

PURCHASE AND SALE AGREEMENT

THIS AGREEMENT dated for reference _____, _____.

BETWEEN:

CITY OF SURREY
13450 - 104 Avenue
Surrey, BC V3T 1V8

(the "Vendor")

AND:

(Registration Number _____)
having a registered Office at _____
Surrey, BC _____

(the "Purchaser")

In consideration of the mutual covenants and agreements contained in this Agreement and other good and valuable consideration paid by each of the parties to each other (the receipt and sufficiency of which is hereby acknowledged), the parties hereto agree as follows:

ARTICLE 1 DEFINITIONS

1.1 In this Agreement:

- (a) "Agreement" means the agreement for the purchase and sale of the Land (as hereinafter defined) created by the Vendor's acceptance of the Purchaser's Offer herein;
- (b) "Completion Date" means the 30th day following waiver or satisfaction of all conditions precedent contained in Article 5 of this Agreement, or such other day as the parties agree to in writing, provided that if the Land Title Office is closed on that day, the purchase and sale of the Land will be completed on the next day that office is open;
- (c) "Contaminants" mean any explosives, radioactive materials, asbestos, urea formaldehyde, chlorobiphenyls, hydrocarbons, fuels, gas, propane, oils, lubricants, methanol, odorants, grease, polychlorinated bithenyls, antirust, antifreeze, or other chemicals, chromate solutions, arsenic, cadmium, chromium, lead, or other minerals, underground or above ground tanks, pollutants, contaminants, deleterious substances, dangerous goods, dangerous, hazardous, corrosive, or toxic substances, special or other waste, or any other substances the storage, manufacture, disposal, handling, treatment, generation, use transport, remediation, or release into the Environment of which any Environmental Laws prohibit, control, regulate, or license;
- (d) "Deposit" means the sum of _____ DOLLARS (\$_____.00) (5% of purchase price) deposited by the Purchaser as specified in section 3.1(a) on account and as part of the Purchase Price;

- (e) "Environment" means land including soil and everything on or below land, sediment deposited on land, fill, and land submerged under water; air including all layers of the atmosphere; and water including oceans, lakes, rivers, streams, ground water, and surface water;
- (f) "Environmental Laws" mean all principles of common law and equity and all laws, statutes, regulations, rules, bylaws, remediation, pollution abatement or other orders, directives, standards, guidelines, permits, licences, and other lawful requirements, from time to time, of any government body having jurisdiction concerning the Environment, health, occupational health or safety, product liability, or the transportation of dangerous goods;
- (g) "GST" means the goods and services tax imposed under the Excise Tax Act, R.S. 1985, C. E-15, as amended;
- (h) "Land" means the lands described as:
 - Municipal Address: _____
 - Parcel Identifier: _____
 - Legal Description: _____
- (i) "Land Title Office" means the New Westminster Land Title Office;
- (j) "Offer" means the Purchaser's offer to purchase the Land from the Vendor as set out herein;
- (k) "Permitted Encumbrances" means those liens, charges, and encumbrances listed in Schedule "A" attached hereto; and
- (l) "Purchase Price" means the sum of _____ DOLLARS (\$_____).

ARTICLE 2 OFFER

2.1 The Purchaser offers to purchase the Land from the Vendor in fee simple, subject to the Permitted Encumbrances, for the Purchase Price and on the terms and conditions set out in this Offer.

ARTICLE 3 DEPOSIT, PURCHASE PRICE, ADJUSTMENTS AND TAXES

- 3.1 The Purchaser covenants and agrees to pay the Deposit and the Purchase Price as follows:
 - (a) the Deposit will be paid to the Vendor by bank draft and be delivered to the Vendor within three business days of the Vendor notifying the Purchaser that the Offer will be presented to City Council for approval. In the event the Deposit is not received within this period, the Offer will not be presented to City Council for approval; and
 - (b) the balance of the Purchase Price, plus or minus the adjustments provided for in section 4.1, will be paid to the Vendor by bank draft, certified cheque or by solicitor's trust on the Completion Date unless prior arrangements have been made with the Vendor in conjunction with land transfer documentation.
- 3.2 The Purchaser will pay all registration charges, property transfer tax pursuant to the Property Transfer Tax Act, R.S.B.C. 1996, c. 378, as amended, GST (if applicable) and all other applicable taxes and charges payable upon the transfer of the Land to the Purchaser.

- 3.3 Subject to section 5.2, if the Purchaser does not complete the purchase of the Land, the Deposit will be forfeited to the Vendor on account of damages, without prejudice to any other remedies of the Vendor.
- 3.4 Subject to section 5.1, if the Vendor does not complete the sale of the Land, the Deposit will be forfeited to the Purchaser on account of damages without prejudice to any other remedies of the Purchaser.
- 3.5 Interest on the Deposit or any other funds paid pursuant to this Agreement will be paid or be payable to the Vendor.
- 3.6 If GST is applicable and if the Purchaser is not a GST registrant, it will, on the Completion Date, remit to the Vendor the GST payable upon the transfer of the Land to the Purchaser, payable to the Vendor.
- 3.7 If GST is applicable and if the Purchaser is a GST registrant, it will in accordance with the *Excise Tax Act* provide its GST number to the Vendor and will account directly to the Receiver General Canada for the GST payable upon the transfer of the Land to the Purchaser.
- 3.8 All monies to be paid or remitted to the Vendor under this Agreement will be paid by way of bank draft or certified cheque payable to the Vendor.
- 3.9 The Vendor's GST registration number is 121391882RT0001.
- 3.10 The Purchaser's GST registration number is _____.

ARTICLE 4 COMPLETION, ADJUSTMENT AND POSSESSION DATE

- 4.1 The purchase and sale of the Land will be completed, possession will be yielded to the Purchaser free and clear of all liens, charges and encumbrances, except the Permitted Encumbrances and all adjustments as to taxes and all other matters normally adjusted between a vendor and purchaser on the sale of real property in British Columbia will be made between the parties at 12 noon on the Completion Date.

ARTICLE 5 CONDITIONS PRECEDENT

- 5.1 The Purchaser acknowledges the receipt and sufficiency of TEN DOLLARS (\$10.00) from the Vendor, which will be non-refundable. In return and despite anything set out in this Agreement, the obligation of the Vendor to complete the transfer of the Land according to the terms and conditions of this Agreement will be subject to the satisfaction of following conditions precedent:

- (a) That on or before _____, the Council of the City of Surrey representing the Vendor in its capacity as a municipality in its sole and absolute discretion approves this Agreement.

The foregoing conditions precedent are for the sole benefit of the Vendor and may be waived by written notice by the Vendor prior to the date for the conditions precedent. If the foregoing conditions precedent are not satisfied or waived, this Agreement shall be null and void and neither party shall have any further obligation to the other hereunder, and the Deposit shall be returned to the Purchaser without interest.

- 5.2 The Vendor acknowledges the receipt and sufficiency of TEN DOLLARS (\$10.00) from the Purchaser, which will be non-refundable. In return and despite anything set out in this Agreement, the obligation of the Purchaser to complete the purchase of the Land according to the terms and conditions of this Agreement will be subject to the satisfaction of following conditions precedent:

- (a) _____

The foregoing conditions precedent are for the sole benefit of the Purchaser and may be waived by written notice by the Purchaser prior to the date for the conditions precedent. If the foregoing conditions precedent are not satisfied or waived, this Agreement shall be null and void and neither party shall have any further obligation to the other hereunder, and the Deposit shall be returned to the Purchaser without interest.

ARTICLE 6 CLOSING DOCUMENTS

- 6.1 Not later than seven (7) days prior to the Completion Date, the Purchaser, at its expense, will have its solicitor prepare and deliver the following documents to the Vendor:
- (a) a Form A Freehold Transfer in registrable form to transfer the Land from the Vendor to the Purchaser;
 - (b) a statement of the adjustments;
 - (c) property transfer tax returns; and
 - (d) such other transfer documents as are necessary to complete the purchase and sale of the Land.
- 6.2 If the documents referred to in section 6.1 are acceptable to the Vendor, it will sign those that require signature by the Vendor and return them to the Purchaser's solicitor prior to the Completion Date.

ARTICLE 7 CLOSING PROCEDURE

- 7.1 On or before the Completion Date, the Purchaser will provide to the Purchaser's solicitor by solicitor's trust or by bank draft or certified cheque, the amount of the adjusted balance of the Purchase Price payable to the Vendor.
- 7.2 The Purchaser's solicitor, or their agent, will attend at the Land Title Office on the Completion Date and conduct a pre-registration search of title to the Land and, upon being satisfied that title to the Land is registered in the name of the Vendor free and clear of all liens, charges and encumbrances, except the Permitted Encumbrances, the Purchaser's solicitor, or the solicitor's agent will deposit in the Land Title Office all of the transfer documents necessary to complete the purchase and sale of the Land.
- 7.3 After depositing the title documents in accordance with section 7.2, the Purchaser's solicitor, or their agent, will conduct a post registration search of the title to the Land and, upon confirming that in the normal course of procedure in the Land Title Office the Purchaser will be registered as owner in fee simple of the Land free and clear of all liens, charges and encumbrances, except the Permitted Encumbrances, the Purchaser's solicitor, will deliver to the Vendor the adjusted balance of the Purchase Price and the GST, if any, to be remitted in accordance with Article 3, payable to the Vendor.
- 7.4 The solicitors for the Vendor and the Purchaser may exchange such further or amended undertakings as are customary among reputable solicitors having experience in such transactions.

ARTICLE 8 TRANSFER ON OR BEFORE THE COMPLETION DATE

8.1 The Purchaser may, on or before the Completion Date, assign, transfer or dispose of its rights under this Agreement in whole or in part to an affiliate as defined in the *BC Business Corporation Act* and **will not assign** its rights under this Agreement in whole or in part to any person other than an affiliate as defined in the *BC Business Corporation Act* without the prior written consent of the Vendor, which consent may be withheld or denied, provided always that in the case of such assignment the Purchaser would not be released from its obligations under this Agreement.

ARTICLE 9 WARRANTIES, REPRESENTATIONS, ACKNOWLEDGEMENTS AND COVENANTS OF THE PURCHASER

9.1 The Purchaser warrants and represents to the Vendor with the knowledge that the Vendor will rely upon these warranties and representations in entering into this Agreement and completing its obligations under this Agreement, that now and on the Completion Date if it is a corporation, it has been incorporated or registered and exists under the laws of British Columbia or it has been incorporated and exists under the laws of Canada and it has the corporate power, capacity and authority to enter into this Agreement and to carry out its obligations hereunder, all of which has been authorized by all necessary corporate proceedings.

9.2 The Purchaser covenants and agrees that:

- (a) it has inspected the Land on _____, 20__ and fully accepts the Land in the condition and state in which it was found on the date of that inspection;
- (b) except for the representations and warranties expressly set out in this Agreement, the Land is being sold to it "**as is**";
- (c) in entering into this Agreement the Purchaser has not relied upon any warranty or representation given by or on behalf of the Vendor including, but not limited to, representation or warranties concerning:
 - (i) the fitness of the Land for the intended use of it by the Purchaser;
 - (ii) the valuation of the Land is or is not based on its environmental condition;
 - (iii) the general condition and state of any utilities or other systems on, under or connection to the Land;
 - (iv) the zoning of the Land and the by-laws, regulations and laws of any governmental body which relate to the use and occupation of the Land;
 - (v) the economic feasibility of the development of the Land;
 - (vi) the applicability or otherwise to the Land of any federal or provincial statute or law; or
 - (vii) the environmental state or condition of the Land.
- (d) there are no warranties, representations, collateral agreements or conditions affecting this Agreement except as set out in this Agreement;
- (e) the Vendor is under no obligation, express or implied, to provide financial assistance to contribute, in any way, to the cost of servicing the Land or developing the Land;

- (f) nothing in this Agreement constitutes the Purchaser as the agent, joint venturer or partner of the Vendor and nothing in this Agreement constitutes the Vendor as the agent, joint venturer or partner of the Purchaser; and
- (g) it is aware that this Agreement and any information regarding this Agreement or the Purchaser may be disclosed or may be required to be disclosed pursuant to the Freedom of Information and *Protection of Privacy Act*, R.S.B.C. 1996, c. 165, as amended, or otherwise.

9.3 In consideration of the sum of TEN DOLLARS (\$10.00) now paid by the Vendor to the Purchaser and other good and valuable consideration, the receipt and sufficiency of which the Purchaser acknowledges, that if the Purchaser completes the purchase of the Land the Purchaser, from and after the Completion Date, will release, indemnify, and save harmless the Vendor, and its directors, officers and employees, from and against all liabilities, suits, actions, causes of action, obligations, statutory or other proceedings, judgements, injunctions, arbitrations, investigations, demands, claims, losses, loss of profits, damages, consequential damages, remediation costs, remediation cost recovery claims, fines, costs, and expenses, including legal costs on a solicitor-client basis, caused, commenced, instituted, or claimed by any government body or any other person, firm, or corporation, and in connection with or arising out of:

- (a) non-compliance or alleged non-compliance of the Land or the Environment forming part of or surrounding it, with Environmental Laws;
- (b) the existence or alleged existence of Contaminants on, in, or under the Land or the Environment forming part of or surrounding it;
- (c) the release, spilling, leaking, pumping, pouring, emitting, emptying, discharging, dumping, disposition, escaping, leaching, or migration of Contaminants, or any allegation with regard thereto, from the Land or the Environment forming part of or surrounding it; and
- (d) the unsuitability or alleged unsuitability, in whole or in part, of the Land for any purpose including occupation, development, sale, licence, or generation of revenue.

9.4 The warranties, representations, acknowledgements, covenants, release and indemnities of the Purchaser contained in sections 9.1, 9.2, and 9.3 shall survive the Completion Date and continue in full force and effect for the benefit of the Vendor.

ARTICLE 10 WARRANTIES, REPRESENTATIONS AND COVENANTS OF THE VENDOR

10.1 The Vendor warrants, represents and covenants to the Purchaser that:

- (a) it has the corporate power and authority to dispose of the Land and the necessary corporate proceedings have been taken by it to enter into this Agreement and to carry out its obligations under it;
- (b) it has a good, safe holding and marketable title to the Land in fee simple free and clear of all liens, charges and encumbrances, except the Permitted Encumbrances;
- (c) on the Completion Date, all taxes, rates, levies and assessments in respect of the Land will either be paid in full or adjusted between the parties in accordance with section 4.1 and there is no obligation on the part of the Vendor to pay money to any statutory authority in connection with the Land; and
- (d) the Vendor has received no notice of any claims that the Land is not in compliance with Environmental Laws or that Contaminants from the Land have migrated to adjoining lands.

ARTICLE 11 MISCELLANEOUS

11.1 Time is of the essence of this Agreement.

11.2 The Land will be at the risk of the Vendor until and including completion of the purchase and sale of the Land on the Completion Date and thereafter it will be at the risk of the Purchaser.

11.3 This Agreement is the entire agreement between the parties with respect to the purchase and sale of the Land and may not be modified except by subsequent agreement in writing.

11.4 (a) Any notice, document, or communication required or permitted to be given under this Agreement must be in writing and will be deemed to have been given if delivered by hand, courier, or registered mail to the party to whom it is to be given as follows:

To the Purchaser:

To the Vendor:

Fax 604 _____

Realty Services Division
Realty Asset Manager
1350 - 104 Avenue
Surrey, BC V3T 1V8
Fax 604 598-5701

Provided, however, that a party may, by notice in writing to the other, specify another address for service of notices under this Agreement and, where another address is specified under this section, notice must be delivered to that address in accordance with this Article.

(b) For information, the parties' telephone numbers and email addresses for contact are:

Purchaser:

Vendor:

Tel: _____
Email: _____

Tel: 236-308-7784
Email: Louis.Harvey@surrey.ca

(c) Despite section 11.4(a) and as an alternative to the requirements of section 11.4(a), the Vendor may, at its option, choose to serve or deliver any notice, document, or communication required or permitted under this Agreement to the Purchaser's legal representative identified in section 11.5 of this Agreement. In all cases, service or delivery by the Vendor, pursuant to section 11.4(c) shall constitute effective service and delivery upon the Purchaser.

11.5 The Purchaser's legal representative for the purchase and sale of the Land as contemplated in this Agreement, is

Telephone 604 _____
Fax: 604 _____
Attention: _____

11.6 Delivery of any monies to be paid or remitted hereunder will be effected by hand or courier to the appropriate address specified above, such delivery to be effective only on actual receipt.

- 11.7 The warranties, representations, covenants, release, indemnities and agreements contained in this Agreement will not be subject to merger, but will survive the sale of the Land to the Purchaser.
- 11.8 No term, condition, covenant or other provision of this Agreement will be considered to have been waived by a party unless such waiver is expressed in writing by the party. The waiver by a party of any breach by the other party of any term, condition, covenant or other provision of this Agreement will not be construed as or constitute a waiver of any further or other breach of the same or any other term, conditions, covenant or other provision and the consent or approval of a party to any act by the other party requiring the consent or approval of the party will not be considered to waive or render unnecessary such consents or approvals to any subsequent, same or similar act by the other party.
- 11.9 No remedy conferred upon or reserved to either party is exclusive of any other remedy in this Agreement or provided by law, but such remedy will be cumulative and will be in addition to any other remedy in this Agreement now or hereafter existing at law, in equity or by statute.
- 11.10 This Agreement is binding upon and enures to the benefit of the Vendor and its assigns and the Purchaser and its successors and permitted assigns.
- 11.11 The Purchaser shall **not** be entitled to assign this Agreement without the prior consent of the Vendor, which consent may be withheld or denied.
- 11.12 This Agreement creates contractual rights only between the parties, does not create any equitable or legal interest in the Land and shall not be registered by the Purchaser at any Land Title Office at any time. If the Purchaser registers or attempts to register this Agreement at any Land Title Office at any time, this Agreement will be voidable at the Vendor's option.
- 11.13 The Vendor and the Purchaser will perform such further acts and execute such further documents as may reasonably be required to give effect to this Agreement.
- 11.14 The schedules to this Agreement form part of this Agreement.
- 11.15 If any party hereto is comprised of more than one person, all covenants and obligations of those persons shall be joint and several.
- 11.16 This Agreement may be executed by the parties and transmitted by facsimile and if so executed and transmitted, shall be for all purposes as effective as if the parties had delivered an executed original agreement.
- 11.17 This Agreement may be executed in any number of counterparts, all of which shall together constitute one agreement.
- 11.18 The parties confirm that, pursuant to the *Builders Lien Act*, R.S.B.C. 1996, c. 45, as amended, no lien holdback will be required in this transaction.

ARTICLE 12 INTERPRETATION

- 12.1 Wherever the singular or masculine form is used in this Agreement it will be construed as the plural or feminine or neuter form, as the case may be, and vice versa where the context or parties so require.
- 12.2 The captions and headings contained herein are for convenience only and do not define or limit the scope or intent of this Agreement.

- 12.3 This Agreement will be interpreted according to the laws of the Province of British Columbia.
- 12.4 Where there is a reference to an enactment of the Province of British Columbia or of Canada in this Agreement, that reference will include a reference to any prior or subsequent enactment of the Province of British Columbia or Canada, as the case may be, of like effect and, unless the context otherwise requires, all statutes referred to in this Agreement are enactments of the Province of British Columbia.
- 12.5 If any section of this Agreement or any part of a section is found to be illegal or unenforceable, that part or section, as the case may be, will be considered separate and severable and the remaining parts or sections, as the case may be, will not be affected and will be enforceable to the fullest extent permitted by-law.

ARTICLE 13 OFFER/ACCEPTANCE IRREVOCABLE

- 13.1 The Vendor and the Purchaser specifically confirm that this Agreement is executed under seal. It is agreed and understood that the Purchaser’s Offer and the Vendor’s acceptance is irrevocable, including without limitation, during the period prior to the date specified for the Purchaser and the Vendor to fulfill or waive the conditions precedent herein contained.

ARTICLE 14 OFFER

- 14.1 This Offer will be open for acceptance until 4 o’clock p.m. on _____ and upon acceptance of the Offer, by accepting in writing and notifying the other party of such acceptance, there will be a binding Agreement on the terms and conditions herein.

IN WITNESS WHEREOF the Purchaser has executed this Offer on _____ 20____.

Purchaser (print name)

Witness (print name)

Purchaser (print name)

Witness (print name)

ARTICLE 15 ACCEPTANCE

- 15.1 The Vendor hereby accepts the above Offer and agrees to complete the sale upon the terms and conditions herein.

IN WITNESS WHEREOF the Vendor has executed this Agreement on _____ 20____.

CITY OF SURREY
by its authorized signatory:

Nicholas Rawcliffe, Manager
Realty Services Division

AW/amg

SCHEDULE "A"

PERMITTED ENCUMBRANCES

Municipal Address: _____, Surrey

Parcel Identifier:

Legal Description:

1. All subsisting exceptions and reservations of interests, rights, privileges and titles contained in any previous Crown Grant of the Land.
2. All the interests, rights, privileges and titles contained in section 50 of the *Land Act*, R.S.B.C. 1996. c. 245.
3. Any conditional or final water license or substituted water license issued or given under the *Water Act*, R.S.B.C. 1996, c. 483 or any prior or subsequent enactment of the Province of British Columbia of like effect, and to the rights of the holder of it to enter on the Land and to maintain, repair and operate any works permitted on the Land under the license at the date of the Crown Grant.
4. All subsisting grants to, or subsisting rights of any person made or acquired under the *Mineral Tenure Act*, R.S.B.C. 1996, c. 292, the *Coal Act*, R.S.B.C. 1996, c. 51 or the *Petroleum and Natural Gas Act*, R.S.B.C. 1996, c. 361 or under any prior or subsequent enactment of the Province of British Columbia of like effect.
5. (a) Pertaining to Lot 1:
 - Statutory Right of Way CA7765761
 - Covenant CA7765762
 - Covenant CA7765768
 - Covenant CA7765769
 - Statutory Building Scheme CA7832685.
 - Covenant CB927535
 - Covenant CB1238456 & 1238457
- (b) Pertaining to Lot 2:
 - Statutory Right of Way CA7765763
 - Covenant CA7765764
 - Covenant CA7765768
 - Covenant CA7765769
 - Statutory Building Scheme CA7832685.
 - Covenant CB927535
 - Covenant CB1238458 & CB1238459
- (c) Pertaining to Lot 3:
 - Statutory Right of Way CA7765765
 - Covenant CA7765766
 - Covenant CA7765769
 - Statutory Building Scheme CA7832685.
 - Covenant CB927535
 - Covenant CB1238460 & CB1238461