

THE CITY OF EDMONTON
BYLAW 19821
BYLAW TO DESIGNATE THE EDMONTON CENOTAPH AS A
MUNICIPAL HISTORIC RESOURCE

WHEREAS the *Historical Resources Act*, R.S.A. 2000, c. H-9, as amended, permits the municipal council of a municipality to designate any Historic Resource within the municipality whose preservation it considers to be in the public interest together with any specified land in or on which it is located, as a Municipal Historic Resource; and

WHEREAS it is deemed in the public interest to designate the monument located at 1 Sir Winston Churchill Square NW, known as the Edmonton Cenotaph and the land on which the monument is located as a Municipal Historic Resource; and

NOW THEREFORE the Municipal Council of the City of Edmonton, having complied with the *Historical Resources Act*, and duly assembled, hereby enacts as follows:

1. MONUMENT AND LANDS DESIGNATED AS A MUNICIPAL HISTORIC RESOURCE

The monument known as the Edmonton Cenotaph (specifically described in Schedule “A”) (the “Monument”) and the land on which the monument is located being legally described as:

PLAN 4390NY
BLOCK C
CONTAINING 1.46 HECTARES, MORE OR LESS

Excepting thereout all mines and minerals

(the “Land”) are hereby designated as a Municipal Historic Resource.

2. PERMITTED REPAIRS AND REHABILITATION

Subject to Section 3 hereof, the Monument and Land shall not be removed, destroyed, disturbed, altered, rehabilitated, repaired or otherwise permanently affected, other than in accordance with the terms of Schedule “A” attached, and the General Guidelines for Rehabilitation and Guidelines for Development on the Regulated Land attached as Schedule “B”, to this Bylaw.

3. ADMINISTRATOR

The City Manager is hereby appointed to administer the implementation of any matters arising from the matters set out in this Bylaw, and the Schedules attached hereto which form part of this Bylaw, including, without limitation, the execution of a Rehabilitation Incentive and Maintenance Agreement as set out in Schedule “C”.

4. EFFECTIVE DATE

This Bylaw shall come into effect on the date on which this Bylaw is passed by Council.

READ a first time this	day of	, A.D. 2021;
READ a second time this	day of	, A.D. 2021;
READ a third time this	day of	, A.D. 2021;
SIGNED and PASSED THIS	day of	, A.D. 2021.

THE CITY OF EDMONTON

MAYOR

CITY CLERK

SCHEDULE “A

THE IDENTIFICATION OF REGULATED PORTIONS OF THE EDMONTON CENOTAPH

The purpose of this Schedule is to identify by written description and photographs, those portions of the Monument known as the Edmonton Cenotaph, which shall be regulated by the “General Guidelines for Rehabilitation” (Schedule “B”) and must be preserved (“the Regulated Portion”).

The Regulated Portion of the Monument includes all four historic exterior faces. This includes the, form, scale and mass of the Edmonton Cenotaph as described below. These features of the Monument shall be rehabilitated in accordance with the “Rehabilitation Work” which is part of Schedule “C”.

Nonregulated portions of the Monument, being all other portions of the Monument not specifically identified as a Regulated Portion, may be rehabilitated, altered, repaired or otherwise permanently affected in any manner provided that such rehabilitation, alteration or repair does not impact on the regulated historic features of the Monument. Any development or alterations considered to be non-regulated portions of the Municipal Resource, however, must meet the General Guidelines for Rehabilitation of Designated Historic Resources as identified in the *“Standards and Guidelines for the Conservation of Historic Places in Canada.”* Any development of any portion of the Land shall be undertaken in a manner that is sympathetic to the historic elements of the Edmonton Cenotaph. New development should also make reference to this resource’s Statement of Significance as identified on the Alberta Register.

The following character-defining architectural elements as expressed in the form, massing and materials of the 1936 Edmonton Cenotaph must be retained:

- Location in Sir Winston Churchill Square in Downtown Edmonton
- Form, scale and massing of the 22 foot high structure
- Construction materials, including British Columbia granite, with steel reinforcements
- Classic cenotaph design, drawing from precedents set by Edwin Lutyens, including a tapering at the top of the structure and the use of groupings of three for commemorative elements
- Engraved features, including: laurel wreaths (on the south, west and east elevations); a torch/cross (on the south elevation); a garland (on all four elevations of the structure, along the top); lions (on the south elevation); a sword (on the north elevation); and a coffin (on the south elevation)
- Inscriptions, including: the word “*REMEMBERED*” (on the south elevation); the years “*1914 - 1918*”, the years “*1939 - 1945*”, and the words “*Korea 1950 - 1953*” (on the west elevation); and the words “*OUR GLORIOUS DEAD*”; and the words “*AFGHANISTAN 2001 - 2014*” (on the east elevation)

- Display box on west elevation containing laurel wreath from the Edmonton Salutes Committee
- Six bronze decorative anchor mounts on north elevation
- Granite tiered base of the structure

PHOTOGRAPHIC DETAILS

Edmonton Cenotaph South Elevation



Edmonton Cenotaph West Elevation



Edmonton Cenotaph North Elevation



Edmonton Cenotaph East Elevation

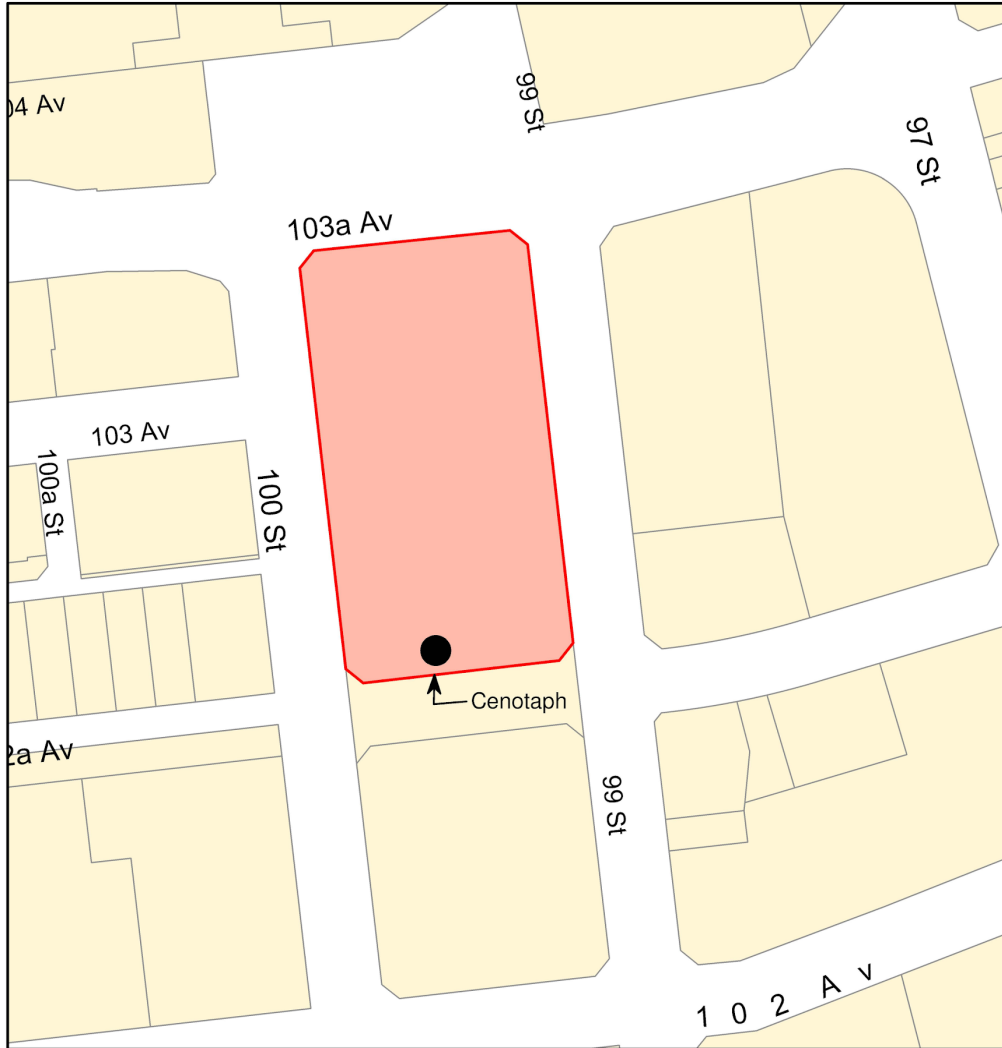


Edmonton Cenotaph East Elevation showing recent Afghanistan mission engraving (May 2021)



LOCATION PLAN

Location Map



**1 Sir Winston Churchill Square NW
Edmonton Cenotaph**



SCHEDULE “B”

GENERAL GUIDELINES FOR REHABILITATION

The General Guidelines for Rehabilitation are intended to assist in applying accepted principles and practices to the conservation of Historic Resources. The guidelines are set out in the *“Standards and Guidelines for the Conservation of Historic Places in Canada.”* In a manner consistent with accepted practice, City Heritage Policy C450B requires that the standards be used in conjunction with the guidelines to ensure that the basis for a clear and consistent interpretation of the guidelines is provided to assist owners of Historic Resources throughout any rehabilitation process. The following guidelines and the referenced standards shall apply to the Edmonton Cenotaph and the land on which the monument is located (the “Municipal Historic Resource”) and any rehabilitation or maintenance work undertaken with respect to the Municipal Historic Resource at any time.

1. **Compatible Uses:**

Wherever possible, the uses proposed for a Municipal Historic Resource shall be compatible with the existing monument such that only minimal changes are required to the monument. The use of a Municipal Historic Resource for its original purpose is desirable.

2. **Original Character:**

The original distinctive qualities and character of the monument as designated by the Municipal Historic Resource Bylaw should be preserved. The removal or alteration of any historical materials or features shall be avoided whenever possible.

3. **The Historic Period:**

The Municipal Historic Resource should be recognized as a product of its own time. Alterations which are not based on historical fact or which recreate an earlier or a later design idiom shall be discouraged.

4. **Witness to Change:**

Changes to the Municipal Historic Resource may have occurred over time. These alterations are evidence of the history and development of the monument. Because this evolution may have acquired a significance in its own right, alterations to the original monument should be recognized and respected where indicated.

5. **Style and Craftsmanship:**

Distinctive stylistic features and examples of skilled craftsmanship which have been designated by the Municipal Historic Resource Bylaw shall be preserved and treated sensitively.

6. **Repair and Replacement:**

Deteriorated architectural features shall be repaired rather than replaced whenever possible. Where replacement is necessary, the new material should match the original as to composition, color, texture, design, etc. The repair or replacement of architectural features shall be based on a sound knowledge of the original characteristics of the feature. Such knowledge shall be based on historical or pictorial evidence and not upon conjecture.

7. **Cleaning:**

In all cases, surface cleaning shall be undertaken with the gentlest means available. Sandblasting in particular, but also other cleaning methods, damage historic monuments and should not be undertaken without thorough testing prior to use on a monument. Sandblasting is not recommended on brick, stone or wood. In all instances, it should be ascertained that a monument exterior is really in need of cleaning prior to undertaking the work.

8. **Reversibility of Improvements:**

When the introduction of new elements or materials is necessary to stabilize or preserve a municipally designated historic resource, alteration shall be undertaken such that the new materials, should they fail, may be removed at a later date without damage to the original fabric of the Municipal Historic Resource. Where this is not possible (i.e. use of epoxy) only those methods and materials which have been thoroughly tested and found satisfactory in situ, shall be used.

9. **Recording:**

Prior to undertaking any alterations, particularly in cases where alterations may threaten the monument fabric (underpinning, moving structures), the applicant shall compile a complete record of the architectural features of the Municipal Historic Resource. Measured drawings and photographs of details may prove invaluable if major features are damaged or lost during the subsequent repair work.

10. **Original Construction Details:**

In some historic structures, poor construction details or inappropriate materials resulted in rapid deterioration of certain monument elements. In these instances, accurate reconstruction of the original detail will inevitably result in the failure of the element. Therefore, reconstruction should be undertaken in such a fashion as to duplicate the original appearance as closely as possible while using details based on sound construction practice.

11. **Codes:**

At no time should the life and safety of occupants of a Municipal Historic Resource be deemed of lesser importance than the preservation of the original fabric of the Municipal Historic Resource. The required life and safety standards are those required by the current Alberta Building Code. However, notwithstanding these Code requirements, where the essential character of the structure is threatened by changes for Code reasons, every effort shall be made to achieve an equivalent safety standard by alternate means so as to minimize the impact on the historic fabric.

12. **Improvements:**

Prior to undertaking any improvements, a schedule of alterations should be prepared. This schedule should include phasing of alterations where necessary due to program or budget restrictions. The type and timing of both short and long term maintenance work shall also be included.

13. **Signs:**

As a general rule signs should be limited to signs which were originally present on the monument. In instances where new uses or interpretive functions dictate the use of additional signs, these new elements should be integrated into the general design of the project. The size, typeface, graphics, and materials should be chosen to suit the period of the Municipal Historic Resource wherever possible. Avoid installing new signs such that the repair, replacement or removal of the signs damages the original fabric of the structure.

14. **Enforcement:**

The owner and the City shall enter into an agreement to provide that the designated structure will be maintained in such a manner as to prevent any deterioration

15. **Alterations and Additions to Historic Resources:**

Contemporary design for alterations and additions to existing Historic Resources shall not be discouraged when such alterations and additions do not diminish the overall historic character of the resource and such design is compatible with the size, scale, colour, material and character of the resource, neighbourhood or environment.

GUIDELINES FOR DEVELOPMENT ON THE REGULATED LANDS

1. **General Purpose:**

To establish guidelines on future development on the lands on which the Edmonton Cenotaph is located to protect the heritage character of the Edmonton Cenotaph and the land on which the monument is located (the “Municipal Historic Resource”).

2. **Area of Application:**

The area of application is the portion of land located at 1 Sir Winston Churchill Square NW and legally described as:

PLAN 4390NY
BLOCK C
CONTAINING 1.46 HECTARES, MORE OR LESS

Excepting thereout all mines and minerals

as shown in Schedule “A” of this Bylaw (the “Land”).

3. **Development Criteria:**

The Development Officer and the Heritage Officer shall have regard for the following guidelines when reviewing a development permit application for any additions or alterations to the Edmonton Cenotaph, or any other proposed development on the Land.

4. **Historic Integrity:**

4.1. Any redevelopment of the Municipal Historic Resource must respect the historic character of the regulated portions of the Municipal Historic Resource.

4.2. Additions or additional structures must be sympathetic in either matching material or style, or both, in order that the Edmonton Cenotaph continues to be read as one unit.

SCHEDULE "C"

THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by the Owner, the parties agree as follows:

1. **CONDITION PRECEDENT:**

1.1. This Agreement is conditional upon Council passing a Bylaw to designate the Land and the Monument a Municipal Historic Resource by November 22, 2021, or such later date as the parties may agree to in writing. If the Designating Bylaw is not passed by November 22, 2021, and the parties have not agreed to extend the time for satisfaction of the condition precedent, this Agreement shall be of no force and effect.

2. **DEFINITIONS:**

In this Agreement:

2.1. "Act" means the *Historical Resources Act*, R.S.A. 2000, c. H-9.

2.2. "Certification" means the written confirmation provided by the Owner to the City in a form satisfactory to the City certifying that a Phase or Phases of the Rehabilitation Work has been completed, or a Deficiency List has been remedied, which shall include the following:

2.2.1. Receipts for all materials, supplies, labour and services and any other relevant documentation or other documents satisfactory to the City;

2.2.2. Receipts or other documents satisfactory to the City indicating that all suppliers and contractors involved in performing that Phase of the Rehabilitation Work or remedy of the Deficiency List have been paid in full for their goods or services; and

2.2.3. Evidence that the Owner received competitive bids or estimates before engaging any contractor or supplier.

2.3. "Council" means the municipal council of the City of Edmonton.

2.4. "Deficiency List" means a description of the particulars given by the City to the Owner that specifies how the Rehabilitation Work or the Certification is inadequate or deficient.

2.5. "Designating Bylaw" means a Bylaw passed by Council under the authority of Section 26 of the Act relating to the Land and Monument.

2.6. "Maximum Incentive" means the amount set forth within Section 6.1 of this Agreement.

- 2.7. “Owner” includes the current Owner and all future registered owners of the Land at the North Alberta Land Registration District.
- 2.8. “Rehabilitation Work” means the work set out in Section 4.1 of this Agreement to be completed by the Owner.

3. **OWNER’S WAIVER OF RIGHTS:**

- 3.1. The Owner waives any rights the Owner may have to dispute the sufficiency of the Notice of Intention to Designate and hereby releases the City, its agents and employees from any deficiencies of the Notice of Intention to Designate or the issuance thereof.

4. **MAINTENANCE:**

- 4.1. In January of the fifth (5th) year after the issuance of the Notice of Completion for the final Phase(s) of the Rehabilitation Work, and every five (5) years after that, the Owner shall allow the City’s Heritage Officer or designate (the “Inspector”) to conduct an inspection of all the regulated portions of the Monument.
- 4.2. Within sixty (60) days of the inspection, the Inspector shall prepare a written report setting out recommendations for remedial or maintenance work on the Monument, including a proposed schedule for the work and suggestions as to methods and materials to be used.
- 4.3. The Owner and the City shall meet within fourteen (14) days of the receipt of the Inspector’s report and establish the remedial work that shall be carried out, the timing for the completion of such remedial work and the manner in which such remedial work shall be undertaken (the “Remedial Work Plan”).
- 4.4. The Owner shall promptly carry out the Remedial Work Plan and notify the City on completion.
- 4.5. On receipt of notice that the Remedial Work Plan has been completed, the City may inspect and identify any deficiencies in writing to the Owner. The Owner shall correct the deficiencies and provide the City notice that such corrective action has been carried out, and the City may then reinspect.
- 4.6. Notwithstanding any other provision of this Agreement, if at any time the Owner or the City become aware of any disrepair that may endanger the Monument, the Owner and the City shall meet and the Owner shall prepare and submit to the City a plan for repairs to the satisfaction of the City. The Owner shall promptly carry out the required repairs and notify the City on completion within a time frame determined by the City. Nothing herein shall be deemed or construed, however, to

limit the City's ability to rely on or enforce laws or bylaws relating to real property which is unsafe, dangerous or unsightly.

- 4.7. In addition to inspections permitted pursuant to the Remedial Work Plan, the City may on reasonable notice to the Owner and no more than four (4) times a year, inspect the Monument at the City's own expense.
- 4.8. The Owner shall be solely responsible for ensuring that the Monument and Land and any improvements thereto comply with all applicable federal, provincial and municipal laws, regulations, bylaws, codes and guidelines. The Owner acknowledges and agrees that nothing in this Agreement shall be deemed or construed as an obligation on or duty of the City to ensure compliance with this section or advise the Owner of deficiencies in the Owner's compliance with this section.
- 4.9. **If the Owner fails to perform any obligation under this Article 4 or made pursuant to this Article 4, the City may give notice of the breach to the Owner and without any further notice in the case of a breach pursuant to Section 4.6 of the Agreement, or at the expiration of twenty-one (21) days after service of the notice in the case of any other breach, the City may without further notice, take all steps as the City may in its absolute and uncontrolled discretion deem necessary to remedy the Owner's breach.** Any monies expended by the City in remedying the said breach, together with a surcharge of fifteen percent (15%), shall be paid by the Owner to the City, and until such payment shall, together with interest thereon at the rate of one percent (1%) per annum above the prime rate, be a debt owing by the Owner to the City. This amount shall be recoverable by the City from the Owner within thirty (30) days of the Owner receiving a written demand and summary of costs from the City, failing which such amount payable shall be a charge on the Land and the City is at liberty to register such charge on title to the Land. The rights of the City under this clause shall be in addition to and not substitution of any other rights of the City against the Owner whether by way of damages for breach of covenant or otherwise.
- 4.10. The failure of the City at any time to require performance by the Owner of any of the Owner's covenants shall in no way affect the City's right to enforce such covenant, nor shall the waiver by the City of the performance of any covenant be taken or be held to be a waiver of the performance of that covenant or any other covenant hereunder at any later time.

- 4.11. The Owner hereby releases the City, its agents and employees from any liability whatsoever that the City may have to the Owner arising out of or related to the City's performance of such obligations, save for any such liability as may be due to the City's negligence. The Owner hereby agrees to cooperate with the City and allows the City such necessary access to the Monument and the Land as is requisite for the City to fulfil the requirements of this section.
- 4.12. Pursuant to and in accordance with Section 29 of the Act this Agreement shall be registered on title to the Land and the conditions and covenants herein shall run with the Land and shall bind the Owner and subsequent owners and successors in title to the Owner.

5. INSTALLATION OF PLAQUES:

- 9.1 The Owner shall permit the placement of two (2) plaques in a visible location on or in proximity to the Monument upon, or anytime after, the passing of the Designating Bylaw. One plaque shall be created and installed by the City at the City's sole expense to a design and specification solely within the City's discretion identifying the Monument and the Land as a Municipal Historic Resource. A second plaque shall be created and installed by the Edmonton Historical Board as an interpretative plaque, to a design and specification solely within the Board's discretion. The location of the City's and the Board's plaques shall be mutually agreed to by the Owner and the City, both parties acting reasonably. For greater clarity, the City or the Board shall have no obligation to create and install such plaques, and the decision to do so shall be solely within each of the City's and the Board's discretion. The Owner shall not permit or cause the damage, destruction, removal, disturbance or obscuring of such plaques.

6. CANADIAN REGISTER OF HISTORIC PLACES:

- 6.1. The Owner consents to having the property listed on the Canadian Register of Historic Places which will at minimum entail having the address, historic descriptions, statements of significance and photographs available for public viewing, in print or electronic format.

7. INSURANCE:

- 7.1. The Owner will maintain all risks broad form property insurance on the Monument and Land.
- 7.2. The limits of such policy will insure the structure to full replacement value.

- 7.3. In the event of a loss every effort should be made to replace, repair or restore the Monument to conserve the characteristics of the Monument which give it its historical significance. Parts of the Monument designated as being historic shall be restored, as closely as possible, to the details and characteristics of the original Monument so designated as being historic.
- 7.4. Any exceptions to this insurance provision must be approved by the designated Heritage Planner for the City of Edmonton.

8. **DISPUTE RESOLUTION:**

- 8.1. If a dispute arises between the City and the Owner as to the proper interpretation or effect of any of the terms or conditions of this Agreement, such dispute shall be resolved in accordance with the following procedure:
 - 8.1.1. The party requesting that the matter in dispute be resolved in accordance with the provisions of this Dispute Resolution Article (the “Disputing Party”) shall notify the other party (the “Defending Party”) in writing of the details of the nature and extent of the dispute (the “Arbitration Notice”);
 - 8.1.2. Within seven (7) days of the receipt of the Arbitration Notice, the Defending Party shall by written notice advise the Disputing Party that it disputes all matters referred to in the Arbitration Notice except those for which the Defending Party admits responsibility and proposes to take remedial action;
 - 8.1.3. The terms of reference for arbitration shall be those areas of dispute referred to in the Arbitration Notice with respect to which the Defending Party has not admitted or proposes to take remedial action;
 - 8.1.4. The Defending Party and the Disputing Party shall within ten (10) days after the date of receipt by the Disputing Party of the Defending Party’s notice, appoint an arbitrator who shall be acceptable to both parties (the “Arbitrator”). In the event that the parties shall fail to appoint the Arbitrator, then either party may, on written notice to the other, apply to the President of the Alberta Arbitration and Mediation Society to name the Arbitrator;
 - 8.1.5. Not later than twenty (20) days after the appointment of the Arbitrator, the Arbitrator shall make his written decision, and shall give it to the parties immediately;
 - 8.1.6. Unless the Arbitrator orders otherwise, the City and the Owner shall equally bear the costs of the arbitration;

8.1.7. The decision of the Arbitrator is final and binding on the parties and there shall be no appeal of the decision to the courts; and

8.1.8. Except as modified by this Agreement, the provisions of the Arbitration Act R.S.A. 2000 c. A-43, as amended, shall apply.

9. **NOTICE:**

9.1. Any notice given pursuant to the terms of this Agreement shall be sufficiently given:

9.1.1. In case of notice to the City, if such notice is sent by prepaid registered mail, or personally delivered, in an envelope addressed to:

Deputy City Manager, Urban Planning and Economy

c/o City Hall
#1 Sir Winston Churchill Square NW
Edmonton, AB T5J 0R2

and also to:

Office of the City Manager, Legal Services

c/o City Hall
#1 Sir Winston Churchill Square NW
Edmonton AB T5J 0R2

- 9.1.2. In case of notice to the Owner, if such notice is sent by prepaid registered mail, or personally delivered, in an envelope addressed to:

City of Edmonton

c/o City Hall
1 Sir Winston Churchill Square
Edmonton AB T5J 0R2

And also to:

City of Edmonton, Citizen Services

c/o City Hall
1 Sir Winston Churchill Square
Edmonton AB T5J 0R2

- 9.2. Notice given as aforesaid, if posted, other than during an actual or threatened postal disruption, shall conclusively be deemed to have been given on the fifth (5th) business day following the date on which the notice is mailed. Any notice personally delivered or sent by telecopier or other form of facsimile transmission shall be deemed to have been given on the date of actual delivery.
- 9.3. Either party may, at any time, give notice in writing to the other of any change of address of the party giving such notice and, from and after giving of such notice, the address therein specified shall be deemed to be the address of the party for the giving of notice hereunder.

10. **GENERAL PROVISIONS:**

- 10.1. The parties to this Agreement shall execute and deliver to the other all such further assurances and documents which may reasonably be deemed necessary by the solicitors for either of them to give full force and effect to the Agreement. The Agreement is not intended and shall not be deemed nor construed to nullify, replace, circumvent, extend or modify any existing statutes, bylaws or permit conditions, which govern development or construction within the City.
- 10.2. If any portion of this Agreement is found to be unenforceable, the remaining portions of this Agreement shall be given full force and effect.
- 10.3. The Designating Bylaw shall be registered on title to the Land by the City. Notwithstanding any other provisions of this Agreement, the Owner shall forthwith upon execution of this Agreement use reasonable efforts to have the Designating Bylaw placed as a registration prior to any security interest on the title to the Land.
- 10.4. No amendments to this Agreement are valid unless they are in writing and signed by both parties to this Agreement.
- 10.5. Time is of the essence in this Agreement.
- 10.6. Everything herein contained shall inure to the benefit of and be binding upon the parties hereto, their administrators, successors and assigns respectively.

IN WITNESS WHEREOF the parties have signed this Agreement on the day and year first above written.

A P P R O V E D

As to Form:
Office of the City Manager
Legal Services

The City Of Edmonton
as represented by the Deputy City
Manager, Urban Planning and
Economy

Per: _____
Veronika Ferenc-Berry

Per: _____
Stephanie McCabe

As to Content:
Branch Manager
Planning and Environment Services Branch

Per: _____
Kent Snyder

Per: _____
Witness

The Owner

THE CITY OF EDMONTON, as
owner, as represented by Deputy
City Manager of Citizen Services

Per: _____
Rob Smyth