process to acquire the Subject Properties and where an owner is willing to consent to an acquisition, enter into a Section 30 Agreement and pay reasonable costs. The acquisition of the Subject Properties will facilitate the construction of the Yellowhead Trail Freeway Conversion Program.

The Yellowhead Trail freeway conversion is one of the strategic actions outlined in the City of Edmonton’s Corporate Business Plan 2019 - 2022. The Yellowhead Trail freeway conversion will help the City achieve transformational impacts in the community toward the goal Regional Prosperity: Edmonton grows prosperity for our Metro Region by driving innovation, competitiveness and relevance for our businesses at the local and global level.

## Report

### Yellowhead Trail Freeway Conversion Program Overview

The freeway conversion will upgrade Yellowhead Trail to improve the efficiency for the movement of goods and services enhancing regional prosperity for this key inter-city, inter-regional and inter-provincial transportation corridor. At the conclusion of the Yellowhead Trail Freeway Conversion Program, Yellowhead Trail will consist of six core lanes with additional lanes in congested areas. The freeway will target operating speeds of 80 km/hr, where possible, and will be free-flow.

The program consists of six primarily distinct segments. These include:

1. Yellowhead Trail (156 Street to St. Albert Trail)
2. Yellowhead Trail (St. Albert Trail to 97 Street)
3. Yellowhead Trail (97 Street to 82 Street)
4. Yellowhead Trail (82 Street to 50 Street)
5. Fort Road (Yellowhead Trail to 66 Street)
6. Yellowhead Trail (50 Street to the North Saskatchewan River)

### Land Requirements

City Council, as Expropriating Authority, may expropriate land and any interest in land pursuant to the *Expropriation Act*. The Subject Properties are required for the construction of the Yellowhead Trail Freeway Conversion Program. The scope of the program includes, but is not limited to, modifications of Yellowhead Trail and nearby roads, intersections, over/underpasses, public utilities, sidewalks, accesses, as well as road network improvements, interchange construction, construction of public utilities and sidewalks, and any other infrastructure incidental to the construction of the Yellowhead Trail Freeway Conversion Program. The configuration for the Yellowhead Trail freeway, and the associated land requirements, were determined through a process of public and stakeholder engagement, strategic planning, conceptual planning and further design efforts.

Discussions to date have not led to voluntary agreements to acquire the Subject Properties. Although negotiation efforts may not be fully exhausted, commencement of the expropriation process allows Administration to continue its efforts to negotiate a voluntary agreement, settlement, Section 30 Agreement, or continue the expropriation process in the *Act*. Approval to commence the expropriation process enables Administration to obtain the Subject Properties to protect project timelines and facilitate the current construction schedule for the Yellowhead Trail Freeway Conversion Program. Administration will continue to explore opportunities to minimize property impacts as designs are refined.

The Subject Properties do not impact buildings identified as historically significant or designated.

### **Budget/Financial**

Funding for the acquisition of lands required for the Yellowhead Trail Freeway Conversion Program is provided from Capital Profile CM-99-0060. Expropriation costs currently identified are within the land budget for the Yellowhead Trail Freeway Conversion Program.

### **Legal Implications**

1. Expropriation is a legal right given to municipalities to acquire land and interests in land from a party who may otherwise be unwilling to sell.
2. Section 14(2) of the *Municipal Government Act* gives City Council the right to acquire land by expropriation. Expropriations are carried out in accordance with the *Act*.
3. Registering a Notice of Intention to Expropriate (the “Notice”) on the title to the property being expropriated starts the expropriation process.
4. Each interest registered on title and each owner (as defined in the *Act*) is served with a copy of the Notice. The Notice is intended to show a potentially impacted party how the proposed expropriation may impact them. After being served with the Notice, an owner may object to the proposed expropriation.
5. If no objection is made within a prescribed period, City Council will decide whether to approve the expropriation. If approved, the City will take title, or register its interest on title, and take possession following the timelines in the *Act*.
6. If an objection is filed, the Province will appoint an inquiry officer to conduct an inquiry to determine if the proposed expropriation is “fair, sound and reasonably necessary” to achieve the City’s objectives. The inquiry officer will conduct a hearing and make a written report within 30 days. City Council must consider the inquiry officer’s written report and then approve or disapprove the proposed expropriation. City Council is not required to follow the inquiry officer’s report.
7. Section 30 of the *Act* allows an owner to consent to the acquisition, subject to the condition that compensation be determined by the Land Compensation Board if the parties cannot reach an agreement. A Section 30 Agreement gives the parties the ability to negotiate the date of transfer and possession, rather than having to follow the timelines in the *Act*.

8. The *Act* governs the payment of costs to an owner. The City pays the reasonable legal, appraisal, and other costs actually incurred by the owner in determining the compensation payable.
9. The *Act* governs the payment of compensation to an owner. The Land Compensation Board will determine the amount of compensation payable if the owner and City cannot reach an agreement.

### Public Engagement

For the Yellowhead Trail (156 Street to St. Albert Trail) project, the concept plan was developed after an extensive public engagement process from 2012 to 2014, which included public meetings and a stakeholder input group. The next phase of engagement is planned for fall 2020.

For the Fort Road Widening (Yellowhead Trail to 66 Street) project, the concept plan was developed in 2015. The next phase of engagement is planned for fall 2020.

Public and stakeholder engagement will continue to be an important part of the next stages of design. Public engagement and communications plans for the Yellowhead Trail Freeway Conversion Program are developed in alignment with the City's Public Engagement Policy C593 to support planning and design work along Yellowhead Trail.

### Corporate Outcomes and Performance Management

<b>Corporate Outcome(s):</b> Goods and services move efficiently			
<b>Outcome(s)</b>	<b>Measure(s)</b>	<b>Result(s)</b>	<b>Target(s)</b>
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

<b>Corporate Outcome(s):</b> Edmonton is a safe city			
<b>Outcome(s)</b>	<b>Measure(s)</b>	<b>Result(s)</b>	<b>Target(s)</b>

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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)

<b>Corporate Outcome(s):</b> The City of Edmonton has sustainable and accessible infrastructure			
<b>Outcome(s)</b>	<b>Measure(s)</b>	<b>Result(s)</b>	<b>Target(s)</b>
The City of Edmonton has sustainable and accessible infrastructure	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	If the recommendation is not passed, the project will be 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 the expropriation process while continuing negotiations.	Develop proactive action plans to mitigate the impact to project schedule and budget.

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Financial	If the recommendation is not passed, additional delays result in program completion to extend past the timeline set for Federal and Provincial funding.	2 - Unlikely	4 - Severe	8 - Medium	The acquisition process starting early in the overall freeway conversion program and delays can be addressed with a revised project schedule.	Develop proactive action plans to mitigate the impact to project schedule and budget.
Potential Land Cost Escalation	If the recommendation is not passed, the property value increases.	3 - Possible	2 - Moderate	6 - Low	Opportunity purchases of properties as they become available; early negotiation with landowners; work with owners to mitigate impacts to reduce cost where possible.	Proactive acquisition of required properties.
Contaminated Property	Increased costs or delays to project due to unexpected remediation requirements.	2 - Unlikely	2 - Moderate	4 - Low	Review of available environmental information before the acquisition; undertake additional environmental testing during the acquisition process if required.	Develop proactive action plans to manage the impact to schedule or budget if contamination is found.

### Attachments

1. Maps of Subject Properties
2. Legal Descriptions of Subject Properties

### Others Reviewing this Report

- M. Persson, Chief Financial Officer and Deputy City Manager, Financial and Corporate Services
- C. Owen, Deputy City Manager, Communications and Engagement
- B. Andriachuk, City Solicitor