

Update on Metrolinx's Union Station Enhancement Project, Package 1

Date: December 3, 2019

To: Executive Committee

From: Deputy City Manager, Corporate Services

Wards: 10 - Spadina-Fort York

SUMMARY

This report provides an update on the negotiations with Metrolinx on the necessary agreements for the design and construction of Metrolinx's Union Station Enhancement Project (USEP), Package 1, for a new south concourse.

Over the past year, the City of Toronto (the "City") and Metrolinx have been actively pursuing negotiations on a framework agreement to ensure Metrolinx is able to access City-owned property that it requires to deliver the USEP, Package 1. In the interest of ensuring expedient progress on this project, Metrolinx has recently advised City staff that it intends to expropriate the City-owned land to the south of Union Station, airspace above both York Street and Bay Street at track level, along with certain portions of the Station that are required for the construction of the new south concourse. Metrolinx has committed to continuing negotiations with the City while the expropriation process unfolds in the aim of reaching a friendly agreement to acquire City property it needs to advance work on the USEP.

To avoid delaying the USEP, Package 1, this report requests authorization to waive the City's right to request a Hearing of Necessity for the proposed expropriation of City property. A Hearing of Necessity can be requested to establish whether the expropriation is "fair, sound and reasonably necessary," however the outcome is not binding upon the expropriating authority. Accordingly, this request would only serve to delay the expropriation process and would not impact the outcome.

In addition, Metrolinx has indicated that it is committed to continue negotiations on the Design and Construction Agreement with the City to allow Metrolinx to integrate new infrastructure into the City's existing base building services.

RECOMMENDATIONS

The Deputy City Manager, Corporate Services, recommends that:

1. City Council direct the City Manager to report back to the Executive Committee with details of the proposed expropriation of City-owned land for the Union Station Enhancement Project, Package 1, after formal notice of the proposed expropriation is received from Metrolinx.
2. City Council direct the City Manager to continue negotiations with Metrolinx on the revised terms of the Design and Construction Agreement for the implementation of the Union Station Enhancement Project, Package 1 and report back to the Executive Committee on the recommended terms of the Agreement following the conclusion of negotiations.
3. City Council direct the City Manager to waive the City's right to request a Hearing of Necessity for the proposed expropriation of City-owned land for the Union Station Enhancement Project, Package 1.

FINANCIAL IMPACT

The financial impact of the expropriation will be determined in accordance with the provisions of the Expropriations Act, which requires the expropriating authority to pay compensation to the owner (the City) based on the market value of the land taken, the damages attributable to disturbance, and damages for injurious affection.

City staff will report back to the Executive Committee on the revised terms of the Design and Construction Agreement at the conclusion of negotiations and advise on the details of the proposed expropriation of City-owned land, additional authorities required for any additional agreements, or revised terms related to the completion of the USEP Package 1.

The Chief Financial Officer and Treasurer has reviewed this report and agrees with the financial impact information.

DECISION HISTORY

In April 2018, City Council adopted Item EX33.1, entitled "Implementation of the SmartTrack Stations Program and the Metrolinx Regional Express Rail Program", and approved, in principle, the use of the City-owned land to the south of Union Station for the USEP Package 1 and authorized the Deputy City Manager, Corporate Services, to negotiate the terms of the necessary easements, licenses and other agreements with Metrolinx, and the terms of any required amendments to existing agreements that will be impacted by the USEP Package 1 and report back to the Executive Committee on the recommended terms of such agreements.

Link: <http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2018.EX33.1>

In July 2018, City Council adopted Item EX36.13, entitled "Metrolinx's Union Station Enhancement Project, Package 1 Implementation and Package 3 Review", and

approved the key terms and negotiating principles to be used in the negotiations with Metrolinx on the Framework Agreement, the Design and Construction Agreement and certain other Key Agreements for the USEP Package 1.

Link: <http://app.toronto.ca/tmmis/viewAgendaItemHistory.do?item=2018.EX36.13>

COMMENTS

GO Expansion is being delivered in three “packages” of work. The USEP Package 1 falls into the category of enabling works for the delivery of GO Expansion, which includes work to build a south concourse that will connect into Union Station. The USEP Package 3 falls into the category of on-corridor works to realign tracks, providing a solution to deliver fully-integrated enhanced train service. Package 2 includes work off the rail corridor related to stations and surrounding infrastructure that does not apply to Union Station. Layouts and renderings illustrating the USEP Package 1 are included as Attachment 1.

Based on pedestrian modelling completed by the City, the USEP Package 1 is considered to be an enhancement to Union Station, as it combines increased capacity at track level with improved pedestrian connections to and from Union Station. Metrolinx and Infrastructure Ontario are proceeding with an "Alliance model" procurement structure for this project. Under this model, Metrolinx and non-owner participants share risks and responsibilities equally and make unanimous decisions on key project issues. A Request for Qualifications under this Alliance model was issued on October 28, 2019.

Union Station Enhancement Project – Package 1

In collaboration with Metrolinx, City staff provided valuable feedback into the development of the performance specifications for the USEP Package 1. This feedback will inform the new Alliance model procurement currently underway. Following a full review of the project's RFP documentation, reference concept design, and a thorough pedestrian modelling and movement analysis, it has been determined that the new south concourse will provide a number of positive benefits to Union Station:

- significant increase of capacity on southern platforms;
- reduced pedestrian congestion at the south end of the Union Station;
- improved access/egress to the south of Union Station that provides space for east-west circulation;
- enhanced connectivity between the concourses, teamways and destinations to the north and south (Toronto Transit Commission, Scotiabank Arena, 25 York/Maple Leaf Square);
- additional connections providing better options for pedestrians that will improve flow throughout Union Station, including retail areas; and
- use of unexcavated lands to provide an improved commuter experience on the southern platforms.

Although there will be impacts during construction that will need to be actively managed by Metrolinx's successful proponent, the USEP Package 1 is seen to be a positive

development that is necessary to facilitate the increased ridership anticipated from GO Expansion.

In July 2018, City Council authorized the City Manager to negotiate and execute a Framework Agreement and a Design and Construction Agreement with Metrolinx, together with certain other key agreements, based on major terms outlined in attachments to the staff report (EX36.13). This Framework Agreement was meant to establish parameters around any activities related to the USEP Package that fell into the period prior to construction. City Council also directed the City Manager to negotiate all of the agreements consistent with Council-adopted negotiating principles.

City staff has been actively pursuing negotiation of the Framework Agreement and the Design and Construction Agreement with Metrolinx, with a view to finalizing the revised terms and reporting to City Council for approval of the same. This summer, Metrolinx concluded that in order for it to meet its scheduled construction start of September 2020 (which sits in the critical path of future GO Expansion works), and to mitigate associated risks that could potentially affect both Metrolinx and the City, it would be in the best interest of the USEP to remove the requirement of a Framework Agreement and pursue expropriation to acquire the land and portions of Union Station that Metrolinx requires.

The areas to be expropriated include unexcavated lands behind Union Station, two corridor areas that provide access to the most southern platforms from the teamways and concourses, airspace above the viaduct on both York Street and Bay Street, as well as access to and from Maple Leaf Square. The expropriation will also include the City's existing bike storage room in the York East Teamway, a portion of the truck tunnel leading to the City's loading dock, and a portion of the York West Teamway that is currently leased to VIA Rail. Attachment 2 shows an approximation of these areas for illustrative purposes. Metrolinx already owns areas adjacent and within these areas. To date, the City has not yet received formal notice of the proposed expropriation with the specific details. Following the issuance of such notice, the City and Metrolinx will continue to negotiate and seek a friendly agreement for the acquisition of this property by Metrolinx. The City will work to accommodate operations and programming impacted by the expropriation.

Metrolinx and the City are continuing negotiations on the revised terms of the Design and Construction Agreement, as Metrolinx requires access through other City-owned portions of Union Station and needs to integrate with the City's existing base building services. City staff will report back to the Executive Committee on the revised terms of the Design and Construction Agreement at the conclusion of negotiations.

As part of the expropriation process, the owner of the property to be expropriated may request a Hearing of Necessity ("Hearing") to determine if the expropriation is "fair, sound and reasonably necessary" to achieve the objectives of the authority expropriating the property. However, the expropriating authority (in this case, Metrolinx) is not bound by the outcome of the Hearing. Any request for a Hearing would only serve to delay the expropriation process and, by extension, the delivery of USEP, Package 1 and subsequent projects that are dependent on Package 1. City staff are requesting authorization to waive the right to request a Hearing for the proposed expropriation in light of this impact.

Conclusion

This report provides an update on the status of negotiations with Metrolinx, including the expected expropriation of lands in and around Union Station, and continued efforts to reach a Design and Construction Agreement with Metrolinx. Notwithstanding the pending expropriation, Metrolinx has committed to continuing negotiations with the City with the aim of reaching a friendly agreement to acquire City property it needs to advance work on the USEP.

City staff will report back once Metrolinx formally serves the City with notice of the proposed expropriation, and detail any additional authorities that may be required for any additional agreements or revised terms related to the completion of the USEP Package 1.

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SIGNATURE

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ATTACHMENTS

Attachment 1 - USEP Package 1 – Layouts and Renderings
Attachment 2 - USEP Package 1 – Metrolinx's City Property Requirements
Attachment 3 - Union Station Map - To be circulated under separate cover