

PRAIRIE SKY GONDOLA LAND AGREEMENTS

RECOMMENDATION

That the August 10, 2022, Financial and Corporate Services report FCS01252, be received for information.

Requested Council Action		Information only	
ConnectEdmonton's Guiding Principle		ConnectEdmonton Strategic Goals	
CONNECTED This unifies our work as we work to achieve our strategic goals.		Urban Places	
City Plan Values	ACCESS		
City Plan Big City Move(s)	Catalyze and converge	Relationship to Council's Strategic Priorities	15-minute districts
Corporate Business Plan	Transforming for the future		
Council Policy, Program or Project Relationships	<ul style="list-style-type: none">• River Crossing (including the Interpretive Park, Touch the Water Promenade, Rosedale Power Plant Reuse, Rosedale Transportation Network, and new residential and commercial development), the 100 Street Pedestrian Bridge, Downtown Public Places Plan, Old Strathcona Public Realm Strategy (under development) and the Ortona Armoury Redevelopment.		
Related Council Discussions	<ul style="list-style-type: none">• CR_6030 - ETSAB: Urban Gondolas in Public Transit - Is this a Viable Option for Edmonton?• CR_6126 - Gondola Feasibility/Constructability Study Cost• CR_7152 - Gondola Feasibility - Preliminary Economic and Technical Assessment• CR_8033 - Urban Gondola - Working Relationship Framework		

Executive Summary

- Since Council's approval of the Agreement Framework on February 22, 2021, Administration and Prairie Sky Gondola Inc. (Prairie Sky) have been engaged in negotiations on land agreements for City-owned land required for the gondola.

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- This report provides an overview of the land agreements, for consideration, related to Prairie Sky's proposal to construct an urban gondola connecting downtown to Whyte Avenue. The gondola would be constructed on and travel over City-owned titled land, park, road right-of-way and the river valley.
- The land agreements are based upon the Agreement Framework approved by Council in February 2021, and are consistent with the Council-defined governing principles for the project as directed by motion on February 3, 2020.
- While a significant amount of work remains outstanding on the gondola proposal, the land agreements are being advanced to Executive Committee at this stage as Prairie Sky requires certainty regarding the availability of the land for the proposed alignment in order to advance to the next stage of the project development.
- Should Executive Committee wish to advance the gondola project, approval of the key terms and conditions outlined in Attachments 3 and 4 is required to provide certainty to Prairie Sky that the land required for the proposed alignment is available. Approval of the key terms and conditions of the land agreements would commit the City to providing the required land to Prairie Sky, provided that Prairie Sky fulfils all the conditions in the land agreements. Approval of the key terms and conditions is a milestone, but does not mean that the gondola is confirmed and ready to start construction.

REPORT

Background

Prairie Sky Gondola Inc. (Prairie Sky) is a private entity that proposes to construct an urban gondola in Edmonton between Downtown and Whyte Avenue with connections in River Crossing. Other municipalities in Canada, such as Burnaby and Red Deer, are currently exploring the use of gondolas within an urban context, similar to their use around the world. The proposed urban gondola by Prairie Sky would be the first gondola located centrally in a major Canadian city.

At its February 22, 2021 meeting City Council passed the following motion:

"That the Agreement Framework between the City of Edmonton and Prairie Sky Gondola Inc., as set out in Attachment 1 of the February 16, 2021, Financial and Corporate Services report CR_8033, be approved."

Since Council's approval of the Agreement Framework, Administration and Prairie Sky have progressed with work on the proposed gondola. Work performed to date includes, but is not limited to:

- work on a Transportation Impact Assessment by Prairie Sky and transportation modelling advanced by Administration;
- preparation for future rezoning applications by Prairie Sky;
- identification of potential opportunities to achieve mutually beneficial integration between Edmonton Transit Service and the proposed gondola; and
- negotiating final terms for the land agreements (the focus of this report).

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In addition, the proposed alignment of the urban gondola has slightly shifted and is now proposed to be constructed only on City-owned land, rather than the previous alignment, which included a combination of City and provincially-owned lands. The revised alignment proposes a total of 19 towers with five stations as shown in Attachment 1.

Proposed Benefits and Alignment with City Objectives

Conceptually, the gondola presents a possible opportunity for an additional accessible mode of transportation for visitors and residents to access the central river valley in River Crossing, connecting downtown and Old Strathcona - key districts identified as areas to invest in the activation approach from 1 to 1.25 million people in The City Plan.

The gondola concept also presents a potential economic opportunity for the city. Leveraging this private sector investment may contribute to Edmonton's attractiveness as a tourist destination. For example, Explore Edmonton has identified the development of the Prairie Sky Gondola as an anchor attraction as a strategic recommendation in their 2021-2030 Tourism Master Plan.

Administration continues to be guided by Council's governing principles. Future work on the gondola would seek alignment with and support for City plans and priorities in the areas around the proposed stations. Specifically, the agreements require that the gondola project integrate with other City initiatives and projects including, but not limited to:

- the Capital City Downtown Plan
- Touch the Water Promenade
- Rossdale Power Plant reuse
- McDougall Hill Pedestrian Bridge
- South Edge Promenade in the Downtown Public Places Plan
- River Crossing initiative
- Queen Elizabeth Park Master Plan
- the Old Strathcona Public Realm Strategy
- the Main Street Guidelines

Should the land agreements be approved, the gondola project would advance to the next stage of work including detailed design, further exploring interconnections between and alignment of the proposed gondola with City plans, priorities and projects. The gondola could only be constructed if the proposal receives approval through various regulatory processes that will likely require further studies to be completed and further internal and external consultation. Risks and mitigation actions are discussed later in this report.

Land Agreements

Council's governing principles for the gondola, as defined in response to the February 3, 2020 report CR_7152 Gondola Feasibility - Preliminary Economic and Technical Assessment, have guided Administration's work with Prairie Sky on the proposal. These governing principles are reflected within the Agreement Framework, approved by Council on February 22, 2021 and form the foundation of the land agreements. This means that the key items in the Agreement Framework are included either as terms of the agreements or as conditions to the agreements

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that must be fulfilled. A summary of how each item of the Agreement Framework is addressed is included in Attachment 2.

Administration and Prairie Sky have negotiated the fundamental terms of two land agreements for consideration: the first is a lease of the premises required for the stations (the "Station Lease"), and the second is a licence and access agreement for the gondola infrastructure including the rope line and towers (the "Infrastructure Agreement"). The agreements are interconnected, such that a breach of a term of one agreement will impact the other agreement.

A critical governing principle and component of the Agreement Framework is the requirement that the gondola project be funded entirely by Prairie Sky and that risk to the City be mitigated. The negotiated agreements provide a legally binding mechanism to address these two principles while considering the financial viability of the gondola project. Should the gondola advance, these agreements provide clarity and certainty for both parties.

Under the land agreements, the leased and licensed lands are only permitted to be used for the construction and operation of a gondola. The agreements have a 30-year term with the option for two additional 30-year extensions at Prairie Sky's discretion, for a total potential interest in the land of 90 years, which provides long-term certainty for the project. A condition of the agreements is that Prairie Sky must obtain financing for the full cost of the gondola construction and its ongoing operation. This condition requires that their investors/debtors share written confirmation to the City that they have provided actual or committed funds for the gondola to be built.

Under the agreements, Prairie Sky will pay fair market value rent for the use of both leased and licensed City land, however the agreements provide flexibility by allowing Prairie Sky to begin revenue-generating operations of the gondola before rent is paid. Specifically, the agreements include a 24-month rent deferral during the construction period, with the deferred rent being paid in full to the City within the first five years of operations. The agreements require Prairie Sky to pay all taxes and utility costs associated with the lands. The agreements include requirements for financial security in various forms during the life of the agreements including performance, labour and materials bonds to apply during construction; insurance requirements during construction and operation of the gondola; and decommissioning security to cover costs associated with the removal of the gondola should that be required.

The land agreements will require Prairie Sky to complete regular asset condition assessments and inspections of the machinery and equipment, and provide reports to the City reflecting work completed and the maintenance scheduled in order to maintain the stations and gondola in good working condition. Prairie Sky also must maintain a minimum of \$5 million in a capital reserve fund over the term of the operation to ensure the costs associated with required maintenance and renewal are funded.

A detailed overview of the key terms and conditions of the land agreements can be found in Attachments 3 and 4.

While a significant amount of work remains outstanding on the gondola proposal, the land agreements are being advanced for consideration and approval at this stage given the technical

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and interconnected nature of the alignment. A gondola is developed as a single system, and the alignment (including the location of each tower and station) must be considered together, an exercise that is particularly complex in an urban setting. At this time, Prairie Sky requires certainty regarding the availability of the land for the proposed alignment.

Approval of the land agreements would provide a commitment from the City that should all the conditions be fulfilled, the gondola could be constructed on City land. Once land agreements are approved, Prairie Sky will advance the regulatory approval process and detailed design work required before commencing construction. This work requires significant financial investment from Prairie Sky and accordingly Prairie Sky requires certainty with respect to the availability of the land.

Potential Next Steps:

If Council wishes to advance the gondola project, approval of the key terms and conditions outlined in Attachments 3 and 4 is required to provide certainty to Prairie Sky that the land necessary for the proposed alignment will be available. The land agreements are the culmination of lengthy negotiations and account for Council's governing principles and the terms of the Agreement Framework. As with any agreement, concessions have been made by both parties to mitigate risk on both sides.

Administration requires direction via a motion if Council wishes to see continuation of the Prairie Sky Gondola project. Possible wording of such a motion is included in Attachment 5.

If City Council passes a motion to proceed with the gondola proposal, next steps would include:

- Prairie Sky advancing their Land Development Application.
 - Consideration of impacts and "deemed essential" test in accordance with the North Saskatchewan River Valley Area Redevelopment Plan.
 - Consideration of land use impacts with respect to the proposed rezoning and statutory plan amendments.
 - Solicitation of feedback from the public and other stakeholders via engagement requirements.
 - Review of technical documents to support the Land Development Application (Transportation Impact Assessment, Drainage Servicing Report, Environmental Impact Assessment. etc.).
- Administration and Prairie Sky working to fulfil the conditions precedent outlined in Attachment 3 and 4.
- Administration continuing to work with Prairie Sky to fulfil each of Council's governing principles for the proposal.

Budget/Financial Implications

The agreements ensure that Prairie Sky is paying fair market value for the use of both leased and licensed City land and no public funding is provided. If the agreements are approved and executed, and the gondola advances to construction, \$30 to \$40 million in rent revenues would be paid to the City over the 30-year term of the Agreements (prior to any extensions).

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Prairie Sky will be required to pay property tax in line with City tax rates and methodologies. An estimate is not currently available because taxes will be dependent on the value of the land, buildings and other assessable components.

While not a direct project cost, advancing the gondola through its next steps will require staff resources from the City, similar to any other large-scale development project. Some costs would be recoverable through fees charged to Prairie Sky in accordance with applicable fee schedules, for example, in relation to the land development application. Additional costs, including developer contributions or public realm improvements would also be considered a component of the land development application.

As was indicated in CR_8033 Gondola Working Relationship Framework, Prairie Sky estimates the cost of construction will be between \$132 million and \$155 million. Annual operating costs are estimated between \$12 to \$13 million. All costs required for planning, design, construction, operation and maintenance will be funded by the private sector. Prairie Sky has committed that no City funding will be required for this project and this is reflected in the agreements. Based on possible construction costs, Administration estimates that the direct stimulus to the transportation engineering construction sector could add between \$99.1 million and \$116.4 million to Edmonton's gross domestic product and support between 850 and 1,000 full-time equivalent jobs over the course of construction¹. Prairie Sky Gondola estimates approximately 80 full-time equivalent positions during normal operations.

Legal Implications

Pursuant to Bylaw 16620 City Administration Bylaw (s. 37(a)), the City Manager may approve the Station Lease to a maximum of a 25 year term. To exceed a 25 year term, Administration requires Executive Council approval. Similarly, pursuant to Bylaw 16620 City Administration Bylaw (s. 39(1)(b)), the City Manager may approve the Infrastructure Agreement to a maximum of a 10 year term. To exceed a 10 year term, Administration requires Executive Council approval.

Section 70(1)(b) of the *Municipal Government Act*, RSA 2000, c M-26 (the "MGA") requires the City to publicly advertise the Gondola proposal, in accordance with the requirements for advertising as set out in section 606 of the MGA, because the Station Lease would grant a leasehold interest in a public park. The Gondola proposal was advertised on May 21 and 28, 2022.

COMMUNITY INSIGHT

As a condition of the agreements and consistent with Council's governing principles, Prairie Sky is required to implement robust public and Indigenous engagement in accordance with its engagement plan provided to the City in November 2020. A What We Heard Report is to be provided prior to the second condition date, however it is expected that public and Indigenous engagement will continue throughout construction.

¹ Source: Statistics Canada. Table 36-10-0595-01. The estimates reflect the combination of estimated direct, indirect, and induced impacts using 2018 input-output multipliers for Alberta and should be interpreted as upper limits for the estimated impact on Edmonton's economy. The gross domestic product estimates are in basic prices.

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Given this is a private-sector proposal and the project's current stage of development, the City has not advanced formal public engagement to date. However, the City has heard from the community through Committee meetings and decision points on the gondola; and has heard questions about the gondola's impact during other public engagement for nearby projects.

Through these indirect forms of engagement, several themes have emerged from public comments as areas of interest. These include:

- Potential financial commitment from and risk to the City,
- Potential ecological and environmental impacts resulting from the project, and
- Potential negative impacts to ETS.

All of these areas of interest have been accounted for in the agreements through conditions that obligate Prairie Sky to address them in line with Council's governing principles.

Statutory Engagement

Should the agreements be confirmed, and regulatory processes advance, statutory public engagement associated with the land development application would be completed, including a public hearing related to rezoning and statutory plan amendments. While guided by parameters set out in the *Municipal Government Act* and the *Zoning Bylaw*, Administration expects the City's engagement approaches in relation to the land development application will also be reflective of Council's key principle related to the advancement of "robust public and Indigenous engagement."

GBA+

While the gondola will be privately owned and operated infrastructure, this project will be considered within the City's regulatory framework and analyzed for alignment with City plans and identified outcomes.

Future stages of work, including requirements through the rezoning process such as alignment with the City's accessibility guidelines and urban design standards, will explore what steps Prairie Sky has taken to mitigate or remove barriers to inclusion. This will be particularly relevant when considering the connections and alignment between the gondola and the public realm to ensure they mutually support positive city-building and accessibility.

RISK ASSESSMENT

The proposed urban gondola is a unique, first of its kind project for a major city in Canada. It requires substantial upfront capital costs, ongoing maintenance, long-term agreements for lease and licence areas, constructing within and traversing over environmentally sensitive areas, and sufficient ridership to support the financial investment. These items all add elements of risk to the project, for Prairie Sky, and for the City. The agreements attempt to mitigate these risks in a manner that protects the City but provides some degree of flexibility to Prairie Sky. If the agreements are too restrictive, then it would be extremely difficult for the project to attract investors. As such, a certain level of risk will continue to exist throughout the project. The risk

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assessment topics below describe the current risk mitigations reflected in the key terms and conditions of Attachments 3 and 4.

Lease and Licence Agreements Timing

Risk

The timing of the agreements themselves creates risk for the City. Typically, a lease or licence agreement would be executed following the completion of more detailed work. However, for the gondola, the detailed design and engineering work is unable to progress until an alignment has been secured.

Mitigation

Administration has attempted to mitigate this risk by including a number of conditions precedent and terms and conditions related to project approvals, financials, securities, and site use. The Agreements also prescribe that all regulatory requirements by the City and other orders of government be completed.

Term of Agreement

Risk

The length of term for the agreements and restrictions around termination commit the City to a 30 year term, followed by two 30 year options to extend the Land Agreements, thus potentially representing a 90 year commitment of the land for the gondola, provided Prairie Sky is in compliance with the terms and conditions of the agreements. This places a restriction on future redevelopment or reuse of certain areas, for example Strathcona and Rosedale, impacted by the continued functionality of the gondola. Land values, tax rates and utility costs will also increase over the lease term and will be substantially higher at the end of the lease.

Mitigation

The risks associated with the long-term use of this land have been mitigated in several ways. The City is able to terminate the contract should Prairie Sky default on any of the conditions of the agreements, following stipulated periods of time to rectify any defaults. Additionally, the City is not required to extend the agreements should the gondola obstruct a need for critical municipal infrastructure or if there is a critical safety issue. Additionally, escalation clauses are built into the agreement to help ensure rent continues to be at market rates, taxes are paid in alignment with tax rates at the time, and utilities are the sole cost of Prairie Sky.

Potential Future Municipal Needs

Risk

Due to the fact that the gondola can only travel in a straight line from station to station, its engineering does not allow it to deviate from its constructed alignment. If required, it is possible to move constructed towers within the original alignment. If a needed relocation of one tower cannot be accommodated in the original alignment, several towers and station(s) would also need to be relocated to allow continued operation. A new alignment would require new available land to accommodate the towers and new station(s). While there are currently no foreseeable

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plans for major or critical municipal infrastructure that would be impeded by the gondola's proposed alignment, it is possible there is a conflict at some point over the 90 year operating term. Slope instability could also introduce a need for slope or bank reinforcements in the river valley, which would present the City with a significant safety concern, likely requiring timely repair.

Mitigation

The agreements help mitigate this risk with the inclusion of relocation clauses that contemplate "straight line" and lateral relocation of the towers; however, there is no relocation clause included for the stations due to their land requirements. These relocation clauses specify that the City will be responsible for all or a portion of the relocation costs including lost revenue, unless the relocations fall within a defined window between years 27-30 of the lease (a period that aligns with requirements for significant infrastructure upgrades on the part of Prairie Sky). The City also has the ability to not agree to renew the agreement if there is a critical municipal need that impacts the gondola's functionality. Lastly, the City has the ability to exercise its municipal powers to expropriate the interests in the leased lands.

Exit provisions have been incorporated into the agreements to ensure ownership and control of the land remains with the City should the gondola no longer be operational.

Risk

There are City projects in progress and planned along the alignment. For example, City-owned lands located along Gateway Boulevard between Saskatchewan Drive and 82 Avenue are currently being evaluated as part of the Old Strathcona Public Realm Strategy; the approval of the agreements impose limitations on the future potential of these lands.

Mitigation

The agreements require Prairie Sky to align with relevant statutory documents and align the design of the gondola with other City plans and projects along the alignment to the satisfaction of the City. They also require Prairie Sky to fulfil all regulatory requirements, including through the City's land development application process through which further explores the interaction between the gondola and the surrounding landscape.

Financial

Risk

As the gondola is to be entirely privately funded, the City needs to be protected from incurring costs associated with planning, design and construction; ongoing maintenance, repair, and operating; claims; and infrastructure removal and site restoration.

Mitigation

In an effort to mitigate these risks, and in alignment with Council's principle for an open books review, Administration has reviewed Prairie Sky's financial model and other select documentation to verify that the project is financially viable and requires no City funding. However, there are limitations to this review. Administration reviewed Prairie Sky's proforma and financial model as presented by Prairie Sky. The scope of this review was beyond what the City may typically receive

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through other private developments advancing in Edmonton. Administration did not undertake a detailed review of Prairie Sky's investor package as the City should not influence the source of investment.

Additionally, the City has included mitigation measures to protect itself from other costs this project will incur throughout its life cycle, as well as at its end of life. These include, but are not limited to: performance, labour and materials bonds to apply during construction; a capital reserve to ensure funds are available for ongoing maintenance costs; insurance requirements during construction and operation of the gondola; and decommissioning security to cover costs associated with the removal of the gondola should that be required.

Environmental

Risk

The gondola's proposed alignment will require it to traverse environmentally sensitive areas in the river valley. Both the construction and ongoing operation of the gondola will need to ensure impacts to these areas are minimized.

Mitigation

The agreements provide assurance that preservation of the environment will remain paramount, including conditions to receive all required permits or approvals from federal, provincial, municipal, or other governing bodies to traverse the North Saskatchewan River. There is also a requirement to comply with the North Saskatchewan River Valley Area Redevelopment Plan and submit environmental impact assessments. Clauses are also included in the event of hazardous materials releases.

Historically Significant Sites

Risk

There are several historically significant sites in the vicinity of the proposed gondola alignment. These include the Rosedale Power Plant, site of Edmonton House / Fort Augustus IV (1812/13 - 1830), Ortona Armoury, and Traditional Burial Grounds and Fort Edmonton Cemetery in River Crossing; the Ritchie Mill; and the Old Strathcona Bus Barns (home to the Old Strathcona Farmers Market).

Mitigation

The agreements help ensure appropriate protection of and integration with these sites, primarily through the requirements for review and approval from the City and the provincial government. These processes are designed to ensure consideration and protection of significant historic sites. These requirements, along with the ongoing requirement to engage with Indigenous Nations and communities throughout design and construction, will also help ensure any historically significant or sensitive findings during construction are properly addressed.

Public Liability

Risk

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While the proposed gondola would be privately funded and operated, the risk of liability to the City as the landowner must be mitigated.

Mitigation

Requirements related to mitigation of liability resulting from the City's continuing role as landowner include indemnity clauses to provide legal protection to the City in relation to the environment, safety, and other areas.

Transit

Risk

Concerns have been expressed around the potential for impacts of the gondola on the public transit system throughout the project. Potential disruptions to ETS services, additional costs placed on the City to integrate the gondola with transit service, and challenges to transportation intermodality due to the southern station stopping short of Whyte Avenue have been identified as risks to be mitigated.

Mitigation

While much of this work is advancing outside of the agreements, as driven by Council's governing principle to achieve mutually beneficial integration, the agreements speak to this component of work through a requirement for a Transportation Impact Assessment. This Assessment, a component of the land development application, will provide insights into how the gondola may impact the transportation network. Additionally, the agreements require continued reasonable efforts for Prairie Sky to work with ETS to find mutually beneficial integration between the two systems.

ATTACHMENTS

1. Alignment Map
2. Prairie Sky Gondola Land Agreements: Status of Agreement Framework Terms
3. Prairie Sky Gondola Land Agreements: Station Lease Key Terms
4. Prairie Sky Gondola Land Agreements: Infrastructure Agreement Key Terms
5. Prairie Sky Gondola Land Agreements: Draft Motion