



**SAMPLE**

**Road**

**Subject to: Soil Tests and Environmental Studies/Bylaw**

**THIS AGREEMENT MADE BETWEEN:**

**THE CITY OF EDMONTON**  
(the “City”)

- and -

\_\_\_\_\_  
(the “Buyer”)

A. The City is the **registered owner** of that portion of **public road** described as:

PLAN \_\_\_\_\_  
BLOCK \_\_\_\_\_  
LOT \_\_\_\_\_

EXCEPTING THEREOUT ALL MINES AND MINERALS

and situated as shown outlined on the attached Schedule “A” (the “**Roadway Land**”).

B. The Buyer is the registered owner of the following legally described lands:

PLAN \_\_\_\_\_  
BLOCK \_\_\_\_\_  
LOT \_\_\_\_\_

EXCEPTING THEREOUT ALL MINES AND MINERALS

(the “**Buyer’s Land**”).

C. The City has agreed **to sell** to the Buyer and the Buyer has agreed **to purchase** from the City, the Roadway Land in accordance with the terms and conditions stated in this Agreement.

**IN CONSIDERATION OF** the sale of the Roadway Land and the payment of the Sale Price, the City and the Buyer **agree as follows:**

1. The Buyer shall **purchase** the Roadway Land from the City and the City shall **sell** the Roadway Land to the Buyer for the **purchase price** of \_\_\_\_\_ (\$\_\_\_\_\_) DOLLARS **plus GST, if applicable** (the “**Sale Price**”), and upon the terms and conditions stated in this Agreement. **The Sale Price shall be paid as follows:**

- (a) \$\_\_\_\_\_, to be paid by cheque to the City or to the Buyer's licensed brokerage as a deposit upon the delivery to the City of this Agreement, duly executed by the Buyer (the "**Deposit**"); and
- (b) \$\_\_\_\_\_, being the balance, to be paid by certified cheque, bank draft or solicitor's trust cheque on the Closing Date.

All monies payable by the Buyer under this Agreement shall be paid on the date for payment and at the address for notice to the City as stated in Clause 18 and failing payment, **interest shall be charged** on all outstanding amounts at the rate of eighteen (18%) per cent per annum, compounded annually.

2. The closing of the sale of the Roadway Land shall be completed on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ or such other date as the City and the Buyer may agree in writing (the "**Closing Date**"). **On the Closing Date** and on payment by the Buyer of the Sale Price, the City shall deliver to the Buyer a transfer for the Roadway Land. Upon registration of the transfer at the appropriate Land Titles Office, title to the Roadway Land shall issue in the name of the Buyer, or any other party as the Buyer may request in writing, subject only to:

- (a) the following existing registrations:  
  
# \_\_\_\_\_;  
  
OR  
  
NIL;
- (b) the following registrations to be retained by the City pursuant to Clause 7 of this Agreement:  
  
# \_\_\_\_\_;  
  
OR  
  
NIL;
- (c) and such caveats, encumbrances, liens, charges or instruments as may have been made or caused to be made by the Buyer.

All fees and charges payable in connection with the **registration** of the transfer of the Roadway Land are the sole responsibility of the Buyer.

3. Notwithstanding any term or condition in this Agreement, the sale by the City to the Buyer of the Roadway Land is expressly **subject to and conditional upon**:

- (a) the Buyer conducting soil tests and environmental studies as may be required by the Buyer for the Buyer's proposed development of the Roadway Land (the "**Soils**");

- (b) **Condition”).** The Soils Condition is to be fulfilled or waived in writing on or before the \_\_\_\_ day of \_\_\_\_, 20\_\_\_\_, or such other date as the City and the Buyer may agree in writing; and
  - (c) the Buyer obtaining the passage by the municipal council of the City of a Bylaw for the purposes of the closure of the Roadway Land as a public roadway (the **“Bylaw Condition”**). The Bylaw Condition is to be fulfilled on or before the \_\_\_\_ day of \_\_\_\_, 20\_\_\_\_, or such other date as the City and the Buyer may agree in writing.
4. If the **Soils Condition** and the **Bylaw Condition** are:
- (a) **not fulfilled or waived, as the case may be, in the manner and time herein stated, then:**
    - (i) this Agreement shall be deemed to have been mutually terminated by the City and the Buyer;
    - (ii) the Deposit shall be returned to the Buyer, less any and all earned interest on the Deposit, which shall be to the benefit of the City;
    - (iii) upon return of the Deposit to the Buyer, all rights and obligations of the City and the Buyer pursuant to this Agreement shall be at an end;
    - (iv) the Buyer shall promptly discharge any caveat, encumbrance, lien, charge or other instrument which the Buyer may have registered or caused to be registered against the title to the Roadway Land; and
    - (v) the Buyer shall not have any further obligation or liability to the City with the exception of those obligations and rights in Clause 11 and the City shall have no further rights as against the Buyer, including any claim to damages;
  - (b) **fulfilled or waived, as the case may be, in the manner and time herein stated, but the Buyer fails to complete the purchase** of the Roadway Land in the manner and on the date as provided for in this Agreement, otherwise than as a result of the City’s default, then:
    - (i) the Deposit and all earned interest on the Deposit shall be immediately forfeited to the City as liquidated damages and not as a penalty;
    - (ii) the interest of the Buyer in the Roadway Land as created by this Agreement shall terminate without any legal proceedings being taken or other act being performed by the City;
    - (iii) the Buyer shall promptly discharge any caveat, encumbrance, lien, charge or other instrument which the Buyer may have registered or caused to be registered against the title to the Roadway Land; and
    - (iv) the Roadway Land shall revert to and revest in the City and the City shall not have any further obligation or liability to the Buyer with respect to the Roadway Land.

All **costs** incurred by the Buyer and associated with the fulfilment of the Soils Condition and the Bylaw Condition shall be borne solely by the Buyer. The Soils Condition is for the sole benefit of

the Buyer and may only be waived by the Buyer in writing. The Bylaw Condition is for the mutual benefit of the City and the Buyer and may not be waived by the City or the Buyer.

The Buyer shall, upon written request by the City, provide to the City a copy of all soils tests and environmental studies as conducted by the Buyer on the Roadway Land.

5. The Buyer shall, concurrently with the transfer of title to the Roadway Land from the City to the Buyer, **consolidate** the Roadway Land with the Buyer's Land; such consolidation to be at the Buyer's sole cost and to be by way of the registration at the proper Land Titles Office of a plan of consolidation.

6. In the event that after the Closing Date, the Buyer shall carry out **a future subdivision** of the Roadway Land, then the Buyer shall be solely responsible for all conditions and costs of the subdivision, which may include without limitation, all dedications, utility servicing, reserves or the payment of monies in lieu thereof, which may result from the subdivision of the Roadway Land and which may be required pursuant to the provisions of the **Municipal Government Act**, R.S.A. 2000 c. M-26 and any amendment thereto, or any other legislation in force in the Province of Alberta.

7. As **additional consideration** for the sale of the Roadway Land by the City to the Buyer, the City shall, prior to transferring the title to the Roadway Land to the Buyer, be at liberty **to retain** from the Roadway Land, with no reduction in the Sale Price, such **easements, utility rights of way or restrictive covenants** (the "**Registrations**") described in Clause 2(b) herein, covering **all or a portion of** the Roadway Land. The Registrations shall be in a form acceptable to the office of the City Solicitor.

8. All costs associated with utility services, auxiliary lanes, curb crossings, paving and median breaks and modifications, additions, relocations and reconstruction of sidewalks, curbs, gutters, and crossings, as required for any proposed **development by the Buyer** shall be at the sole cost of the Buyer. All proposed vehicular **access points** to the Roadway Land shall be approved by the Transportation Services of the City at the time of development application.

9. On the Closing Date and upon unconditional payment of the Sale Price by the Buyer to the City and title to the Roadway Land transferring pursuant to Clause 2, the City shall provide **possession** of the Roadway Land to the Buyer. From and after the Closing Date, the Buyer shall be responsible for the **payment of all taxes**, rates, levies, charges, local improvement charges, assessments, utility charges and hook-up fees, with respect to the Roadway Land. **All adjustments** for rent, security deposits or other profits or items commonly adjusted on a sale of real property with respect to the Roadway Land shall be made as of the Closing Date.

10. Notwithstanding any term or condition in this Agreement, the Buyer shall, except as provided in this Agreement and in particular, this Clause 10, purchase the Roadway Land on the understanding and agreement that:

- (a) there are **no agreements, conditions, warranties or representations** relating to the Roadway Land;
- (b) the City makes no warranty or representation with respect to:

- (i) the quality, condition or sufficiency of the Roadway Land for any **use or purpose**;
  - (ii) the adequacy of any and all **utility services** either to or on the Roadway Land;
  - (iii) the absence or presence of **hazardous substances** in, on or under the Roadway Land; and
  - (iv) the **compliance** of the Roadway Land with any municipal laws;
- (c) the Roadway Land is being sold to the Buyer on a **strictly “as is, where is” basis** and the Buyer shall acquire the Roadway Land at its own risk, with all faults and imperfections whatsoever, including without limitation:
- (i) any encroaching improvements onto or from the Roadway Land or onto or from adjacent lands; or
  - (ii) the presence of any hazardous substances in, on or under the Roadway Land;
- (d) the Buyer shall have satisfied itself as to the condition of the Roadway Land and the fitness for its intended use.

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.

11. Upon the date of execution of this Agreement by the City and the Buyer, the Buyer may, with the prior written consent of the City, be granted a right of entry to the Roadway Land (the **“Right of Entry”**), for the purposes of erection of permitted signage, carrying out surveys, environmental tests and studies, and soil tests, which will enable the Buyer to appraise the Roadway Land for its proposed development. The Buyer shall indemnify and save harmless the City from and against any and all claims, liabilities and damages which may arise from any act or omission of the Buyer, its employees, agents or contractors as a result of the granting of the Right of Entry. If the sale of the Roadway Land is not completed on the Closing Date, then the Buyer shall upon the written request of the City, restore the Roadway Land back to the state which it existed prior to the exercising of the Right of Entry. The costs of the restoration shall be at the sole expense of the Buyer and must be completed within thirty (30) days from the date of the receipt by the Buyer of the City’s written request.

12. All applicable taxes and assessments in the nature of sales taxes, goods and services taxes or value added taxes (the **“GST”**), which may be charged, levied or assessed as a result of the Buyer’s purchase of the Roadway Land, shall be paid by the Buyer. The Buyer hereby warrants to the City that they are a registrant pursuant to the applicable tax legislation and will be responsible for the remittance of the GST to the appropriate taxing authority; such registration number being \_\_\_\_\_. In the event that the Buyer is a registrant, and has the obligation to pay the GST directly to the relevant taxing authority, then the Buyer shall indemnify

and save harmless the City from any claims, liabilities or damages which the City may incur in regards to the payment by the Buyer of the GST.

13. The City in entering into this Agreement is doing so in its capacity as an owner 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 c. 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.

14. The **waiver** of any term or condition of this Agreement shall be in writing.

15. The terms and conditions of this Agreement **shall continue beyond the closing** of the sale of the Roadway Land to the Buyer and they **shall not merge** with the transfer of the Roadway Land.

16. The terms and conditions of this Agreement **shall be binding** upon the respective heirs, executors, administrators, successors and assigns of the City and the Buyer. Prior to the Closing Date, **the Buyer shall not assign** its interest in the Roadway Land, without the written approval of the City.

17. **TIME IS TO BE CONSIDERED OF THE ESSENCE OF THIS AGREEMENT** and therefore, whenever in this Agreement either the City or the Buyer is required to do something by a particular date, the time for the doing of the particular thing shall only be amended by written agreement of the City and the Buyer.

18. Any **notices** that may be necessary to be **sent** to the City shall be mailed, telecopied or delivered to the following **address**:

Sustainable Development  
Corporate Properties  
20th Floor, Century Place  
9803 – 102A Avenue N.W.  
Edmonton, Alberta T5J 3A3

Phone: (780) 496-6555  
Fax: (780) 496-6577

Attention: \_\_\_\_\_

and in the case of the Buyer, by mailing, telecopying or delivering any notices to the following **address**:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Phone: \_\_\_\_\_  
Fax: \_\_\_\_\_

Attention: \_\_\_\_\_

19. In **reading and interpreting** this Agreement:

- (a) the word **“Buyer”** shall be read and interpreted as in the plural instead of the singular number if there is more than one buyer named, and the terms and conditions of this Agreement shall bind the buyers individually as well as jointly;
- (b) the masculine gender shall include the feminine or a body corporate where in this Agreement, the context or the parties require;
- (c) the word **“shall”** is to be read and interpreted as mandatory and the word **“may”** is to be read and interpreted as permissive; and
- (d) any **bolding** of the text in this Agreement has been inserted for emphasis only and is not to be construed as affecting the interpretation or construction of this Agreement.

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

**THE BUYER** has executed this Agreement as of the \_\_\_\_\_ of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
WITNESS

Per: \_\_\_\_\_  
(Seal)

**THE CITY** has executed this Agreement as of the \_\_\_\_\_ of \_\_\_\_\_, 20\_\_\_\_\_.

APPROVED:

THE CITY OF EDMONTON, as  
Represented by the \_\_\_\_\_  
of Corporate Properties,  
Sustainable Development

AS TO FORM: \_\_\_\_\_

AS TO CONTENT: \_\_\_\_\_

Per: \_\_\_\_\_  
(Seal)

# SAMPLE

## AFFIDAVIT VERIFYING CORPORATE SIGNING AUTHORITY

CANADA )  
PROVINCE OF ALBERTA )  
TO WIT )  
)

I,  
of the City of Edmonton,  
in the Province of Alberta  
MAKE OATH AND SAY:

1. I am an officer of \_\_\_\_\_ named in the within instrument.
2. I am authorized by the corporation to execute this instrument without affixing a corporate seal.

SWORN BEFORE ME )  
at the City of Edmonton )  
in the Province of Alberta )  
this \_\_\_\_\_ day of , )  
20\_\_\_\_\_)  
)  
)  
)  
)  
)  
)  
\_\_\_\_\_ )

\_\_\_\_\_  
SIGNATURE OF OFFICER

A Commissioner for Oaths  
in and for the Province of  
Alberta  
Commission expires