

Subject: Approval to Expropriate Lands – Bank Street Rehabilitation Project

File Number: ACS2024-PRE-CRO-0010

Report to Finance and Corporate Services Committee on 5 March 2024

and Council 3 April 2024

Submitted on February 23, 2024 by Peter Radke, Director, Corporate Real Estate Office, Planning, Real Estate and Economic Development Department

Contact Person: Robin Souchen, Manager, Planning, Real Estate and Economic Development Department

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Ward: River (16), Capital (17) Alta Vista (18)

Objet: Approbation visant l'expropriation de terrains – Projet de réfection de la rue Bank

Dossier: ACS2024-PRE-CRO-0010

Rapport au Comité des finances et des services organisationnels

le 5 mars 2024

et au Conseil le 3 avril 2024

Soumis le 23 février 2024 par Peter Radke, Directeur, Bureau des biens immobiliers municipal, Services de la planification, des biens immobiliers et du développement économique

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Quartier: Rivière (16), Capitale (17), Alta Vista (18)

REPORT RECOMMENDATION(S)

That the Finance and Corporate Services Committee recommend that City Council enact the By-law attached as Document 1 hereto authorizing the City to proceed with the expropriation of the lands described in Schedule A to the By-law (the “Lands”) including:

1. Registering a plan of expropriation with respect to the Lands;
2. Serving notice of expropriation and possession on the owners of the Lands;
3. Serving offers of compensation as contemplated in Section 25 of the *Expropriations Act*; and,
4. Taking possession of the Lands.

All in accordance with the *Expropriations Act*.

RECOMMANDATION(S) DU RAPPORT

Que le Comité des finances et des services organisationnels recommande au Conseil de promulguer le règlement municipal joint en tant que document 1 autorisant la Ville à exproprier les terrains décrits à l'annexe A du règlement provisoire ci-joint (les « terrains »), notamment :

1. enregistrer un plan d'expropriation visant les terrains;
2. signifier aux propriétaires des terrains un avis d'expropriation et de possession;
3. proposer des offres d'indemnité, comme le prévoit l'article 25 de la *Loi sur l'expropriation*; et
4. prendre possession des terrains.

Conformément à la *Loi sur l'expropriation*.

BACKGROUND

The Bank Street Rehabilitation Project involves significant reconstruction of approximately 2.8 kilometres of Bank Street from Riverside Drive (North) to Ledbury Avenue. The objective of the project is to construct a functioning and safe complete arterial main street with a well-balanced multi-modal transportation network that will cater to vehicles, transit, cyclists, and pedestrians.

The underground works include reconstruction of the sanitary sewer, storm sewer and replacement of distribution watermains as well as the renewal of the Bank Street Sawmill Creek culvert.

The aboveground work includes reconstruction of the four-lane roadway with new concrete sidewalks and curbs, raised asphalt cycle tracks, significant streetscaping improvements and optimized bus stop and shelter locations.

The planning phase of the project involved completion of the Bank Street Functional Design Study (December 2016), a Road Modification Approval (RMA) dated July 17, 2017 by the Councillors for Ward 16 (River), Ward 17 (Capital) and Ward 18 (Alta Vista) and three public meetings (October 2019, April 2021, and March 2023).

Funding for the design of the Bank Street Rehabilitation Project was approved by City Council in 2017 with construction funding being approved by City Council in 2022.

The Bank Street Rehabilitation Project is planned to be constructed in phases, with Phase 1 of the project encompassing the segment of Bank Street which extends from Riverside Drive westbound to the north side of Collins Avenue. The contract for Phase 1 is expected to be awarded in the first quarter of 2024 with construction expected to commence shortly thereafter.

All rights, title and interests in 12 Parcels are required to permit the construction of Phase 1 of the Bank Street Rehabilitation Project and are described in Document 1, Schedule A. City Council authorized the initiation of expropriation proceedings with respect to property interests including the Lands on September 13, 2023 under report number ACS2023-PRE-CRO-0005 and by enacting By-law (2023-420) on September 27, 2023.

The Corporate Real Estate Office (CREO) is now recommending advancing expropriation proceedings with respect to the Lands in order to ensure that property required to support Phase 1 of the Bank Street Rehabilitation Project is available to meet anticipated construction timing.

DISCUSSION

Following the approval of By-law No. 2023-420 described above, expropriation proceedings commenced with respect to property interests including the Lands with the delivery and publication of Notice of the City's Application for Approval to Expropriate Lands as required under Section 4 of the *Expropriations Act*. Notice of Application for Approval to Expropriate property interests including the Lands was served by registered mail on November 29, 2023 and published three times in the Citizen and Le Droit.

The City did not receive any requests for an inquiry as contemplated in Sections 6 and 7 of the *Expropriations Act* with respect to the Lands and the City is now in a position to proceed with the expropriation of the Lands including:

- Registering a plan of expropriation;
- Serving notice of expropriation and possession on the owner(s) of the Lands;
- Serving offers of compensation as contemplated in Section 25 of the *Expropriations Act*; and
- Taking possession of the Lands.

Staff will continue efforts to settle compensation payable to the owners of the Lands through negotiation and through the process established in the *Expropriations Act*, including arbitration before the Ontario Land Tribunal, if necessary.

FINANCIAL IMPLICATIONS

There are no direct financial implications at this time. A delegated authority report will be prepared as each parcel is purchased, with payments to be made from account 906735.

LEGAL IMPLICATIONS

Provided that the statutory process set out in the *Expropriations Act* is followed, there are no legal impediments to implementing the recommendations set out in this report.

COMMENTS BY THE WARD COUNCILLOR(S)

All three affected Councillors from Wards, 16, 17 and 18 have been notified regarding the recommendation of this report. Phase 1 property requirements fall within Wards 17 and 18.

Councillor Brockington, Ward 16, is aware of the report and supports the recommendations. Councillor Menard, Ward 17 is aware of this report. Councillor Carr, Ward 18, is aware of the report and has no concerns.

ADVISORY COMMITTEE(S) COMMENTS

N/A

CONSULTATION

The planning phase of the project involved completion of the Bank Street Functional Design Study (December 2016), a Road Modification Approval (RMA) dated the 17th of

July 2017 by the Councillors for Ward 16 (River), Ward 17 (Capital) and Ward 18 (Alta Vista) and three public meetings (October 2019, April 2021 and March 2023).

To the extent possible, the real estate acquisition team has been in contact with the owners of the Lands both prior to and following the service of the Notice of Application for Approval to Expropriate in November of 2023.

ACCESSIBILITY IMPACTS

There are accessibility impacts associated with the recommendation of this report.

ENVIRONMENTAL IMPLICATIONS

The City's requirements for the various properties were reviewed through the Historical Land Use Inventory (HLUI) and available environmental reports. The review indicated that some of the properties are within or adjacent to land uses which may cause environmental impacts. Should impacted soil or groundwater be encountered during construction activities they would need to be managed in accordance with all regulations and guidelines

RISK MANAGEMENT IMPLICATIONS

The acquisition of the Lands is required to complete the Bank Street Rehabilitation Project. Failure to enact the By-law as recommended in this Report may delay completion of the Bank Street Rehabilitation Project.

RURAL IMPLICATIONS

All requirements are within the Urban Boundary of the City of Ottawa. The acquisition of property required for the Bank Street Rehabilitation Project will not generate any rural implication.

TERM OF COUNCIL PRIORITIES

In July 2023, Council approved the 2023-2026 Term of Council Priorities. The Bank Street Rehabilitation Project will assist in meeting the Council objectives to have a city that is: more connected with reliable, safe and accessible mobility options; more livable for all and that is green and resilient.

SUPPORTING DOCUMENTATION

Document 1 – Draft By-law

DISPOSITION

Following Council's approval of the recommended By-law, CREO will work with Surveys

and Mapping to register plans of expropriation with respect to the Lands and with external legal counsel to serve notice of expropriation and possession on the owners of the Lands. CREO will continue its efforts to resolve the compensation payable with respect to the expropriation of the Lands, including through proceedings before the Ontario Land Tribunal, if necessary.

DOCUMENT 1 – DRAFT BY-LAW

By-law No. 2024 – ____

A by-law of the City of Ottawa to approve the expropriation of certain Lands in the City of Ottawa for the purposes of the of the Bank Street Renewal Project

WHEREAS the City of Ottawa requires the property described in Schedule “A” attached hereto (collectively the “Subject Lands”), for the purposes of the Bank Street Renewal project (the “Bank Street Renewal Project”) including but not limited to, replacing and relocating above and underground utilities, including sanitary sewers, stormwater sewers, watermains and other utility conduits, facilitating the construction, use, operation, installation and maintenance of an improved right-of-way, cycling and pedestrian corridors, cycle tracks, bus stops and shelters, fences, curbs, sidewalks, retaining walls, landscaping and streetscaping features, streetlight and traffic signal poles, re-grading of the right-of way and all other improvements and works ancillary to the Bank Street Renewal Project;

AND WHEREAS pursuant to Section 6(1) of the *Municipal Act, 2001, S.O. 2001, c. 25*, as amended, the power of a municipality to acquire land under this or any other Act includes the power to expropriate land in accordance with the *Expropriations Act, R.S.O. 1990, c.E.26*, as amended (hereinafter referred to as the “Expropriations Act”) for these purposes;

AND WHEREAS a Notice of Application for Approval to Expropriate Land including the Subject Lands was served and published, as required by the Expropriations Act;

AND WHEREAS the application has not been referred to the Ontario Land Tribunal for a hearing of necessity by any of the owners of the Subject Lands and the applicable deadline for such has passed;

THEREFORE the Council of the City of Ottawa hereby enacts as follows:

1. THAT approval is hereby granted for the expropriation by the City of Ottawa of the Subject Lands described in Schedule “A” attached to this by-law, for the above-described purposes.
2. THAT the City Clerk is hereby authorized to execute on behalf of City Council the Certificate of Approval and the Expropriation Certificate and all other notices and documents which are necessary to carry out the provisions of this By-law.

3. THAT the City Clerk is hereby authorized to cause the Expropriation Plan to be registered in the Land Registry Office for the Land Titles Division of Ottawa (No. 4) and thereby effect the expropriation of the Subject Lands.

4. THAT a Notice of Expropriation be served upon the registered owners of the Subject Lands together with a copy of the Expropriation Plan and a Notice of Election relating to the date of assessment of compensation.

5. THAT an appraisal report estimating the market value of the Subject Lands and damages for injurious affection, if any, be obtained from an accredited appraiser.

6. THAT a Notice of Possession be served requiring possession of the Subject Lands at least three (3) months after the date of service of said notice.

7. THAT the City of Ottawa is hereby authorized to enter and take possession of the Subject Lands on the day permitted under the Expropriations Act, or pursuant to any Court Order thereunder, or pursuant to any agreement entered into between the relevant owner(s) and the City of Ottawa.

8. THAT, subject to any requirement for additional Council approval based on the estimated market value of any registered owner's interest in the Subject Lands, an offer of an amount in full compensation for the registered owners' interests in the Subject Lands, and an offer for immediate payment of 100 per cent of market value as estimated by the expropriating authority, all in accordance with section 25 of the Expropriations Act, be served, together with a copy of the appraisal report on which the offer of compensation is based.

9. THAT the officers and authorized agents of the City of Ottawa be and are hereby otherwise authorized and directed to do all things required arising from the authorizations provided for by this by-law.

10. THAT this by-law comes into force on the day it is passed.

ENACTED and PASSED this __, day of _____, 2024.

CITY CLERK

MAYOR

SCHEDULE "A"

All right, title and interest in the following lands:

1. Part of PIN 04146-0091 (LT) PART OF BLOCK F, REGISTERED PLAN 46 DESIGNATED AS PART 5, 4R-35554; CITY OF OTTAWA
2. Part of PIN 04193-0177 (LT) PART LOT D, REGISTERED PLAN 46, PART OF LOT 19, JUNCTION GORE DESIGNATED AS PARTS 1 AND 2, 4R35454; CITY OF OTTAWA
3. Part of PIN 04192-0079 (LT) PART LOTS 13, 14 AND 15, PLAN 365 DESIGNATED AS PARTS 1 AND 2, 4R35455; PART 2 S/T EASEMENT IN INSTRUMENT OT29463; CITY OF OTTAWA
4. Part of PIN 04148-0240 (LT) PART LOT 20, CONCESSION JUNCTION GORE DESIGNATED AS PART 3, 4R35455; CITY OF OTTAWA
5. Part of PIN 04148-0243 (LT) PART OF LOT 20, CONCESSION JUNCTION GORE DESIGNATED AS PART 1, 4R35958; CITY OF OTTAWA
6. Part of PIN 04146-0274 (LT) PART LOT 18, CONCESSION JUNCTION GORE DESIGNATED AS PARTS 1 AND 2, 4R35901; PARTS 3 AND 4, 4R35654; PART 4 4R35654 S/T EASEMENT INST. LT1061326; CITY OF OTTAWA
7. Part of PIN 04146-0306 (LT) PART LOTS 5 AND 6, REGISTERED PLAN 46 DESIGNATED AS PART 4, 4R35554; S/T OC1318883; CITY OF OTTAWA
8. Part of PIN 04147-0007 (LT) PART LOTS 50 AND 51, REGISTERED PLAN 149 DESIGNATED AS PARTS 1 AND 2, 4R35552; CITY OF OTTAWA
9. Part of PIN 04147-0274 (LT) PART OF LOT 20 CONCESSION JUNCTION GORE DESIGNATED AS PART 1 4R35550; CITY OF OTTAWA
10. Part of PIN 04147-0215 (LT) PART OF LOT 20, CONCESSION JUNCTION GORE; PART OF LOT 7, REGISTERED PLAN 409 DESIGNATED AS PART 2 4R35550; CITY OF OTTAWA
11. Part of PIN 04147-0209 (LT) PART OF LOTS 25 AND 26, REGISTERED PLAN 409 DESIGNATED AS PART 3, 4R35550; CITY OF OTTAWA
12. Part of PIN 04069-0338 (LT) PART LOT 18, REGISTERED PLAN 31 DESIGNATED AS PARTS 1 AND 11, 4R35511; CITY OF OTTAWA