

# LRT Right-of-Way Cost and Risk Sharing - City Charter Discussions

## Recommendation

That the June 19, 2018 Urban Form and Corporate Strategic Development report CR\_4267rev, be received for information.

## Previous Council/Committee Action

At the June 7, 2017, Urban Planning Committee meeting, the following motion was passed:

That the June 7, 2017, Sustainable Development report CR\_4267, be referred back to allow Administration incorporate the outcome of the City Charter discussions and return to the September 6, 2017, meeting.

## Executive Summary

In greenfield areas, LRT right-of-way is dedicated by adjacent landowners at the time of subdivision. No mechanism exists for sharing right-of-way costs amongst benefiting landowners and the Provincial government has not agreed to amend the *Municipal Government Act* nor the *City Charter* for this purpose. The Urban Development Institute's position is that landowners should be compensated for LRT right-of-way, and have proposed a cost-sharing arrangement with the City. This report outlines the background and framework for potential cost sharing of LRT right-of-way between the City and benefiting local landowners in developing areas.

## Report

The *Municipal Government Act* allows the City to require the dedication of LRT right-of-way at the time of subdivision. Similarly, the *Municipal Government Act* allows the City to require the dedication of roads and other public utilities with subdivision. In developed areas of the city where subdivision has already occurred, a roadway improvement project or LRT construction project necessitates that the City purchase right-of-way, because the opportunity to require the land dedication at the time of subdivision has passed.

In greenfield areas, both land and construction costs for arterial roadways are cost-shared by benefiting developers through the Arterial Roads for Development

Bylaw. However, the *Municipal Government Act* does not currently enable establishment of a similar levy or Bylaw to distribute the costs of LRT land dedication among benefitting land owners. As such, the burden to provide LRT right-of-way in developing areas is carried solely by developers owning land adjacent to planned LRT. Recognizing this difference, the City requested that the Province of Alberta enable municipalities to create an off-site levy system for land required for LRT, and thereby distribute the land costs among benefitting developers. To date, the Province has not agreed to amend the *Municipal Government Act* nor the City Charter framework for this purpose. Discussions with the Province have been ongoing but reduced since the passing of the amendments to the *Municipal Government Act* and the passing of the City Charter in April, 2018.

### **Developer Discussions**

Administration has held several meetings with Urban Development Institute representatives to discuss considerations of cost and risk sharing related to LRT right-of-way acquisition. Developers acknowledge that the City's investment in LRT, including both construction and operating costs, is a significant benefit to the local neighbourhoods. This City investment in LRT supports development of surrounding communities; however developers identified that there are risks borne by owners abutting LRT including:

- uncertainty and risk that the LRT corridor and station locations may be revised;
- uncertainty in the marketability and suitability of transit oriented zoning, subdivision and built form when LRT is unfunded and initial frequent transit service is not in place.
- Uncertainty of timing of LRT construction.

Given these risks and the perspective that LRT provides not only local but city-wide and regional benefits, it is the position of Urban Development Institute - Edmonton Region that landowners should be compensated by the City for dedication of LRT right-of-way. Developers are advocating for a cost-sharing arrangement with the City.

Administration and developers discussed a possible approach:

- Affected developers would sell land required for LRT to the City at 50 percent of fair market value, and outside their own contribution recover the remaining land costs on a proportional basis from other benefitting owners included in a defined catchment area, as they subdivide or develop their land.
- As mutually agreed, the City's 50 percent share of the cost of LRT right-of-way could be in cash or in land exchange.
- Cost sharing among benefitting owners would be arranged through a private owners' agreement. While such an agreement is voluntary and some (minor) owners may not participate, the expectation is that the majority of owners in the catchment area would participate. The owners directly impacted by the LRT land requirements would take the lead in establishing the owners' agreement.

- The owners' agreement would be similar to the Arterial Roads for Development program, administered by the City on a fee basis. The principles, management, and administration of a voluntary cost-sharing arrangement would be set out in a non-binding Memorandum of Understanding between the City and Urban Development Institute.
- An amendment to *The Way We Grow* Municipal Development Plan would be required to add policy to direct the Subdivision Authority to acquire LRT right-of-way in developing areas at the time of subdivision via reduced purchase price.

### Budget/Financial

Subdivision of lands adjacent to proposed LRT alignments would likely occur before capital funding is identified for LRT extension. As such, a funding source would need to be identified to carry out the cost-sharing arrangement suggested by developers. As each subdivision is registered, the City would purchase right-of-way within a reasonable timeframe, such as within two years.

Detailed planning has not been completed for all LRT extensions, and greenfield land costs have not been quantified. Strategic-level cost estimates of future LRT right-of-way land requirements in developing areas are:

- Capital Line extension south to Heritage Valley - \$4 million
- Capital Line extension northeast to Gorman - \$6.5 million
- Metro Line extension northwest to Campbell Road - \$5 million

### Legal

Pursuant to Sections 661 and 662 of the *Municipal Government Act*, a subdivision authority may require the dedication of land required for roads and public utilities as a condition of subdivision approval, provided the land dedication does not exceed 30 percent of the land area. If applicants seeking subdivision are opposed to the use of this authority, they have a right to appeal to the Subdivision and Development Appeal Board and ultimately the Alberta Court of Appeal. Because land required by dedication for roads and public utilities must be a maximum of 30 percent of the area of the parcel pursuant to the *Municipal Government Act*, it may not always be possible to require full dedication of LRT right-of-way without compensation.

### Corporate Outcomes and Performance Management

Corporate Outcome: The City of Edmonton has sustainable and accessible infrastructure.			
Outcome(s)	Measure(s)	Result(s)	Target(s)
The City of Edmonton has sustainable and accessible infrastructure	Edmontonians' assessment: Access to infrastructure,	68% (2017)	70% (2018) positive survey responses

	amenities and services that improve quality of life		
<b>Corporate Outcome: Edmontonians use public transit and active modes of transportation.</b>			
Transit network is well integrated	Transit ridership (annual rides/capita	91.6 (2017)	105.0 (Dec 2018)
	Journey to work mode (percentage auto passenger, transit, walk, cycle or other)	26.1% (2016)	25.9% by December 2018

## Risk Assessment

Risk Element	Risk Description	Likelihood	Impact	Risk Score	Current Mitigations	Potential Future Mitigations
Legal	Potential subdivision appeals or litigation with dedication requirement	5 - Almost certain	2 - Moderate	10 - Medium	LRT network plans identifying need for LRT corridor.	Development of concept plans for all LRT lines.
Public Liability	Corridors of undeveloped public lands could result in instances of City liability	1 - Rare	2 - Moderate	2 - Low	Routine maintenance	Develop shared use paths in advance of LRT to provide active space and increased public surveillance

## Others Reviewing this Report

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