

Approval of Expropriations

Valley Line West

Recommendation

1. That the expropriation of the properties and interests, set out in Attachment 1 and legally described in Attachment 2 of the August 27, 2019, Office of the City Manager report CR_7486, be approved.
2. That all steps under the *Expropriation Act*, RSA 2000, c. E-13 (the “Act”) be taken to complete the expropriations, including but not limited to, registering certificates of approval of expropriation, and serving the notices of expropriation, notices of proposed payment and notices of possession.

Executive Summary

City Council, as approving authority under the *Act*, is required to approve or disapprove the proposed expropriation of the properties and interests shown in Attachment 1 and legally described in Attachment 2 (the “Subject Properties”) of the August 27, 2019, Office of the City Manager report CR_7486.

Acquisition of the Subject Properties and interests will facilitate construction of the Valley Line West LRT. Personal information has been redacted from Attachment 2 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).

Related Council approval and implementation history is as follows:

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

In September 2016, the City received funding through the Government of Canada's Public Transit Infrastructure Fund to update the Valley Line West preliminary design, determine the project delivery method, and develop a business case for construction funding to ensure that the project is ready for construction procurement in 2019. On November 1, 2018, the Government of Alberta committed \$1.04 billion to Valley Line West. On March 11, 2019, the Government of Canada committed \$948 million to Valley Line West. On April 30, 2019, Council approved the full budget of \$2.61 billion for Capital Profile 16-66-7017 for Valley Line West LRT.

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.

Expropriation Steps

On October 23, 2018 and February 5, 2019, City Council approved the commencement of the expropriation process to acquire the Subject Properties and interests.

In mid-April 2019, Administration started the expropriation process in accordance with the Act by registering a notice of intention to expropriate (the "Notice") on the title of each Subject Property, serving the Notice on each owner (as defined in the Act), and publishing the Notice in the Edmonton Journal. An owner has 21 days after being served with a Notice to file an objection to the expropriation.

The registered owners of each of the four Subject Properties filed objections to the proposed expropriation. The tenants of the Subject Properties did not object. Extension orders were issued by the Province and registered on title to the Subject Properties to extend the deadline to register a certificate of approval against a title, including expropriation of the fee simple owner and any tenant interests. Administration continued to work diligently to engage in further discussions and negotiations with the owners that filed objections. As a result of these discussions and negotiations, Administration entered into a voluntary acquisition, a Section 30 agreement, eliminated the need to acquire one tenant interest that did not object and is continuing with the other expropriations without objection from the owners. As a result, all four of the objections were subsequently withdrawn by the owners.

The Act states that if a person who has served a notice of objection to expropriation withdraws it, the approving authority may proceed as though no objection had been made. Accordingly, as the owners withdrew their notices of objections, City Council shall approve or disapprove the proposed expropriation upon proof of service and proof of publication of the Notice. Attachment 3 contains copies of Affidavits of Service

and Publication (exhibits excluded but available) evidencing proof of service on the owners and publication of the Notices, as required by the Act.

If a certificate of approval to expropriate an interest is not registered within the timeline under the Act, the proposed expropriation of that interest is, by operation of law, deemed abandoned.

Budget/Financial Implications

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

Legal Implications

1. Within 21 days of being served with a Notice, an owner may file a notice of objection to expropriation.
2. If an objection is filed, the Province has 15 days to appoint an inquiry officer.
3. The Province appointed an inquiry officer, and the inquiry officer obtained a 30-day extension to issue its written decision from the Province. The 30-day extension was registered on title, extending the period for the City, as approving authority, to register a certificate of approval from 120 to 150 days.
4. If an objection is filed and then withdrawn, City Council may proceed as though no objection had been made.
5. If an owner does not file a notice of objection to expropriation, City Council shall approve or disapprove the proposed expropriation upon proof of service and publication of the Notice.
6. If City Council approves the subject expropriations, a certificate of approval of expropriation will be registered against the Subject Properties and the City will be the registered owner of the property, or the specified portion of the property, as well as the owner of the interests described in the certificate of approval immediately upon registration.
7. In this case, a certificate of approval of expropriation must be registered on title within 150 days from the date the Notice was registered on title. If a certificate of approval is not registered, the proposed expropriation is deemed abandoned by operation of law.
8. After the certificate of approval is registered on title, the City will serve each described owner with a notice of possession, advising when it must vacate the land. The Act requires a minimum of 90 days' notice.
9. Before the City gets possession, owners will receive compensation for the land in accordance with the Act. If an owner and the City do not agree on the amount of compensation, the Land Compensation Board will determine compensation.
10. The reasonable costs in connection with filing an objection and any corresponding inquiry are paid by the City.

11. If an expropriation is abandoned, any actual loss sustained by the owner and the reasonable legal, appraisal and other costs incurred by the owner up to the time of abandonment are paid by the City.
12. The reasonable legal, appraisal and other costs actually incurred by an owner in order to determine compensation are paid by the City.

Corporate Outcomes and Performance Management

Corporate Outcome(s): Edmonton is Attractive and Compact.			
Outcome(s)	Measure(s)	Result(s)	Target(s)
Edmonton is attractive and compact.	Edmontonians' assessment: Well designed, attractive city (percent of survey respondents who agree/strongly agree)	53% (2017)	55% (2018)

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 (percent of survey respondents who select auto passenger, transit, walk, cycle or other)	26.1% (2016 result)	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 (percent 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	Project goes over budget, has poor quality, is delayed.	2- Unlikely	2 - Moderate	4 - Low	Recommendation that City Council approve the proposed expropriation of the identified properties.	Complete the steps required under the <i>Expropriation Act</i> to finalize the expropriation, including registering a certificate of approval of expropriation.
Legal	If a certificate of approval of expropriation is not registered within the required timeline, the proposed expropriation is presumed to be abandoned.	2 - Unlikely	3 - Major	6 - Low	Recommendation that City Council approve the proposed expropriation of the identified properties.	Complete the steps required under the <i>Expropriation Act</i> to finalize the expropriation, including registering a certificate of approval of expropriation.

Attachments

1. Map of Subject Properties
2. Legal Description and Registered/Non-Registered Interests of Properties
3. Affidavit of Service & Publication (Exhibits excluded)

Others Reviewing this Report

- J. Meliefste, Acting Deputy City Manager, Integrated Infrastructure Services
- A. Laughlin, Acting Deputy City Manager, Financial and Corporate Services
- C. Owen, Deputy City Manager, Communications and Engagement