

## AIR PRODUCTS FRANCHISE FEE CONSIDERATIONS

### Recommendation

That the March 14, 2025, Financial and Corporate Services report FCS02942, be received for information.

Requested Action		Information only	
ConnectEdmonton's Guiding Principle		ConnectEdmonton Strategic Goals	
CONNECTED This unifies our work to achieve our strategic goals.		Regional Prosperity	
City Plan Values	LIVE		
City Plan Big City Move(s)	Catalyze and converge	Relationship to Council's Strategic Priorities	Economic Growth
Corporate Business Plan	Transforming for the future		
Council Policy, Program or Project Relationships	<ul style="list-style-type: none"><li>Bylaw 19626 - EPCOR Water Services Bylaw</li><li>Bylaw 19627 - EPCOR Drainage Services and Wastewater Treatment Bylaw</li></ul>		
Related Council Discussions	<ul style="list-style-type: none"><li>n/a</li></ul>		

### Previous Council/Committee Action

At the February 4/5, 2025, City Council meeting, the following motion was passed:

That Administration provide a report outlining the process, including any advantages and disadvantages, to forgive the requirement of Air Products to pay franchise fees on their new water supply pipe.

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### Executive Summary

- Air Products is constructing a net zero hydrogen energy complex in the northeast area of Edmonton and have requested the City of Edmonton (City) to waive the franchise fee related to the delivery of “process water” (treated wastewater) required specifically for Air Products.
- The water services for process water for Air Products is unique compared to the water services traditionally provided by utility providers. EPCOR Water Services Inc. (EPCOR) is currently in the process of developing and proposing a new separate water services utility rate for process water specific to Air Products. This new rate will be brought forward for Utility Committee approval in the first quarter of 2026.
- The City has a water franchise agreement with EPCOR for the exclusive right to provide water services within the municipality. Under this franchise fee agreement, EPCOR pays the City a franchise fee. EPCOR collects the franchise fee from water utility customers.
- The amount of franchise fee that will be payable to the City for process water services is not yet known. A forecasted franchise fee will be known closer to the approval of the new process water franchise fee in Q1 2026.

## REPORT

### Air Products Net Zero Hydrogen Energy Complex

Air Products provides services to a broad range of industries including refining, chemicals, metals, electronics and manufacturing by supplying essential industrial gases, technologies and applications expertise.

Air Products is constructing a transformative net-zero hydrogen energy complex in northeast Edmonton near Strathcona County. The facility will help accelerate the use of hydrogen as emission free transportation fuel across western Canada. The estimated cost of the project is \$1.6 billion and it is being supported by approximately \$475 million in funding from the federal and provincial governments. It is currently expected that water services will need to be provided by September 2026.

The energy complex will capture three million tonnes of carbon dioxide annually and produce 1,500 tonnes of hydrogen per day. The facility will also supply hydrogen via pipeline to Imperial Oil's Strathcona Oil Refinery. Due to the location of Air Products' facility, treated wastewater (process water), meeting the specifications outlined by Air Products, will be supplied from ARROW Utilities' (ARROW<sup>1</sup>) wastewater treatment plant and delivered to Air Products. ARROW provides the transmission and treatment of wastewater for municipalities surrounding the City of Edmonton including the City of Beaumont, City of Leduc, City of Fort Saskatchewan, City of Spruce Grove, City of St. Albert, Town of Bon Accord, Town of Gibbons, Town of Morinville, Town of Stony Plain, Leduc County, Parkland County, Strathcona County and Sturgeon County.

Large volumes of process water will be required by the facility to support hydrogen production. To facilitate this, ARROW is upgrading its wastewater treatment plant and a dedicated water supply pipeline is being built solely to supply process water to the Air Products facility. The

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<sup>1</sup> Formerly the Alberta Capital Region Wastewater Commission

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process water will travel through Fort Saskatchewan and Strathcona County to reach the Air Products energy complex in northeast Edmonton.

The pipeline from ARROW's wastewater treatment plant to Air Products is approximately 10 km in length, with the majority being located in Strathcona County. The portion of the pipeline that is located in Strathcona County will be owned by ARROW while the portion of the pipeline that is located in the City of Edmonton will be owned by EPCOR. The pipeline will be constructed and paid for by Air Products and contributed to ARROW and EPCOR. This arrangement is similar to when a developer begins land development in a new area and is required to build and then contribute/transfer ownership of the utility infrastructure.

### Integration of Operations between EPCOR and ARROW

As the Air Products facility is located in the City of Edmonton, EPCOR will bill Air Products for process water services. This will include the flow-through costs incurred by ARROW, which will be passed on to EPCOR, as well for the costs incurred by EPCOR. The rate charged by ARROW to EPCOR will reflect ARROW's costs to treat and deliver process water to EPCOR. The rate charged by EPCOR to Air Products will include these costs and any costs expected to be incurred directly by EPCOR.

As the process water services being requested by Air Products are unique compared to the water services traditionally provided by ARROW and EPCOR, both utilities are currently in the process of developing and proposing their own separate new water services utility rates for approval (to ARROW's Board of Directors and Edmonton Utility Committee and City Council, respectively). The new utility rates will be based on the operating, maintenance and delivery costs incurred respectively by each utility to specifically provide the process water to Air Products. Both utilities will have limited initial capital costs as Air Products will be constructing the pipeline and contributing the asset to the utilities.

In total, EPCOR will be providing the following services to Air Products:

1. Supply of potable water (water that has been tested and treated as safe for human consumption for drinking or cooking)
2. Wastewater collection and treatment; and
3. Supply of process water (new service and rate)

EPCOR's current approved water services utility rates are associated with the treatment and delivery of potable water and will not be reflective of the costs incurred to supply process water to Air Products. Air Products will be subject to these approved utility rates for traditional potable water supply and wastewater treatment services, and the related City of Edmonton franchise fees.

### Franchise Fees

Under the *Municipal Government Act*, the City has the right to enter into an agreement to grant an exclusive right to provide a utility service in all or part of the municipality. Historically, municipalities have signed franchise agreements with utility providers to grant the exclusive right to provide a utility service within a municipality. To facilitate provision of utility services, municipalities allow access to municipality-owned land for utility infrastructure, such as pipelines, and franchise agreements outline charges and conditions of use for that land. These charges are

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referred to as franchise fees and are compensation for direct costs, restriction on planning and development due to utility rights of way and risks related to utility access. Utility providers typically pass on these charges to utility customers who are the direct users of their utility services.

The City of Edmonton has a Water Services Franchise Agreement (the “Franchise Agreement”) with EPCOR. The Franchise Agreement grants EPCOR: (a) the exclusive right and licence to use City lands to construct, install, maintain, operate, repair, replace, extend and remove equipment for the purpose of providing water services within the municipality; and (b) the exclusive right to provide water services within the municipality.

In consideration for the rights granted to EPCOR under the Franchise Agreement, EPCOR pays the City a franchise fee. The franchise fee compensates the City for the exclusive right and license to use City lands. The franchise fee allows the City to diversify revenues, reduce reliance on property taxes and receive compensation for planning and development constraints and inherent risks.

Under the terms of the Franchise Agreement, the franchise fee is equivalent to eight per cent of franchise revenue. Franchise revenue is defined as revenue derived by EPCOR for the provision of water services within the municipality. The Franchise Agreement defines “water services” as “the treatment, storage, pumping, transmission and distribution of water by any means and the right to charge and recover a fee for such service.”

An estimate of applicable franchise fees is not currently available. ARROW and EPCOR are both in the process of developing new water services utility rates to factor in process water services.

The City's understanding is that Air Products' request for a franchise fee exemption only relates to the process water supply (i.e. the wastewater that will be treated at ARROW's wastewater plant and then supplied to Air Products by EPCOR). It is also the City's understanding that ARROW will not be charging a franchise fee on their portion of flow-through costs, as Fort Saskatchewan and Strathcona County do not currently collect franchise fees on water services.

### Franchise Fee Exemption and Other Implications

The franchise fee is established through the Franchise Agreement between the City of Edmonton and EPCOR; therefore, it is a contractual obligation. The Franchise Agreement does not currently have a provision that would allow the City to give EPCOR an exemption from collecting the franchise fee from customers and paying the franchise fee to the City. The Franchise Agreement would need to be amended to allow for the City to grant, at its sole discretion, any potential franchise fee exemption to EPCOR. Under section 45(3) of the *Municipal Government Act*, an amendment to the Franchise Agreement must be advertised. The amendment may also require approval by the Alberta Utilities Commission. Whether approval by the Alberta Utilities Commission is required for the amendment is currently being assessed by the City. The City and Air Products do not have a contractual relationship related to the franchise fee. Therefore, any potential franchise fee exemption would be given by the City to EPCOR under the Franchise Agreement, in this case in the amount of franchise fee that would be collected by EPCOR from Air Products.

Franchise fees are collected by the City of Edmonton and used to fund general services. There are potential impacts to consider when exempting or discounting franchise fees. Waiving a franchise fee for one business may establish a precedent for other businesses to also request franchise fee

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exemptions, which would in turn reduce non-property tax general revenues available to the City and potentially create additional budget pressures.

Franchise agreements grant utility providers exclusive rights to provide services and access to municipal land in exchange for franchise fees which compensate the municipality for costs, restrictions on planning and development due to utility rights of way, and risks associated with utility access. It is important to maintain the integrity and objective of the franchise fee process. Administration would not recommend providing financial relief to industrial projects through exemptions or exceptions within the franchise fee agreement and process. Because the franchise fee is a contractual obligation an exemption to a franchise fee will require an amendment to the Franchise Agreement.

However, Administration also understands the importance of incentivizing industrial development within the City and remaining competitive as demonstrated through the Industrial Investment Action Plan<sup>2</sup>.

### Industrial Investment Action Plan

The City's Industrial Investment Action Plan (IIAP) is a 10-year program to enhance the growth of industrial development in Edmonton. The IIAP is a roadmap to attract new industrial investments and support the growth of existing industrial businesses to grow and diversify Edmonton's economy, while increasing the city's overall industrial tax base.

The IIAP has nine discrete actions and one of them, Action 8, is specifically geared towards providing incentives to attract and retain specific industrial sectors. This action identifies the need to tailor programs and incentives for sectors that will provide a strong return to the City's tax base and advance strategic objectives such as the transition to zero/low carbon energy sources. It also focuses on incentives specifically to attract investment, stimulate job creation and foster innovation, making Edmonton more competitive.

Air Products constructing their energy complex in Edmonton supports the goals of the IIAP. In line with Action 8, target incentives could be considered and was likely the intention of a potential franchise fee exemption. However, giving an exemption for the franchise fee for Air Products would be considered a unique circumstance rather than a reflection of a suite of incentives needed to support IIAP holistically. More fulsome work on industrial development incentives under Action 8 if the IIAP is not expected to be completed until late 2026.

A more suitable approach may be to consider a direct grant between the City and Air Products to offset the franchise fee paid by Air Products, once that amount is known. This would avoid the City having to adjust its franchise fee rate setting process and collection process for one entity. Eventually a more robust grant program aligned with Action 8 of the IIAP could be established with a specific purpose and criteria that need to be met before a grant is provided. This would ensure that the incentive program is tailored for a specific purpose that could be applied towards a broader group, with well established criteria to identify successful applicants. This also provides a more transparent and formalized process to provide incentives for industrial programs.

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<sup>2</sup> [https://www.edmonton.ca/business\\_economy/economic\\_investment/industrial-investment-action-plan](https://www.edmonton.ca/business_economy/economic_investment/industrial-investment-action-plan)

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### Next Steps

The City will continue to work with EPCOR to understand the estimated process water utility rates for Air Products and the applicable franchise fee amount. Once EPCOR has been advised of the ARROW's utility rate for supplying process water, EPCOR will return to Utility Committee, likely in Q1 2026, with a proposed utility rate for approval in advance of the expected required date for process water services of September 2026. At that time, Utility Committee and Council can make a decision on giving a potential franchise fee exemption.

### Budget/Financial Implications

The budgetary and financial impact will depend on how and if Utility Committee and Council choose to implement this franchise fee exemption. Two options are provided for consideration:

- **Exempt Franchise Fee** - This would result in less revenues collected to support general services. This could set a precedent for other utility ratepayers to request forgiveness of franchise fees in the future. Providing an exemption will require an amendment to the Franchise Agreement.
- **Provide a Grant** - A specific grant could be provided to Air Products in an amount to offset the water franchise fee on process water services. Utility Committee and Council would need to determine the length of the grant and specific requirements that need to be met for Air Products to receive the grant. No funding is currently available, and a funding source would need to be identified through a future supplemental operating budget adjustment report. In the future, a more formal grant program could be established to provide incentives to industrial projects in line with Action 8 in the Industrial Investment Action Plan.

Utility Committee and City Council can make a decision on a potential franchise fee exemption for this project when the proposed process water utility rate for Air Products is brought forward for Utility Committee approval, currently estimated to be in Q1 2026 in advance of the expected required date for process water services in September 2026.

### Legal Implications

The Franchise Agreement does not currently have a provision that would allow the City to give EPCOR an exemption from collecting the franchise fee from customers and paying the franchise fee to the City. The Franchise Agreement would need to be amended to allow for the City to grant, at its sole discretion, any potential franchise fee exemption to EPCOR.

Under section 45(3) of the *Municipal Government Act*, an amendment to the Franchise Agreement must be advertised. The amendment may also require approval by the Alberta Utilities Commission. Whether or not approval by the Alberta Utilities Commission is required is currently being assessed.

### Community Insight

Administration did not solicit community feedback or conduct public engagement related to this report. Engagement may be required based on next steps as directed by Utility Committee.

## **AIR PRODUCTS FRANCHISE FEE CONSIDERATIONS**

### **GBA+**

GBA+ was not completed for this report. Depending on direction from Utility Committee a more formal GBA+ may be required when considering a franchise fee exemption or grants to provide financial relief to industrial projects.

### **Environment and Climate Review**

This report was reviewed for environment and climate risks. Based on the review completed no significant interactions with the City's environmental and climate goals were identified within the scope of this report.