

November 14, 2023

Honourable Demetrios Nicolaides
Minister of Education
Government of Alberta
Via email: education.minister@gov.ab.ca

Dear Minister Nicolaides:

Re: Partial Disposition of Property in Parkdale Neighbourhood

On April 13, 2023, our office sent a letter to the Office of the Minister of Education indicating that on March 21, 2023, the Board of Trustees of the Edmonton School Division declared a portion of the Parkdale School site as surplus to Division need in order to facilitate the City of Edmonton and EPCOR's installation and operation of a stormwater management facility (dry pond) on a portion of the site (Attachment I). The lands are legally described as a portion of:

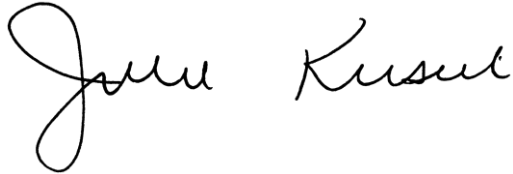
PLAN RN50
BLOCK 91
LOTS 10 to 19 and partial LOTS 11 and 20
EXCEPTING THEREOUT ALL MINES AND MINERALS

We wish to advise that both Edmonton Catholic Schools (Attachment II) and Conseil scolaire Centre-Nord (Attachment III) waived their right to the land in accordance with Section 6.1 of the *Joint Use Agreement: Land*. Also, Ministry of Education staff advised there was no government interest identified for this portion of the Parkdale School site (Attachment IV).

On October 10, 2023, the Board of Trustees approved the disposition of the surplus land to the City of Edmonton. We are in the process of finalizing the required lane closure, subdivision, sale, transfer and operation agreements with the City of Edmonton and EPCOR. The draft agreements release the Edmonton School Division from any obligation or liability regarding the property after the transfer of ownership, and they indemnify our school division from any future liabilities related to any environmental condition of the property. The draft transfer agreement is provided for your information (Attachment V).

As specified in the *Disposition of Property Regulation*, Ministerial Consent is requested for the sale and transfer of the surplus land to the City of Edmonton. If you have any further questions, please contact Josephine Duquette at 780-429-8522 or josephine.duquette@epsb.ca.

Sincerely,

A handwritten signature in black ink, reading "Julie Kusiek". The signature is written in a cursive style with a large, looped initial "J".

Julie Kusiek, Chair
Board of Trustees

- ATTACHMENT I: Map of the Partial Disposition Area
- ATTACHMENT II: ECSD Response Letter
- ATTACHMENT III: CSCN Response Letter
- ATTACHMENT IV: Alberta Education Response
- ATTACHMENT V: Draft Transfer Agreement

c: Darrel Robertson, Superintendent of Schools, Edmonton School Division
Lora Pillipow, Deputy Minister, Alberta Education
Erin Owens, Executive Director, Capital Planning, Alberta Education
Craena Coyne, Edmonton Joint Use Coordinator, City of Edmonton

Map of the Partial Disposition Area



Client/Project: **SPOR** PROPOSED HOME PARKDALE DRY POND
 Figure No: **PARDALE DRY POND**
 Title: **SKETCH - 01**

Scale: 1:500
 0 5 15 25m

Legend:
 - - - - - Existing Property Line
 - - - - - Subject Property
 - - - - - Approximate Project Land Requirements

Stantec
 10160 - 112 Street
 Edmonton AB
 www.stantec.com

Project Land Requirements within
 Lots from 11 to 20; Blk 91; Plan RN50

\\CS1001-200\shared\project\1\1010000\working\figure\cmr\figure 01.dwg 2022/07/22 8:34 AM Rj-Cole, Albu

ECSD Response Letter



EDMONTON CATHOLIC SCHOOLS
LUMEN CHRISTI CATHOLIC EDUCATION CENTRE
9405 50 Street NW | Edmonton, AB T6B 2T4 | T: 780-441-6000

April 4, 2023

Sent via email: Darrel.Robertson@epsb.ca

Darrel Robertson
Superintendent
Edmonton School Division
One Kingsway
Edmonton, Alberta T5H 1C2

Dear Mr. Robertson:

Re: Response to Portion of the Parkdale School Site Surplus Declaration Notice

The following is in response to your letter of March 31, 2023, informing the Edmonton Catholic Separate School Division of your Board's decision to declare the following as surplus to Division needs:

- Portion of Parkdale School Site, 11648 – 85 Street NW

The Edmonton Catholic Separate School Division (ECSD) recognizes that this parcel will be used to facilitate the construction of a stormwater management dry pond. As such, ECSD does not have an interest in acquiring this surplus site and waives any future deliberation period we are entitled to under the terms of the Joint Use Agreement.

Should you have any further questions, please do not hesitate to contact John Fiacco, Superintendent Educational Planning.

Sincerely,

Robert Martin
Chief Superintendent

cc: Robert Lessard, Superintendent, Conseil Scolaire Centre-Nord
Andre Corbould, City Manager, City of Edmonton
John Fiacco, Superintendent, Educational Planning

For we are what he has made us, created in Christ Jesus for good works,
which God prepared beforehand to be our way of life. *(Ephesians 2:10)*

ecsd.net

CSCN Response Letter

April 10, 2023

Sent via email: Darrel.Robertson@epsb.ca

Darrel Robertson
Superintendent
Edmonton School Division
One Kingsway
Edmonton, Alberta T5H 1C2

Dear Mr. Robertson:

Re: Response to Portion of the Parkdale School Site Surplus Declaration Notice

The following is in response to your letter of March 31, 2023, informing the Conseil scolaire Centre-Nord (CSCN) of your Board's decision to declare the following as surplus to Division needs:

- Portion of Parkdale School Site, 11648 – 85 Street NW

The CSCN recognizes this parcel will be used to facilitate the construction of a storm water management dry pond. As such, CSCN does not have an interest in acquiring this surplus site and waives any future deliberation period we are entitled to under the terms of the Joint Use Agreement.

Should you have any further questions, please do not hesitate to contact Marc Labonté, Treasurer

Sincerely,



Robert Lessard

Chief Superintendent

cc: Robert Martin, Chief Superintendent, Edmonton Catholic School Division

Andre Corbould, City Manager, City of Edmonton

Marc Labonté, Treasurer

Alberta Education Response

5/26/23, 10:59 AM

EPS Mail - RE: Parkdale School - Notification of Surplus Declaratrion



Josephine Duquette <josephine.duquette@epsb.ca>

RE: Parkdale School - Notification of Surplus Declaratrion

1 message

Allison Matichuk <Allison.Matichuk@gov.ab.ca> 25 May 2023 at 13:37
To: Roland Labbe <roland.labbe@epsb.ca>
Cc: Josephine Duquette <Josephine.Duquette@epsb.ca>, Joshua Germita <Joshua.Germita@gov.ab.ca>

Hi Roland,

We have confirmed there is no government interest in the property. Assuming ECSD and GNCFER have expressed no interest, please proceed with a formal request to dispose of the property.

Thanks!

Allison

Classification: Protected A

From: Roland Labbe <roland.labbe@epsb.ca>
Sent: April-24-23 10:43 AM
To: Allison Matichuk <Allison.Matichuk@gov.ab.ca>
Cc: Josephine Duquette <Josephine.Duquette@epsb.ca>; Joshua Germita <Joshua.Germita@gov.ab.ca>
Subject: Re: Parkdale School - Notification of Surplus Declaratrion

CAUTION: This email has been sent from an external source. Treat hyperlinks and attachments in this email with care.

DRAFT

Draft Transfer Agreement

Parkdale School Site Dry Pond

THIS AGREEMENT is dated for reference and made effective as of _____ day of _____, 2023.

BETWEEN:

THE CITY OF EDMONTON
(the "City")

- and -

THE BOARD OF TRUSTEES OF EDMONTON SCHOOL DIVISION
(“ESD”)**DRY POND ACQUISITION AGREEMENT**

(Parkdale School Site)

RECITALS:

- A. ESD is the registered owner of that land within the City of Edmonton, together with all improvements situate thereon, legally described as:

EXCEPTING THEREOUT ALL MINES AND MINERALS,

(the "Lands");

- B. The City wishes to acquire from ESD that portion of the Lands comprising 0.373 hectares, more or less, as shown outlined on the plan attached hereto as Schedule "A" (the "Purchase Lands") for the use, construction and operation of storm water management facilities (the "Dry Ponds").
- C. The City, pursuant to the Drainage Services Franchise Agreement (the "Franchise Agreement") and the Asset and Liability Transfer Agreement (the "ALTA"), both entered into between the City and EPCOR Water Services Inc. ("EPCOR") effective **September 1, 2017**, has transferred its drainage assets, liabilities, and operations to EPCOR but will retain ownership of and responsibility for the Purchase Lands. However, the City wants to permit EPCOR to construct the Dry Ponds on the Purchase Lands and ESD agrees that the City may do so but subject to the terms and conditions of this Agreement;
- D. All of the City's obligations with respect to the Purchase Lands shall continue as primary and direct obligations of the City under the "Edmonton Joint Use Agreement: Facilities" made

DRAFT

Draft Transfer Agreement

2

between the City and ESD and other school boards on the **17th day of October, 2007** (which agreement as amended, supplemented or replaced from time to time, including if replaced by a Joint Use and Planning Agreement entered into pursuant to s.670.1 of the *Municipal Government Act* R.S.A.2000 c.M-26 (the "MGA"), is herein called the "Joint Use Agreement") and specifically as contemplated in subsections 6.2(a) to 6.2(d) hereof inclusive.

- E. Pursuant to Section 7.16 of the Franchise Agreement EPCOR agreed to comply with the "Drainage Operations Procedure OP-20 – Dry Pond General Maintenance and Use" (the "OP-20 Procedure"). Subsequent to signing the Franchise Agreement the OP-20 Procedure was amended and renamed as the "EPCOR SWMF Dry Pond General Maintenance & Usage Procedure".

IN CONSIDERATION OF the premises and the payment by the City to ESD of the Purchase Price, of the mutual covenants and agreements herein contained and subject to the terms and conditions of this Agreement, ESD and the City agree as set out herein:

1. PURCHASE AND CONVEYANCE

1.1 The City shall purchase the Purchase Lands from ESD and ESD shall sell the Purchase Lands to the City for a purchase price of **SEVEN HUNDRED EIGHTY THOUSAND DOLLARS (\$780,000.00) (exclusive of G.S.T.)** (the "Purchase Price") and upon the terms and conditions contained herein.

1.2 The conveyance provided for in this Agreement shall be completed on **the 5th day of June, 2024** or such other date as the parties shall mutually agree to in writing (the "Closing Date").

2. POSSESSION, ADJUSTMENTS AND TAXES

2.1 ESD shall provide vacant possession of the Purchase Lands to the City on the Closing Date.

2.2 The City shall pay and discharge all outgoings, including taxes, rates, levies, charges, local improvement charges (including any amortized local improvement charges), assessments, and any other impositions whatsoever rated, charged, assessed or imposed by any legislature or local authority, or otherwise howsoever on or with respect to the Purchase Lands from and after the Closing Date, and all matters and items normally adjusted on a sale of real property, including utilities, shall be adjusted as between the City and ESD as of the Closing Date.

2.3 Notwithstanding any provision contained in this Agreement, it is expressly agreed to by the City that all taxes and assessments in the nature of sales taxes, goods and services taxes or value added taxes (the "G.S.T.") which may be charged, levied or assessed as a result of the City's purchase of the Purchase Lands shall be paid by the City. The City hereby warrants to ESD that it is a registrant under the Goods and Services Tax provisions of the *Excise Tax Act* and has been assigned registration number 119326270RT0001. As the City is a registrant, and has the obligation to pay the GST directly to the relevant taxing authority, the City shall indemnify and save harmless ESD from any claims, liabilities or damages which ESD may incur in regards to the payment by the City of the GST.

3. TRANSFER

3.1 ESD shall on the Closing Date transfer the title to the Purchase Lands to the City, free and clear

DRAFT

Draft Transfer Agreement

3

of all liens, encumbrances, charges and instruments except for the following:

- (a) the restrictive covenant and easement granted to ESD as contemplated in 6.2(e) to 6.2(h) inclusive, or a Caveat filed in respect thereto, (the “ESD Instruments”).
- (b) and such other liens, encumbrances, charges and instruments as may made or suffered by the City, but subject always to ESD Instruments.

4. CONDITION OF PURCHASE LANDS

4.1 Notwithstanding any term or condition in this Agreement, the City shall acquire the Purchase Lands on the understanding and agreement that:

- (a) there are no agreements, conditions, warranties or representations relating to the Purchase Lands, other than as stated in this Agreement;
- (b) except as provided in this Agreement, ESD does not warrant:
 - (i) the quality, condition or sufficiency of the Purchase Lands for any use or purpose; and,
 - (ii) the absence or presence of Hazardous Substances in, on or under the Purchase Lands;
- (c) the Purchase Lands are being sold to the City on a strictly “**as is, where is**” basis and the City shall acquire the Purchase Lands at its own risk, with all faults and imperfections whatsoever, including without limitation, the presence of all Hazardous Substances if any, in, on or under the Purchase Lands; and,
- (d) the City shall satisfy itself as to the condition of the Purchase Lands and the fitness for its intended use

4.2 For the purposes of this Agreement, the term “Hazardous Substances” includes but is not limited to, biological materials and agents (whether hazardous, in fact, or not), petroleum products and by-products, any contaminants, pollutants, dangerous substances, hauled liquid wastes, toxic substances, industrial wastes, hazardous wastes, hazardous materials, hazardous chemicals, and hazardous substances as defined in any federal, provincial or municipal legislation.

4.3 ESD warrants to the City, that to the best of its knowledge without having conducted any investigation, ESD, its employees, contractors or agents have not deposited, placed or brought onto the Purchase Lands any Hazardous Substances, nor to the best of its knowledge, is ESD aware of the existence of any Hazardous Substances in, on or under the Purchase Lands.

4.4 For the purposes of this Agreement, the term “Environmental Matters” means environmental matters not caused by ESD relating to the Purchase Lands, whenever and however arising, including, without limiting the generality of the foregoing the existence in, on, or under the Purchase Lands, or the emanation in any manner from or onto the Purchase Lands, of any Hazardous Substance.

DRAFT

Draft Transfer Agreement

4

4.5 For the purposes of this Agreement, the term "Claim" means any claim, suit, proceeding, charge, loss, cost, expense, liability, demand, action, debt, fine, penalty, judgment, order (including, without limitation, with respect to any Environmental Matters remedial orders), interest, payment or damage, or all of them, (including reasonable legal costs on a solicitor and own client full indemnity basis and other professional fees).

4.6 The City agrees that upon obtaining satisfactory title to the Purchase Lands in accordance with the terms and conditions contained herein, it shall release ESD and the Province of Alberta, from any liability, obligation or Claim relating to the Purchase Lands arising after the transfer of ownership and shall:

- (a) be liable to ESD and to the Province of Alberta for any Claim; and
- (b) indemnify and save harmless and does hereby indemnify and save harmless ESD and the Province of Alberta in respect of any Claim

whenever or however caused or incurred and which is directly or indirectly incurred, sustained or suffered by or asserted against ESD or the Province of Alberta, including relating to, arising out of, resulting from or in any way connected with any present or future Environmental Matters.

5. CONDITIONS PRECEDENT

5.1 Notwithstanding any other provision contained in this Agreement, the City and ESD agree that this Agreement is expressly subject to and conditional upon the following:

- (a) the City obtaining passage by Municipal Council of the City of a bylaw for the purposes of the closure of the lane (the "Roadway Closure") located on the Lands as a public roadway, as generally shown on Schedule "E" attached hereto (the "Road Closure Condition"), on or before **November 15, 2023**;
- (b) ESD and the City entering a Roadway Sale Agreement, on mutually acceptable terms and conditions, for the southern portion of the lane located on the Lands to be sold to ESD as generally shown on Schedule "E" attached hereto (the "Roadway Sale Agreement Condition"), on or before **November 15, 2023**;
- (c) each of the City and ESD receiving written notice from EPCOR confirming EPCOR's satisfaction with the terms of this Agreement and the EPCOR Agreements (the "EPCOR Condition"), on or before **November 15, 2023**;
- (d) the City obtaining the subdivision (the "Subdivision") of Lot 11 and Lot 20, Block 91, Plan RN50, as shown outlined on the plan attached hereto as Schedule "A", of the Purchase Lands from the Lands, and the registration of the required Plan of Subdivision at the Land Titles Office (the "Subdivision Condition") on such terms and conditions as are acceptable to ESD and the City, in their discretion but acting reasonably, on or before **April 2, 2024** or such other date as the City and ESD may agree to in writing;

DRAFT

Draft Transfer Agreement

5

- (e) approval from the Board of Trustees of Edmonton Public School District No 7 of the sale of the Purchase Lands to the City (the “Board of Trustees Approval Condition”), on or before **December 14, 2023**; and
- (f) ESD obtaining approval from the Minister of Education for the sale of the Purchase Lands to the City pursuant to section 192 of the *Education Act*, S.A. c.E-03 as amended (the “Ministerial Approval Condition”), on or before **March 14, 2024**; and
- (g) the City obtaining, reviewing and being satisfied with, in its sole discretion, the initial circulation responses or conditions that result from the City’s subdivision application of the Purchase Lands from the Lands, and receiving written notice from EPCOR that funding is approved for for the Dry Pond Parkdale project in its entirety, including but not limited to the purchase of the Purchase Lands by the City from the Board upon the terms of the Agreement, and any other new or updated subdivision requirement that was not considered at the time of the execution of this Agreement that may result from the subdivision application (Circulation and Funding Condition) on or before **November 15, 2023** or such other date as the City and ESD may agree to in writing; and
- (h) the City being in receipt of the Purchase Price funds from EPCOR, and any applicable closing adjustments, in order to allow the City to complete the transaction with ESD upon the terms of the Agreement (the “City Payment Condition”) on or before **April 2, 2024**, or such other date as the City and ESD may agree to in writing.

(collectively, the “Conditions Precedent”)

5.2 If the Conditions Precedent are not fulfilled on the dates herein stated, or such other date or dates as the City and ESD may agree to in writing, then:

- (a) this Agreement shall be deemed to have been mutually terminated by the City and ESD and, except as otherwise stated in this Agreement, all rights and obligations of the City and ESD pursuant to this Agreement shall be at an end;
- (b) the City shall discharge any caveat, encumbrance, lien, charge or other instrument which the City may have registered or caused to be registered against the title to the Purchase Lands or ESD’s Lands; and
- (c) neither party shall have any further obligation or liability to the other party and neither party shall have any further rights as against the other party, including any claim to damages.

5.3 The Subdivision Condition, Road Closure Condition, and Roadway Sale Agreement Condition are for the mutual benefit of both the City and ESD and accordingly the fulfilment of such conditions precedent may not be waived by the City or ESD.

5.4 The City shall be responsible, at its sole cost and expense, for doing all things and for taking all steps necessary or for causing all things to be done and all steps to be taken necessary to obtain the Subdivision of the Purchase Land from the Lands and for satisfying all subdivision and planning approval conditions, including the installation and construction or causing the installation or

DRAFT

Draft Transfer Agreement

6

construction of any required municipal services, utilities, infrastructure or other improvements, and for the payment of any monies payable in place or lieu of reserves or dedications required by the Subdivision authority pursuant to the *Municipal Government Act* and the preparation and registration of the required plan of subdivision and the preparation and registration of all documents, plans and instruments necessary to obtain and complete the Road Closure and the consolidation of the titles to Lots 1-10 (inclusive), Lots 21-30 (inclusive) and the post subdivision remainder portions of Lots 11 and 20 into one title in the name of The Board of Trustees of Edmonton School Division. ESD shall provide the City any documentation or consents as may be required in order for the City to take any of the steps as set out in subsection 5.4.

5.5 ESD shall be solely responsible for the costs incurred in fulfilling the Board of Trustees Approval Condition and the Ministerial Approval Condition.

5.6 The City shall be responsible for costs and expenses incurred in fulfilling the Circulation and Funding Condition.

6. USE OF PURCHASE LANDS

6.1 Notwithstanding any other provision contained in this Agreement, it is expressly understood and acknowledged between ESD and the City that the City's intent in acquiring the Purchase Lands is to facilitate EPCOR's construction and operation of the Dry Ponds in accordance with the provisions of the Dry Pond Concept Plan (as hereinafter defined) and the operation of the Dry Pond in accordance with EPCOR Operations Procedure attached hereto as Schedule "B" and City Operations Procedure attached hereto as Schedule "C" (the "City Operations Procedure"), but subject to the continuing rights of ESD as more particularly set out in subsection 6.2 hereof including the restrictive covenants and easements and rights to use the Purchase Lands as contemplated in the JUA Agreement.

6.2 The City acknowledges, covenants and agrees with ESD that:

- (a) the City shall design and construct or cause the design and construction of the Dry Ponds and shall ensure that the Dry Ponds are designed, constructed, operated, maintained and repaired at its sole cost and expense, initially and on an ongoing basis in accordance with:
 - (i) the Dry Pond concept plans and specifications attached hereto as Schedule "D" with such changes as are approved by the City after appropriate consultation with ESD (the "Dry Pond Concept Plans");
 - (ii) the EPCOR SWMF Dry Pond General Maintenance & Usage Procedure attached hereto as Schedule "B" (the "EPCOR Operations Procedure"), or such amended, updated, new or other EPCOR Operation Procedure as is approved by the City and ESD from time to time;
 - (iii) the City of Edmonton Dry Pond General Maintenance & Usage Procedure attached hereto as Schedule "C" (the "City Operations Procedure") or such amended, updated, new or other City Operation Procedure as is approved by EPCOR and ESD from time to time;

DRAFT

Draft Transfer Agreement

7

- (b) the Purchase Lands shall be, and are hereby deemed to be, “Joint Use Facilities” and “Sport Fields” as defined in and for the purposes of the Joint Use Agreement;
- (c) the design, construction and operation of the Dry Ponds shall support the use of the Purchase Lands by schools, students and the community, for school, educational, student and community recreation and physical activity purposes (including as “Joint Use Facilities” and “Sports Fields” and otherwise pursuant to the Joint Use Agreement);
- (d) the City shall, on an ongoing basis, carry out all its obligations under the Joint Use Agreement and this Agreement on and in respect of the Purchase Lands;
- (e) ESD will annex to the Purchase Lands the following conditions and covenants, restrictive in nature (the “Restrictive Covenant”):
 - the Purchase Lands shall not be used, and the City shall not permit them to be used, for any purpose other than as “Joint Use Facilities” or “Sport Fields” or Dry Ponds, as contemplated in and in accordance with the Joint Use Agreement and this Agreement;

so as to burden and run with the Purchase Lands for the benefit of those portions of the Lands other than the Purchase Lands retained by ESD (the “Retained Lands”);
- (f) ESD shall register an easement granting to it the right, license, privilege, utility right of way, rights of access, rights of way and easements on and over the Purchase Lands for the use of the Purchase Lands by ESD for school.
- (g) educational, student and community recreation and physical activity purposes and otherwise pursuant to the Joint Use Agreement (the “Easement”);
- (h) for the purposes of or with respect to the Restrictive Covenant and the Easement:
 - (i) the Purchase Lands are the Servient Lands;
 - (ii) the Retained Lands are the Dominant Lands;
 - (iii) the Restrictive Covenant and Easement shall burden and run with the Purchase/Servient Lands for the benefit of the Retained/Dominant Lands and ESD and its successors on title; and
 - (iv) the Restrictive Covenant Easement shall remain in full force and effect until the Retained Lands are no longer required for “educational operations” or “school purposes” whether by or through ESD or any successor of ESD or otherwise as may be required by the Ministers of the Crown responsible for Education and Infrastructure.
- (i) the City acknowledges that ESD will cause the Restrictive Covenant and Easement to be

DRAFT

Draft Transfer Agreement

8

registered against the title to the Purchase Lands prior to the transfer of the Purchase Lands to the City and that such restrictive covenant and easement shall have priority over the City's and all other interests and instruments in the Purchase Lands.

- (j) the City shall not sell, transfer, release, license, part with possession of or otherwise dispose of all or any portion of the Purchase Lands or any interest therein including any utility or other rights of way, easements or other interests or rights in the Purchase Lands without the prior written consent of ESD which may be unreasonably or arbitrarily withheld, other than granting EPCOR access to the Purchase Lands pursuant to the Franchise Agreement, a copy of which has been provided to the ESD, unless and until:
 - (i) the proposed transferee or purchaser assumes all of the City's obligations hereunder and under the Joint Use Agreement with respect to the Purchase Lands and fully indemnifies ESD in an agreement or agreements in writing in a form and content satisfactory to ESD; and
 - (ii) the interest of the proposed transferee or purchaser and anybody obtaining an interest by, from or through them shall be subject always to the rights of ESD hereunder and under the Joint Use Agreement.
- (k) ESD shall be entitled to file and maintain a caveat on the title to the Purchase Lands with respect to its rights hereunder and under the Joint Use Agreement and as the holder of restrictive covenant rights, rights of access, utility rights of way and easements.

7. EPCOR AGREEMENTS

7.1 After execution of this Agreement by the City and ESD, ESD will, upon the date of execution of this Agreement by the City and ESD, allow EPCOR a right of entry to the Purchase Lands for construction of the Dry Ponds pursuant to:

- (a) Licence Agreement; and
- (b) Memorandum of Agreement relating to ongoing operation

obligations, both in form and content satisfactory to ESD (the "EPCOR Agreements").

8. INDEMNITY

8.1 The City shall:

- (a) be liable to ESD for, and shall pay on demand, all losses, damages, costs and expenses whatsoever which ESD may suffer, sustain, pay or incur;
- (b) defend, indemnify and save harmless ESD of and from all manner of actions, causes of actions, suits, third party claims or liability, claims, demands, rights of contribution, judgments, obligations, liabilities, injuries, debts, fines, penalties, orders, losses, damages, costs and expenses whatsoever, which may be brought or made against ESD or which ESD may suffer, sustain, pay or incur or for which ESD may be liable, at law or in

DRAFT

Draft Transfer Agreement

9

equity or under any statute (including all types of subrogated claims and claims for indemnity or contribution).

relating to, arising out of, resulting from or in any way connected with any property damage, personal injury or death or any Claim or

- (i) the entry onto the Lands or Purchase Lands by or on behalf of the City or their respective employees, tenants, licensees, contractors, agents, representatives or any other person for whom the City is legally responsible pursuant to this Agreement;
- (ii) the construction, installation, existence, maintenance and operation of Dry Ponds on the Purchase Lands or their failure to construct the Dry Ponds or operate them in accordance with the Dry Pond Plans and Specifications or the Operations Procedure;
- (iii) any activities carried on by or on behalf of the City on or in respect of the Lands or Purchase Lands;
- (iv) the failure to rebuild and replace initially or on an ongoing basis the Joint Use Agreement or Playing Fields, as required hereunder or under the Joint Use Agreement;
- (v) the City's obligations under the Joint Use Agreement or under this Agreement or any failure by any person to carry out those obligations; and
- (vi) any Environmental Matters.

"Costs and expenses" include, without limitation, legal costs on a solicitor and own client, full indemnity basis and the costs of complying with any order, directive or judgement of an applicable government or statutory authority or a court of competent jurisdiction.

9. STATUTORY NON-WAIVER

9.1 Notwithstanding any other provision contained in this Agreement, it is expressly understood and agreed between ESD and the City that the City, in entering into this Agreement, is doing so in its capacity as a purchaser of real property and not in its capacity as a regulatory, statutory or approving body pursuant to any law of the Province of Alberta and nothing in this Agreement shall constitute the granting by the City of any approval or permit as may be required pursuant to the *Municipal Government Act*, R.S.A. 2000 Ch. M-26, and any amendments thereto, and any other legislation in force in the Province of Alberta. The City, as far as it can legally do so, shall only be bound to comply with and carry out the terms and conditions stated in this Agreement, and nothing in this Agreement restricts the City, its Municipal Council, its officers, servants or agents in the full exercise of any and all powers and duties vested in them in their respective capacities as a municipal government, as a municipal council and as the officers, servants and agents of a municipal government.

DRAFT

Draft Transfer Agreement

10

10. ADDRESS FOR NOTICE

10.1 Any notices under this Agreement given to the parties hereunder shall be conclusively deemed to be sufficiently given if personally delivered, sent by prepaid registered mail addressed as follows, or transmitted by facsimile to the number of the party to whom it is intended as follows:

(a) to the City at:

Manager, Real Estate,
Financial and Corporate Services
10th Floor, Edmonton Tower
10111 - 104 Avenue NW
Edmonton, Alberta T5J 0J4
Facsimile: 780-496-6189

(b) to ESD at:

THE BOARD OF TRUSTEES OF
EDMONTON SCHOOL DIVISION
Centre for Education,
1 Kingsway NW,
Edmonton, AB T5H 4G9
Email: christopher.wright@epsb.ca
Attention: Christopher Wright

or to any other address as may be designated in writing by the parties. Notice given by registered mail, if posted in Alberta, shall conclusively be deemed to have been received on the fifth business day following the date on which such notice is mailed. In the event of a postal strike,

notice may only be given by personal delivery. Any notice sent by facsimile before 4:30 p.m. local time on a business day shall be deemed to have been received when the sender receives the answer-back confirming receipt by the recipient, provided, however, that any facsimile received after 4:30 p.m. local time on a business day or received on a day other than a business day shall be deemed to have been received on the next business day.

11. GENERAL

11.1 Time is to be considered of the essence of this Agreement.

11.2 The City shall have the right to protect its interests under this Agreement by registering a caveat against the titles to the Purchase Lands.

11.3 ESD shall have the right to protect its interests under this Agreement by registering a caveat against the titles to the Purchase Lands.

DRAFT

Draft Transfer Agreement

11

11.4 The terms, conditions and covenants herein contained shall continue beyond the Closing Date, and accordingly they shall not merge with the transfer of the Purchase Lands.

11.5 Each of the parties hereto covenants and agrees with the other that each will, from time to time and at all times hereafter, make, do and execute or cause or procure to be made, done or executed such further acts, deeds and assurances as may be necessary for the more effectually carrying into effect this Agreement.

11.6 The waiver of any covenant, condition or provision hereof must be in writing.

11.7 This Agreement, as amended or supplemented in writing from time to time, together with all schedules, documents, agreements, instruments and assurances given or made pursuant to, provided for or contemplated in this Agreement or reasonably required to give full effect to this Agreement or complete any transaction contemplated herein, constitutes the entire agreement among the parties and supersedes all prior agreements between the parties with respect to the subject matter of this Agreement. There are no statements, representations, warranties, undertakings or agreements, written or oral, express or implied, between the parties hereto except as contemplated in this Agreement.

11.8 Should any provision of this Agreement be void, voidable or unenforceable for any reason whatsoever, it shall be considered separate and severable from the remaining provisions of this Agreement, which shall remain in force and be binding as though the said provision had not been included.

11.9 This Agreement shall be construed and governed by the laws of the Province of Alberta.

11.10 The reference to any legislation in this Agreement shall be deemed to include all amendments thereto and all regulations thereunder and all statutes, including all amendments thereto and regulations thereunder, that may be substituted for that legislation.

11.11 This Agreement shall enure to the benefit of and be binding upon the parties hereto and their respective heirs, executors, administrators, successors, including successors in title, and assigns.

11.12 In this Agreement:

- (a) the word "shall" is to be read and interpreted as mandatory;
- (b) the word "may" is to be read and interpreted as permissive;
- (c) the Recitals form part of this Agreement, are true and correct, constitute covenants hereunder and are binding on the parties hereto; and
- (d) words like "including", "specifically", "particularly" or words of similar import when following any general statement, shall be read as if they were followed by the phrase "without limitation" or other words of similar import and shall be deemed to refer to all things, items or matters that could reasonably fall within the broadest possible scope of such general statement.

11.13 The following schedules ("Schedules") are attached hereto, incorporated herein by reference and

DRAFT

Draft Transfer Agreement

12

shall be deemed to form a part hereof and any covenants and agreements contained therein are deemed to be covenants and agreements hereunder with the provisions hereof applying thereto, *mutatis mutandis*:

Schedule "A" – Dry Pond Plan

Schedule "B" – EPCOR SWMF Dry Pond General Maintenance & Usage Procedure (the "EPCOR Operations Procedure")

Schedule "C" – City of Edmonton Dry Pond General Maintenance & Usage Procedure (the "City Operations Procedure")

Schedule "D" – Dry Pond Concept Plan

Schedule "E" – ROAD CLOSURE AND SALE AGREEMENT MAP

11.14 The City is a licensed Real Estate Brokerage in the Province of Alberta.

11.15 This Agreement may be executed electronically and in any number of counterparts, and may be delivered originally, by facsimile, or by electronic transmission in Portable Document Format ("PDF") and each such original, facsimile copy or PDF copy, when so executed and delivered, shall be deemed to be an original and all of which taken together shall constitute one and the same instrument.

[SIGNATURE PAGE FOLLOWS]

DRAFT

Draft Transfer Agreement

13

THE CITY AND ESD HAVE EXECUTED THIS AGREEMENT ON THE _____ DAY OF _____, 2023.

APPROVED:

THE CITY OF EDMONTON, as
Represented by the Acting Director of Property Transactions,
Real Estate Branch, Financial and Corporate Services

AS TO LEGAL REVIEW AND FORM:

Per: _____ (Seal)

AS TO CONTENT:

THE BOARD OF TRUSTEES OF EDMONTON
SCHOOL DIVISION

Per: _____ (Seal)
Name: Christopher Wignall
Title: Managing Director, Infrastructure
I have the authority to bind the Board.

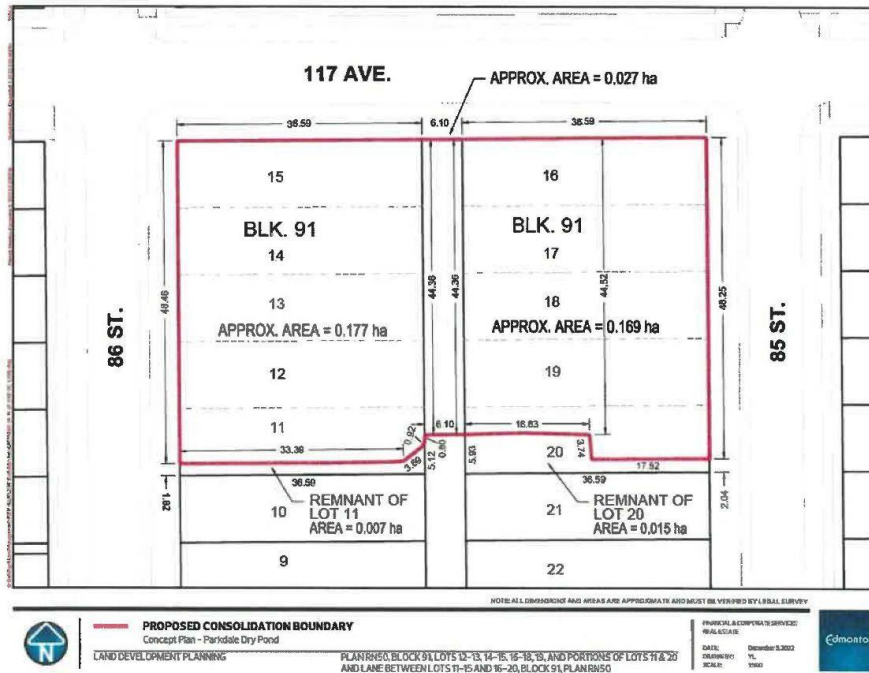


DRAFT

Draft Transfer Agreement

Parkdale School Site Dry Pond

SCHEDULE "A"
DRY POND PLAN



DRAFT

Draft Transfer Agreement

**SCHEDULE "B"
EPCOR OPERATION PROCEDURES****EPCOR SWMF DRY POND GENERAL MAINTENANCE & USAGE
PROCEDURE****(the "EPCOR Operations Procedure")****1. Purpose, Definitions and General Provisions**

1.1 This document outlines the Dry Pond Storm Water Management Facilities ("SWMF" or "Dry Ponds") General Maintenance & Usage Procedure to be followed by the EPCOR Drainage Services Operations staff with respect to all SWMF or Dry Ponds including those constructed or located on, adjacent to or near ESD Facilities.

1.2 In this document:

- (a) **"ESD Facilities"** means the lands and premises owned, leased, dedicated to or reserved for, controlled by ESD or which ESD uses or has access to including but not limited to school lands and sites, school buildings, parking areas, drop off facilities, hard and soft play spaces, playing fields and Joint Use Facilities.
- (b) **"Joint Use Facilities"** means lands, facilities and sports fields for use by schools, students and the community for school, educational, student and community recreation and physical activity purposes as contemplated in the Joint Use Agreement.
- (c) **"Joint Use Agreement"** means the "Edmonton Joint Use Agreement: Facilities" made between the City and ESD and other school boards on the 17th day of October, 2007 as amended, supplemented or replaced from time to time.
- (d) Words and phrases used herein shall have the meanings ascribed to them in the Dry Pond Acquisition Agreement to which this Schedule is attached, unless otherwise specifically provided.

2. Scope and Applications

2.1 This document is a general procedural guideline for the maintenance and operation of SWMF/Dry Pond. The goals are to inspect, maintain and operate Dry

DRAFT

Draft Transfer Agreement

-

Pond sites for personnel and public safety, and to protect ESD Facilities and EPCOR assets.

3. Method/Procedure**3.1 Pre-Inspection**

- (a) Ensure proper Personal Protective Equipment (PPE) is available and used. PPE may include such items as weather appropriate clothing, rubber boots, gloves, eyewear protection, hearing protection devices, headgear, first aid kit, and ensure eyewash equipment are readily available.
- (b) Work Orders are created by the Foreman III or Relief Foreman or Technologists.

3.2 Inspection

- (a) Perform Field Level Hazard Assessment (FLHA) with all site personnel.
- (b) On a rotating cycle, SWMF/Dry Ponds must be inspected regularly at least twice per year:
 - (i) Check and replace signage which is directly related only to the operations of the SWMF/Dry Ponds as detention of storm water and not any other signage installed for other purposes by the City or community.
 - (ii) Visual inspection of inlet / outlet structures.
 - (iii) Visual inspection of concrete wing walls and spill ways.
 - (iv) Visual inspection and cleaning of trash racks.
 - (v) Visual inspection of all manhole frames and covers.
 - (vi) Visual inspection of fencing or traffic control devices that are directly related to the operations of the SWMF/Dry Ponds only.
- (c) The following inspection and maintenance work are also carried out as required:
 - (i) Public complaint investigation and/or internal Work Requests/response relating to the operations of the SWMF/Dry Ponds, but excluding any complaints related to the amenities i.e. benches, asphalt trails etc. on the dry pond.

DRAFT

Draft Transfer Agreement

-

- (ii) Inspection blitz within 72 hours of a major rainfall event. Drainage Environmental Service (DES) Forman or Technologist will identify SWMF/Dry Ponds located in areas of the City where major rainfall event happened.
 - (iii) Visual inspection of any sign of mechanical flow control devices malfunctions and arrange follow up investigation and maintenance.
 - (iv) Clean up of flooded areas including removal of debris, cleaning inlet and outlet gratings scheduled based on inspection assessment.
- (d) Public Complaints:
- (i) Public complaints relating to the operations of the SWMF/Dry Ponds, but excluding any complaints related to the amenities on the facility, are reported to EPCOR Customer Service (780-412-4500).
 - (ii) The Drainage Operations Foreman shall be responsible for investigating all related complaints and documenting all findings.
- (e) Maintenance of SWMF/Dry Pond filling sensors and alarm equipment:
- (i) Water level sensors shall be inspected and serviced in April of every year by Pumpwell Maintenance (PM) group of EPCOR Flow Control Facilities (FCF). Additional inspections and services of the sensors may be conducted from April to October at the discretion of the Pumpwell Maintenance Engineer, acting reasonably.
 - (ii) The alarm system shall be set to activate alarm conditions on the Supervisory Control And Data Acquisition (SCADA) system currently used for monitoring pumping stations and other remote facilities.
 - (iii) Alarms shall be acknowledged and forwarded according to the notification instructions provided by the SCADA system.
 - (iv) The alarm system shall be inspected, serviced and tested in April every year and following every significant rainfall that resulted in the filling of the SWMF/Dry Ponds.

DRAFT

Draft Transfer Agreement

-

- (v) A historical record of all flooding incidents including date, time duration and maximum depth of water level must be kept on the SCADA system.
- (vi) After SWMF/Dry Ponds filling events all electrical fixtures, lighting, wiring connections and level sensors should be checked for moisture and corrosion.
- (f) Site specific circumstances:
 - (i) In the event of a SWMF/Dry Pond filling alarm through SCADA, EPCOR Drainage Control will alert EPCOR Standby during after-hours, on weekends and stat holidays.
 - (ii) With respect to all SWMF/Dry Ponds located on, adjacent to or near ESD Facilities and during flooding condition: (All SWMF/Dry Ponds are listed in Section 4, Table 1 of Schedule A.)
 - (A) EPCOR shall notify ESD that the SWMF/Dry Pond is filling and cannot be accessed until further notice.
 - (B) ESD shall inform impacted school administration, students and staffs about the restrictions and ESD will use reasonable efforts to prevent student access to the SWMF/Dry Pond during school operational days when flooding conditions exist.
 - (C) When the water level in the SWMF/Dry Pond is 2 inches or deeper, EPCOR will use reasonable efforts during school operational days between the hours of 8:00 am and 4:00pm to prevent public access to the SWMF/Dry Pond. EPCOR shall place additional temporary signage as necessary around flooded SWMF/Dry Ponds to warn students, families, school staffs, and others who may want to use the site. If the water level in the SWMF/Dry Pond is 2 inches or deeper and it is expected that the water level will remain at 2 inches or deeper for more than 1 hour, then EPCOR shall ensure that EPCOR staff members regularly monitor the SWMF/Dry Pond until the water level recedes to less than 2 inches. Constant monitoring by an EPCOR staff member present "on site" at the affected SWMF/Dry Pond shall be required during school operational days between the hours of 8:00 am

DRAFT

Draft Transfer Agreement

-

and 4:00pm when the water level in the SWMF/Dry Pond is 2 inches or deeper.

- (D) EPCOR shall notify ESD when flooded facilities are clear for access and available for use for all activities.
 - (E) EPCOR shall ensure permanent signs are prominently posted at all access points to all SWMF/Dry Ponds describing the features of the Dry Ponds, the fact that flooding and ponding can occur and warnings to stay out of the Dry Pond when ponding occurs. EPCOR's project manager and ESD will determine the location where signs are required to be installed.
- (iii) Current SWMF/Dry Ponds located on, adjacent to or near ESD Facilities are listed in Section 4, Table 1. EPCOR will continuously update the list and notify ESD when new SWMF/Dry Ponds are to be constructed on, adjacent to or near ESD Facilities. ESD shall update and shall notify EPCOR of any change of contact information.

3.3 Post Inspection

- (a) Transport materials/supplies, tools, equipment and debris back to EPCOR Kennedale yard.
- (b) Document in EPCOR's Maintenance Management System pertinent details related to the Work Order.

4. Attachments and References

Table 1: List of SWMF/Dry Ponds adjacent to public schools and contacts

Name of SWMF/Dry Pond	DR#	Year of Construction	Adjacent School Name	EPCOR Contact	ESD Contact
Parkallen		2020	Parkallen	EPCOR Customer Service (780-412-4500)	Security Services 780-429-8295 Or 780-429-3772(ESD)
Malcolm Tweddle – Edith Rogers		2021	Malcolm Tweddle	EPCOR Customer	Security Services 780-429-8295 Or

DRAFT

Draft Transfer Agreement

				Service (780-412-4500)	780-429-3772(ESD)
			Edith Rogers	EPCOR Customer Service (780-412-4500)	Security Services 780-429-8295 Or 780-429-3772(ESD)
Lendrum Place #1	448500	2008	Avalon	EPCOR Customer Service (780-412-4500)	Security Services 780-429-8295 Or 780-429-3772(ESD)
			Lendrum	EPCOR Customer Service (780-412-4500)	Security Services 780-429-8295 Or 780-429-3772(ESD)
Aldergrove #1	461041	2010	Aldergrove	EPCOR Customer Service (780-412-4500)	Security Services 780-429-8295 Or 780-429-3772(ESD)
Steinhauer		2022	Steinhauer	EPCOR Customer Service (780-412-4500)	Security Services 780-429-8295 Or 780-429-3772(ESD)
Kenilworth		To be constructed	Kenilworth	EPCOR Customer Service (780-412-4500)	Security Services 780-429-8295 Or 780-429- 3772(ESD)
Waverley		To be constructed	Waverley	EPCOR Customer Service (780-412-4500)	Security Services 780-429-8295 Or 780-429- 3772(ESD)
Parkdale		To be constructed	Parkdale	EPCOR Customer Service (780-412-4500)	Security Services 780-429-8295 Or 780-429- 3772(ESD)

DRAFT

Draft Transfer Agreement

-

EDS-RD-OPS- SWMF/Dry Pond Wet Pond General Maintenance

Procedure EDS-RD-OPS-SWMF/Dry Pond Winter Equipment

Removal Procedure

Version History

REVISION	DATE	RESPONSIBLE EMPLOYEE	REVISION DESCRIPTION
1			
2			
3			

****This procedure is to be reviewed bi-annually for accuracy****

DRAFT

Draft Transfer Agreement

Parkdale School Site Dry Pond

**SCHEDULE "C"
CITY OPERATION PROCEDURES****City of Edmonton Dry Pond General Maintenance &
Usage Procedure for Edmonton School Division ("ESD")
Facilities and Sites****1. Purpose, Definitions and General Provisions**

1.1 This document outlines the City's General Maintenance & Usage Procedure to be followed by the City of Edmonton Operations staff with respect to SWMF/Dry Ponds in the Park Area, as defined herein, at Joint Use Sites.

1.2 In this document:

- (a) **"Joint Use Agreements"** means the "Edmonton Joint Use Agreement: Facilities" made between the City and ESD and other school boards on the 17th day of October, 2017, as amended, supplemented, or replaced from time to time.
- (b) **"Park Area"** means open park space or open space on City or ESD's land adjacent to schools that can be developed to accommodate activities, including, but not limited to, track and field events, soccer, football, rugby, cricket, ultimate, baseball, softball/fastball and slo-pitch.

2. Scope and Applications

This document is a general procedural guideline for the maintenance and operation of SWMF/Dry Ponds, specifically the Park Area. The goals are to inspect and maintain the Park Area for personnel and public safety, and to protect City of Edmonton assets.

3. Method/Procedure**3.1 Inspection**

On a rotating cycle, SWMF/Dry Ponds must be inspected at least twice per year or more as required:

- (a) Check and replace all other signage not directly related to the operations of the SWMF/Dry Pond, as required;

DRAFT

Draft Transfer Agreement

- (b) Litter collection and removal;
- (c) Visual inspection of turf quality and weed proliferation;
- (d) Visual inspection of hand rails and gratings; and
- (e) Visual inspection of fencing or traffic control devices that are not related to the operations of the SWMF/Dry Pond only.

DRAFT

Draft Transfer Agreement

- 2 -

3.2 The following inspection and maintenance works are also carried out as required:

- (a) Public complaint investigation/response relating to the amenities on the SWMF/Dry Pond;
- (b) Graffiti removal;
- (c) Turf replacement, seeding, or naturalization as required;
- (d) Identify and remove noxious weeds as per the Alberta Weed Control Act;
- (e) Mow turf as per the City's Turf Management Program as amended, supplemented, or replaced from time to time; and
- (f) Repair, maintain and replace the fields, turf, landscaping and improvements and fixtures located within the Dry Ponds to the standards as developed by the City, and as amended from time to time, in consultation with the ESD.

4. Event License

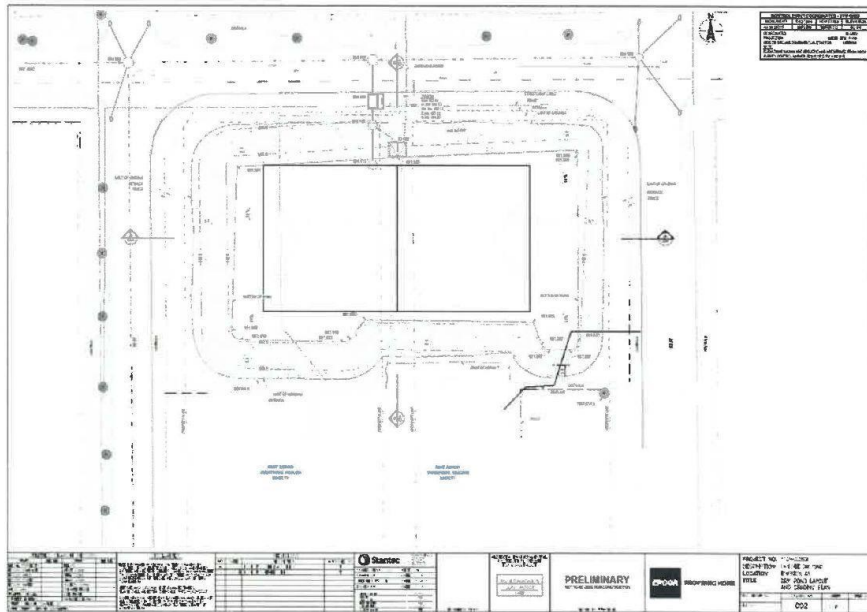
4.1 The City of Edmonton standard form of event license agreement, as amended from time to time by the City, will be used if a resident or group wants to use a SWMF/Dry Pond for an event of limited length of time (e.g. large picnics, weddings, etc.), as per the City's Citizen Services standard event management processes, available online at www.Edmonton.ca.

DRAFT

Draft Transfer Agreement

Parkdale School Site Dry Pond

SCHEDULE "D"
DRY POND CONCEPT PLAN



Draft Transfer Agreement

Parkdale School Site Dry Pond

SCHEDULE "E"
ROAD CLOSURE AND SALE AGREEMENT MAP

