

Approval of Expropriation for the Valley Line West Light Rail Transit Project, Permanent Utility Right of Way

Recommendation

1. That the expropriation of the Utility Right of Way in the lands as shown and legally described in Attachment 1 of the May 17, 2021, Office of the City Manager report OCM00551, (the “Utility Right of Way”), be approved.
2. That all steps under the *Expropriation Act*, RSA 2000, c. E-13 (the “*Expropriation Act*”) be taken to complete the expropriation, including but not limited to, registering a certificate 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 *Expropriation Act*, is required to approve or disapprove the expropriation of the Utility Right of Way, which is required for construction and operation of the Valley Line West LRT.

Personal information has been redacted from Attachments 1 and 2 to this report, in accordance with subsection 17(1) of the *Freedom of Information and Protection of Privacy Act*, RSA 2000 c F-25. Subsection 17(1) of the *Freedom of Information and Protection of Privacy Act* requires a public body to refuse to disclose personal information if the disclosure would be an unreasonable invasion of a third party’s personal privacy.

Report

Expropriation Steps

On December 10, 2019, City Council approved the commencement of the expropriation process to acquire the Utility Right of Way.

On March 30, 2021, Administration registered a notice of intention to expropriate on the title to the lands for the Utility Right of Way. On April 8, 2021, Administration served the notice of intention to expropriate on the owners of those lands. On April 14 and

April 23, 2021, Administration published the notices of intention to expropriate in the Edmonton Journal.

An owner has twenty-one (21) days after being served with a notice of intention to expropriate to file an objection. If a person identifies as an owner of the Land and was not served with a notice of intention to expropriate, then that owner may file an objection twenty (21) days after the first publication of the notice of intention to expropriate. The objection period expired on May 5, 2021, twenty-one (21) days after the April 14, 2021 publication in the Edmonton Journal.

The City received no objections to the notice of intention to expropriate. Accordingly, City Council shall approve or disapprove the proposed expropriation upon proof of service and proof of publication of the notice of intention to expropriate. Attachment 2 are copies of the Affidavits of Service and Publication (exhibits excluded but available) evidencing proof of service on the owners and publication of the notice of intention to expropriate the Utility Right of Way.

If City Council approves the expropriation of the Utility Right of Way, Administration will register a certificate of approval and the Utility Right of Way instrument on the land title. If a certificate of approval is not registered within the timelines in the *Expropriation Act*, the proposed expropriation is deemed abandoned.

Budget/Financial Implications

Funding for the acquisition of land required for Valley Line West is through Capital Profile 16-66-7017.

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 *Expropriation Act*.
3. Registering a Notice of Intention to Expropriate (the “Notice”) on the title to the property being expropriated starts the expropriation process under the *Expropriation Act*.
4. The Notice is intended to show a potentially impacted party how the proposed expropriation may impact them. Each interest registered on title and each owner (as defined in the *Expropriation Act*), is served with a copy of the Notice.

An owner may object to the proposed expropriation within twenty-one (21) days of being served with the Notice.

5. The Notice is also advertised twice in the Edmonton Journal.
6. If an owner files an objection, the Alberta Deputy Minister of Justice (or their designate) will appoint an inquiry officer to conduct a hearing into whether the expropriation is fair, sound and reasonably necessary. The inquiry officer will conduct a hearing and make a written report within thirty (30) days. City Council must consider the inquiry officer's written report and then approve or disapprove the proposed expropriation, however City Council does not have to follow the inquiry officer's findings.
7. If no objection is filed, City Council may approve or disapprove the proposed expropriation upon proof of service and proof of publication in compliance with the *Expropriation Act*.
8. If City Council approves the expropriation, a certificate of approval and the Utility Right of Way will be registered on the affected land title. The certificate of approval and Utility Right of Way instrument will grant the City the expropriated interest in the land. If a certificate of approval is not registered within the timeline in the *Expropriation Act*, the proposed expropriation of the Utility Right of Way is deemed abandoned.
9. If an expropriation is abandoned, the City must pay any actual loss sustained by an owner and the reasonable legal, appraisal and other costs incurred by the owner up to the abandonment.
10. After an interest is expropriated, the City must serve the owner with a notice of possession stating the date the City is entitled to possession.
11. Prior to possession, an owner will receive compensation in accordance with the *Expropriation Act*. The City is required to provide an owner with an appraisal setting out the market value of the interest.
12. The *Expropriation Act* governs the payment of compensation to an owner. The Land Compensation Board will determine the amount of compensation payable if the owner and the City cannot reach an agreement.
13. The *Expropriation 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.

Corporate Outcomes and Performance Management

| Corporate Outcome(s): Edmonton is attractive and compact. | | | |
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| 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. | | | |
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| 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. | | | |
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| 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 |
|--------------|------------------|------------|--------|---------------------------------------|---------------------|------------------------------|
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| Project Management | Project goes over budget / is delayed, partly due to limited access to the right-of-way due to land acquisition delays. | 1 - Possible | 1 - Major | 9 | Recommendation that City Council approve the proposed expropriation of the utility right of way. | Complete the steps required under the Expropriation Act 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 deemed abandoned. | 2- Unlikely | 3- Major | 6- Low | Recommendation that City Council approve the proposed expropriation of the identified utility right of way. | Complete the steps required under the Expropriation Act to finalize the expropriation, including registering a certificate of approval of expropriation. |

Attachments

1. Map and Legal Description of the Utility Right of Way, including registered and non-registered interests
2. Affidavit of Service & Publication (Exhibits excluded)

Others Reviewing this Report

- M. Persson, Deputy City Manager and Chief Financial Officer, Financial and Corporate Services
- C. Owen, Deputy City Manager, Communications and Engagement
- A. Laughlin, Deputy City Manager, Integrated Infrastructure Services