

REAL PROPERTY CHALLENGES

New light rail project revitalizes Ottawa's downtown core



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The Canadian city of Ottawa has long suffered the effects of severe bus bottlenecks through the downtown core area. With increasingly slowing service and the declining reliability of the city's transit system, action was clearly needed to address the ongoing congestion problem.

In December 2012, the Ottawa City Council awarded the contract to design, build, finance and maintain the first leg of Ottawa's Light Rail Transit system – the Confederation Line – to the Rideau Transit Group. The project is part of the city's overarching and long-term smart-growth objectives laid out in the Official Plan, Transportation Master Plan and Infrastructure Master Plan. Together, these plans call for the creation of densified, mixed-use neighborhoods surrounding Confederation Line stations.

The \$2.13 billion line is the largest infrastructure project in the City of Ottawa since the construction of the Rideau Canal in 1826. When complete and

operational in 2018, it will provide rapid and high-quality transit service from the Tunney's Pasture mixed-use center/employment node in the west to Blair Station Mixed Use Center/employment node in the east. This 13-station electric Light Rail Transit system will span 12.5-kilometres (7.7 miles), including a 2.5-km (1.5 mile) tunnel that connects the downtown core.

The real property challenges associated with a project of this magnitude were considerable, as were encouraging transit-oriented development and other initiatives to support intensification.

Securing the Rights

The property requirements for the Confederation Line consist of four project components: the Confederation Line guideway and stations, the integrated station entrances, a maintenance and storage facility and the easements for the electricity provider, Hydro Ottawa.

With the exception of the tunnel section, the Confederation Line is a conversion of the city's surface Bus Rapid Transit Network and therefore exists mostly within its existing right of way. A range of real estate acquisitions were required to permit the construction, future operation and maintenance of the Confederation Line, including the acquisition of fee simple interests, easements (permanent and temporary), licenses and encroachment permits. Many of these have been stratified to separate our surface, subsurface and aerial rights, as required to address complexities in property acquisition for tunnel construction through the downtown.

Public lands represent approximately 75 percent of the property requirements for the line. The vast majority of these lands have been secured through complex Memorandums of Understanding with federal, provincial and other institutional landowners such as Parks Canada, Public Works and Government Services Canada, the Ontario Ministry of Transportation, the University of Ottawa and the National Capital Commission. Since a municipality does not have the power to expropriate federal or provincial land, detailed and multi-faceted processes were required to secure the right of way. While these complex negotiations presented many challenges, they also provided the city with the opportunity to resolve outstanding property issues with the National Capital Commission that date back to the 1980s and relate to the construction of the bus rapid transitway.

Some of the property requirements for the Confederation Line were in private ownership. The majority of these property rights were secured through negotiated agreements, although some required the expropriation process. In those instances where construction timing made it necessary to initiate expropriation proceedings, the city continued to pursue negotiated settlements with these property owners. To date, the city has completed two rounds of expropriations and anticipates moving forward with a third round in 2014 to secure a number of temporary working easements should they be required.

Subterranean Tunnel Segments

An important aspect of the project is the 2.5 km tunnel that will run directly through the city's downtown core. From a valuation perspective, the acquisition of subterranean tunnel segments presented a range of challenges. Compensation for these takings has yet to be settled in some instances, however the city anticipates that factors such as the depth of the upper limit of the taking, the current use of the properties at grade, and betterment associated with the construction of the new transportation infrastructure will continue to play a central role in determining the market value of tunnel segments and injurious affection to remainder lands, if any.

Wherever possible, the city attempted to minimize the need for property acquisitions by making strategic use of existing city property for various project requirements, such as staging areas and by entering into targeted agreements for limited property rights. For example, the city negotiated a five-year lease of a downtown surface parking lot that was being held for future development. The negotiated agreement provides access for tunneling equipment in the mid-section of the Confederation Line tunnel, while leaving ownership of the parcel and the future development potential of the site with the property owner.

Creating a Positive Commuting Experience

Maximizing station integration opportunities in the downtown core is a critical project element, as it creates functional entrances, business connections and a more desirable commuting experience. It also frees up the right of way on downtown streets, creating a more functional public realm that balances the needs of transit users, pedestrians and cyclists while providing an opportunity for an improved streetscape. Therefore, it was an important property acquisition objective to secure the property rights for these integrated station entrances.

Complementing this objective, and in recognition of the city's goal to proactively engage private or public participants to promote transit-oriented developments and connections at or near stations, the city undertook certain business development strategy initiatives in 2008. The first step was to send out Requests for Information to private sector businesses and landowners along the tunnel alignment. City staff also approached numerous landlords, developers, retailers, landowners and other interested parties to explore and promote opportunities to integrate into downtown stations. We have currently been successful in locating five of the six entrances for the three



Moving ahead on time and on budget, the 13-station electric light rail transit system is expected to be completed and operational in 2018.

tunnel stations off the right of way. This strategy resulted in downtown properties connecting to the Confederation Line underground. Negotiating the property rights required for these entrances proved an interesting challenge, especially since acquiring property rights within an existing building is somewhat unique and uncommon in Ottawa. However, we remained focused on achieving a win-win scenario for both parties, and our efforts proved successful.

Term sheets have been executed with all five owners, with other documents, such as construction agreements, to follow at a later date. Three entrances will require integrating with or accommodating existing structures such as office, mixed use and shopping centers, while a fourth integrated station will require an existing retail/office building entrance be demolished. A fifth downtown location is on a vacant parcel of land, however, through the granting of air rights, the station entrance planned for the site will be structurally designed to accommodate a large multi-story building above it. The sixth entrance is located on city right of way.

Maintenance and Storage

The land assembly needed for the maintenance and storage facility involved 18 improved properties with a total of 26 acres, approximately 340,000 square feet of building space in office and industrial buildings, 12 owners and 19 tenants. The acquisition included the expropriation of a 10-unit industrial/commercial condominium in its entirety, which is believed to be the first expropriation of this kind in the Province of Ontario (and possibly in Canada). The city registered the Expropriation Plan in January 2012, took possession in May 2012, and entered into occupancy agreements with most of the owners and tenants. The last tenant was vacated in March 2013.

After completing the expropriation of these properties, the city undertook a property management role with respect to the maintenance and storage facility properties for approximately one year and amended the occupancy agreements with some of the owners/tenants to provide sufficient time to relocate and, in some instances, construct a substitute property. From a compensation

perspective, the relocation aspect presented some challenges for the city, as many replacement properties identified by the expropriated owners/tenants represented substantial betterments, including new construction and larger premises. Notwithstanding this, all of the expropriated owners/tenants have now secured replacement properties, and the city has financially settled with the majority of them.

The facility will provide the maintenance and storage of vehicles for the Confederation Line Light Rail Transit system. Construction will be completed in time to allow it to be used to do the final assembly of the vehicles prior to commissioning. The project constructor, Rideau Transit Group, was handed possession of the property in April 2013, and all of the improvements have since been completed. The land assembly also allowed the city to capitalize on a strategic acquisition for a property purchase (industrial building) to consolidate other city properties that are in close proximity to the facility.

Easements for Hydro Ottawa

Throughout the design process, Hydro Ottawa identified easements required for its power infrastructure to service the light rail transit. Consequently, a hydro agency agreement was executed between the city and Hydro Ottawa for the necessary approvals. In essence, the city acted as an agent for the utility with respect to the negotiated acquisition and, if necessary, the expropriation of the required property interests. Through negotiations, the city secured all of the necessary easements on behalf of Hydro Ottawa with 10 property owners, thus negating the need for expropriation. The city also coordinated and obtained temporary Licenses of Occupations for construction staging areas from adjacent property owners, necessary for the installation of Hydro Ottawa's infrastructure.



Elected leaders from all three levels of government celebrated in February 2013 to mark the commencement of tunnel construction for the Confederation Line Light Rail Transit system.

As of February 2014, the three excavators carving out the tunnel had completed 10 percent of the 2.5 kilometer tunnel.

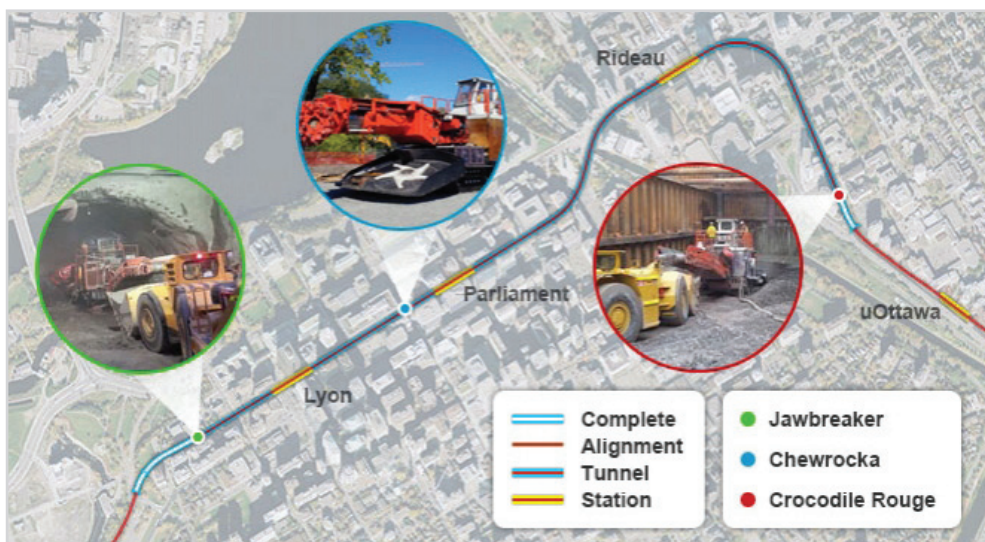
Contributing to the success in securing these property requirements was that the City Council provided unlimited delegated authority to staff on all property acquisitions, subject to the concurrence of the local Ward Councillor. Settlements over \$2 million also required the concurrence of the Mayor, with the ability to closeout the project only after all of the properties were acquired. This ensured that the property settlements remained confidential until all property had been secured.

Transit-Oriented Development Strategy

The Confederation Line will help achieve the city's long-term growth objectives by acting as a catalyst for the development and redevelopment in the areas surrounding the light rail transit stations. The city is already seeing an increased demand for development in these areas, and the pace of this redevelopment is expected to increase leading up to and beyond the opening of the transit line.

As a result of this demand, the city is proactively assessing areas around each station and creating transit-oriented development plans. All are based on smart growth principles and designed to encourage complete, high-density communities where people live, work, shop and play, while relying less on individual vehicle use. Emphasis is applied on planning designs that encourage alternative forms of transportation, including walking, cycling and public transit in developments that remain within 800 meters of a light rail transit station. Such planning initiatives will result in maximized returns on investment in major city-building infrastructure projects, like the Confederation Line. These also contribute to the overall economic, environmental, social and cultural sustainability of cities through efficient land use that accommodates growth on existing and planned infrastructure.

Like many municipalities, the City of Ottawa historically maintained a policy that discouraged development above major infrastructure. This policy was in accordance



with best industry practices of the time, as it ensured that operation of the infrastructure would not be compromised by development, and, conversely, development would not be compromised by infrastructure operation or failure. Further, it ensured that the degree of complexity associated with monitoring and maintaining the infrastructure would be kept to a minimum. The downside of this policy is that it constrained and sometimes precluded development in general, and often in areas where municipalities that could benefit from growth. In recent years, there have been marked improvements in infrastructure materials, construction techniques, and monitoring and maintenance practices. Couple that with the best practice city-building smart growth goals of creating more compact, dense neighborhoods in proximity to major transit services has prompted a second look at policies related to building over top of municipal infrastructure. This is especially the case in situations where there are other benefits to promoting development in an area.

In order to encourage this, Ottawa's City Council recently adopted a policy to ensure a uniform, risk-based approach is used when deciding what build-over rights above city infrastructure it will grant property owners. This decision will be made considering whether a proposal is appropriate for the area and is consistent with directions for the growth in the Official Plan, Secondary Plans, Community Development Plans, Development/Design Guidelines, and the zoning bylaw. This policy now allows that, should it be deemed appropriate, the city will grant the property rights necessary to build over existing infrastructure in accordance with its disposal policy and procedures.

In Summary

Securing the property requirements was an integral part of ensuring the success of this multi-billion dollar infrastructure project and, in doing so, the city's property team has faced significant challenges. However, through well-developed negotiation strategies, the required real estate assets were secured on time and within budget, without triggering any negative media coverage. Success was also achieved due to the establishment of fluid project management schedules.

The Confederation Line has already shown itself to be a catalyst for development and redevelopment in the areas surrounding light rail transit stations. The planning tools being developed, including transit-oriented development and the implementation of a uniform, risk-based approach for build-over rights above city-owned infrastructure, will provide the appropriate intensification and smart growth. The Confederation Line is an important investment in the future of Ottawa. Smart planning tools and excellent property acquisitions help to maximize this investment. 🌟

This article was originally published in Canadian Property Valuation, Volume 58 Book 1 2014. For more information, visit www.confederationline.ca



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