

Approval to Commence Expropriation of Interests in Property

Valley Line West

Recommendation

That Executive Committee recommend to City Council, in its capacity as expropriating authority under the *Expropriation Act* (“Act”), that:

1. The commencement of the expropriation process under the Act be approved to acquire:
 - a. the lands shown on Attachment 2, and legally described in Attachment 3 of the June 18, 2018, Integrated Infrastructure Services report CR_5868; and
 - b. the interests described in Attachment 3 of the June 18, 2018, Integrated Infrastructure Services report CR_5868.
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 3 of the June 18, 2018, Integrated Infrastructure Services report CR_5868, 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 legal, appraisal and other costs actually and reasonably incurred by an owner described in Attachment 3 of the June 18, 2018, Integrated Infrastructure Services report CR_5868.

Executive Summary

As expropriating authority under the Act, City Council approval is required to commence the expropriation process to acquire the properties and interests shown and described in Attachments 2 and 3 of this report and, where an owner is willing to consent to an acquisition, to enter into a Section 30 Agreement.

The acquisition of these properties will facilitate construction of the Valley Line West LRT and is required before construction can begin.

Personal information has been redacted from Attachment 3 in accordance with section 17(1) of the *Freedom of Information and Protection of Privacy Act*.

Report

Valley Line Project Overview

The Valley Line is a 27 kilometre urban-style, low-floor LRT line that will operate between Mill Woods in southeast Edmonton and Lewis Farms in west Edmonton. The Valley Line was separated into two stages for project delivery: Valley Line Southeast (between 102 Street downtown and Mill Woods Town Centre) and Valley Line West (between 102 Street downtown and Lewis Farms Transit Centre). Valley Line West LRT alignment is shown on Attachment 1.

Related Council approval and implementation history is as follows:

- In 2009, the LRT Network Plan was approved;
- In 2009, the Valley Line corridor was approved;
- In 2011 and 2012, the concept plans for the Valley Line were approved;
- In 2013, preliminary engineering for the Valley Line was completed; and
- In 2018, updates to the Valley Line West Concept Plan were approved.

In September 2016, the City of Edmonton received funding through the Government of Canada's Public Transit Infrastructure Fund to update the Valley Line West (VLW) preliminary design, determine the most appropriate project delivery method, develop a business case for construction funding, and ultimately ensure that the project is ready for construction procurement in 2018.

Land Requirements

City Council, as expropriating authority, may expropriate land pursuant to the *Expropriation Act* ("Act"). The properties, as shown on Attachment 2 and legally described in Attachment 3 (the "Subject Properties") are required for construction of Valley Line West. The scope of the project includes, but is not limited to utility relocates, road realignment, road widening, construction and operation of the LRT, and any transportation facilities required to support the LRT.

Discussions to date have not led to voluntary agreements to acquire the Subject Properties. Commencement of the expropriation process entitles Administration to continue its efforts to negotiate the acquisition of the Subject Properties, through a voluntary acquisition, settlement, Section 30 Agreement, or the expropriation process pursuant to the Act. Approval to commence the expropriation process at this time enables Administration to work towards obtaining ownership and possession in order to facilitate the current tendering and construction schedule for Valley Line West.

The Subject Properties considered by this report do not include buildings identified as historically significant or designated.

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

Budget/Financial

Funding for the acquisition of lands required for Valley Line West will be through Capital Profile 16-66-7017.

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.
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

Public engagement associated with the LRT alignment, stop and station locations and other design elements was completed as part of overall Valley Line conceptual planning phase (2009-2011), preliminary design phase (2011-2013), and Valley Line West LRT preliminary design update and procurement readiness phase (2017-2018). A Public Engagement Plan and a Communications Plan were developed as part of Valley Line West LRT preliminary design update, outlining the strategy and steps for communication and engagement moving forward.

Property requirements are continuously reviewed and updated based on design refinements in each project phase. Recently, additional concept plan amendments to the Valley Line West LRT design were presented to City Council and the public through a non-statutory public hearing held on March 21, 2018. Based on feedback from the public at that hearing, City Council approved a series of amendments to the concept plan on March 23, 2018.

Corporate Outcomes and Performance Management

Corporate Outcome(s): Edmonton is attractive and compact			
Outcome(s)	Measure(s)	Result(s)	Target(s)
Infrastructure is in place to support residential densification and non-residential development	Edmontonians' assessment: Well designed, attractive city.	53% (2017)	55% (2018) positive survey results.

	<p>Percentage of Dwelling Units within 400 Meters of Existing LRT Stations and Transit Centres</p> <p>Percentage of Commercial and Institutional Floor Area within 400 Metres of Existing LRT Stations and Transit Centres</p>	Methodology in development for Q4 of 2018	To be determined with measure development
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Corporate Outcome: Edmontonians use public transit and active modes of transportation

Outcome(s)	Measure(s)	Result(s)	Target(s)
Edmontonians use public transit and active modes of transportation.	Transit ridership - rides/capita	91.6 (2017)	105 (2018)
	Journey to work mode (sum of % survey respondents who select "auto passenger," "transit," "walk," "cycle" or "other" as commute to work mode)	26.1% (2017)	25.9% (2018)

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, amenities and services that improve quality of life.	68% (2017)	70% (2018) positive survey responses

Risk Assessment

Risk Element	Risk Description	Likelihood	Impact	Risk Score (with current mitigations)	Current Mitigations	Potential Future Mitigations
Project Management	Project goes over budget/is delayed, partly - Limited access to the ROW due to Land Acquisition delays.	3 - Possible	3 - Major	9	Follow good project management practice and Project Management Reference Guide. This includes initiating contact with property owners early, exploring design alternatives, and/or seeking approval to commerce expropriation process.	Develop proactive action plans to mitigate impact to project schedule and budget.
Potential Land Cost Escalation	Property value increase.	3 - Possible	2 - Moderate	6	Opportunity purchase of properties as they become available.	Proactive acquisition of required properties.
Contaminated Property	Project goes over budget/is delayed, due to remediation efforts.	3 - Possible	2 - Moderate	6	Conduct desktop studies and additional investigation as required.	Develop proactive action plans to mitigate impact to project schedule and budget.

Attachments

1. Valley Line West LRT Alignment
2. Map of Subject Properties
3. Legal Description and Interests of the Subject Properties

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
- L. McCarthy, Deputy City Manager, Urban Form and Corporate Strategic Development