

**ALBERTA GOVERNMENT SERVICES
LAND TITLES OFFICE**

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ADVISORY

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CANADA
PROVINCE OF ALBERTA
TO WIT:

I CRAIG R. MEYERS
of the City of Calgary
in the Province of Alberta,
Barrister & Solicitor make oath and say:

(1) That I am the agent for the above named Caveator

(2) That I believe that the said Caveator has a good and valid claim upon the said lands and I say that this Caveat is not being filed for the purpose of delaying or embarrassing any person interested in or proposing to deal therewith.

SWORN at the City of Calgary

in the Province of Alberta,

this 28 day of December A.D. 19 83

Before me,

Craig R. Meyers
CRAIG R. MEYERS

Maurice E. Peters

A Commissioner for Oaths in and for the Province of Alberta

MAURICE E. PETERS
BARRISTER & SOLICITOR

83-1 237 001

Dated _____ A.D. 19 _____

RE

Dec 28 '83

Caveat

FORBIDDING REGISTRATION

I certify that the within instrument is duly Entered and Registered in the Land Titles Office for the South Alberta Land Registration District of Calgary.

[Signature] A.D. Registrar
SALRO

File: P 0231

City Solicitor
City Hall
P.O. Box 2100
Calgary, Alberta
T2P 2M5

THIS AGREEMENT made this 28 day of DECEMBER, A.D. 1983

BETWEEN:

INTRAWEST PROPERTIES LTD.,
a body corporate with an
office at #2680 Bow Valley
Square 3, 255 - 5th Avenue
S.W., Calgary, Alberta T2P 6E6

(hereinafter called the "Company")

OF THE FIRST PART

- and -

THE CITY OF CALGARY, a municipal
corporation in the Province of
Alberta

(hereinafter called the "City")

OF THE SECOND PART

RECITALS

1. The Company is entitled to become the registered owner of 10.39 Acres (4.20 HA) of the Northwest corner of 90th Avenue and 14th Street S.W., in the City of Calgary, in the Province of Alberta, which is shown outlined in blue on the plan attached hereto as Schedule "A" (the "Company Lands") upon the finalization of the subdivision of the following lands:

Plan Calgary 4164 J.K.
Parcel "A"
Containing in the North East quarter Fifty
Nine and Fifty Four Hundredths (59.54) Acres
more or less, and in the North West Quarter
Fifty Seven and Forty Hundredths (57.40)
Acres more or less,

Excepting:

<u>Plan</u>	<u>No.</u>	<u>Acres More or Less</u>
Street Widening	6922 J.K.	10.14
Subdivision	4890 J.K.	20.10
Subdivision	5921 J.K.	22.06
Subdivision	792 L.K.	10.64
Subdivision	8268 J.K.	16.53

Excepting thereout all mines and minerals
(N $\frac{1}{2}$ 20, 23, 1 W5)

(hereinafter called the "Lands").

2. The Council of the City of Calgary, by By-law No. 114283 dated the 3rd day of October, 1983, approved a redesignation of the Company Lands from UR to DC, in order to accommodate a sector shopping centre, as described therein.

3. The Calgary Planning Commission, on the 2nd day of November, 1983, approved the subdivision of the Lands, whereby the Company Lands were approved as a subdivided parcel from the Lands.

4. The Company and the City have agreed to enter into this Agreement in order to set out certain obligations and conditions to be performed by the Company in order to bring into effect the approval of the Council of the City of Calgary pursuant to the By-law No. 114Z83 as aforesaid.

ARTICLE I

The City and the Company covenant and agree, subject to the Developer receiving a development permit from the City to accommodate a sector shopping centre, to abide by the following agreements, terms, and conditions relative to the development of the said sector shopping centre on the Company lands, namely:

1.01(a) Within six (6) months following the issue of Development Completion Certificate of the development contemplated on the Company Lands, the Company shall

- i) grade (including berming),
- ii) loam and seed, and
- iii) supply and plant trees on,

those lands outlined in red on Schedule "A" (hereinafter referred to as the "Park Lands") attached hereto, to a level and a standard which is reasonably satisfactory to the Approving Authority (as defined in Land Use By-law 2P80). The Company shall not be obliged to provide any

irrigation to the Park Lands. The responsibility for the maintenance of the Park Lands shall be the sole responsibility of the Company and shall be performed to the same standards as City Parks are maintained by the City elsewhere in the City of Calgary, from time to time. The Company shall present its completed landscape plan to the City for approval as part of the development permit application. Such landscape plan shall also include the pedestrian walkway system required under Article 1.03.

(b) The work to be performed by the Company on the Park Lands as required in Article 1.01(a) (and, if applicable, under Article 2.03) shall be included in the development permit application for the development contemplated on the Company Lands. Such work shall be performed to the standards set out in the "Calgary Parks/Recreation Department General Landscape Standards and Specifications (1982)" and the Company hereby acknowledges that it has received a copy of such standards and specifications. In respect of any matter on which such standards and specifications are silent, then to that extent the work will be performed to the reasonable satisfaction of the Approving Authority.

1.02 If the Company fails to maintain the Park Lands, the City may at its option serve written notice upon the Company, notifying the Company of their default and requiring the Company to remedy the default within fourteen (14) working days. In the event that the default is not remedied within the said fourteen (14) day period, the City may, at its option, remedy the default, at the expense of the Company. The Company shall, upon demand, forthwith reimburse the City for all costs and expenses incurred in remedying any such default. In addition to any other remedy which the City may have the City may add the said costs and expenses to the tax roll for the Company Lands and may recover the said costs and expenses in the same manner as municipal taxes.

1.03 The Company shall provide a pedestrian walkway system integrated with the City's bicycle pathway system within the Park Lands connecting the Company Lands to the bus stop as shown on Schedule "A" and to the City's pedestrian walkway, the said connection to be to a minimum of 2.5 metres in width and at a location and utilizing construction materials to the reasonable satisfaction of the Director of Parks/Recreation Department.

1.04 The Company shall provide a concrete slab to be used as a transit waiting amenity at the bus stop located at 90th Avenue S.W. and 14th Street S.W. to the satisfaction of the Director of Transportation of the City.

1.05 The Company shall be permitted one inbound vehicular access lane from 14th Street S.W. in a location and to a standard to the satisfaction of the Director of Transportation. This facility shall be provided at the sole cost of the Company, and in the event that such lane is, in the opinion of the Director of Transportation, incompatible with the ultimate interchange at 14th Street S.W. and 90th Avenue, it shall be removed at the Company's sole cost, as and when such interchange is constructed. The Company shall be responsible for obtaining all necessary permits and approvals.

1.06 The Company undertakes to provide measures to prevent speeding and shortcutting through the Company Lands.

1.07 The Company shall provide the City with a pedestrian easement in a form satisfactory to the City Solicitor at those locations outlined in green on Schedule "A" attached hereto.

ARTICLE II

2.01 (a) The City undertakes to utilize the Park Lands only for park purposes and for the purpose of roads, sidewalks, paths, street lamps, signs, traffic control devices, bus shelters with commercial signs, and underground utilities. If the Park Lands are used for any purpose permitted hereunder other than park purposes and as a result, new facilities are constructed on the Park Lands, the City shall as soon as practicable and so far as reasonably possible restore the Park Lands to its previous condition subject always to the existence of the new facility.

(b) The City shall not plant any trees or erect any structures on those portions of the Park Lands which are parallel to 14th Street S.W. and 90th Avenue S.W. (and which are outlined in purple on Schedule "A" attached hereto) which would unduly affect the visibility of the development contemplated on the Company Lands. Any dispute arising out of this Article 2.01(b) shall be referred to arbitration pursuant to Article VI.

(c) The City shall permit the Company, so far as is reasonably possible, to use the Park Lands for the purpose of retaining storm water run-off from the Company Lands.

2.02 The City shall provide the Company with a private utility easement in a form satisfactory to the City Solicitor in those areas outlined in brown on Schedule "A" attached hereto.

2.03 If the City effects a road closure to the road allowance outlined in yellow on Schedule "A" hereto, the Company undertakes to grade (including berm), loam, seed, and maintain those lands outlined in yellow on Schedule "A" attached hereto as part of the continuing obligation of the Company contained in Article I hereof. Such lands shall, thereafter, be deemed to be part of the Park Lands, except for the purposes of Article 2.01 and Article 2.04.

2.04 The Company shall be permitted to install signage on the Park Lands to a standard, location and extent reasonably satisfactory to the Development Officer. The Company shall use its best efforts to ensure that the size, number and location of signs are compatible with the recreational use and the park-like setting of the Parks Lands.

2.05 Prior to obtaining release of a development permit for the development contemplated on the Company Lands, the Developer shall enter into a standard Development Agreement with the City.

ARTICLE III

CAVEAT BY CITY

3.01 The Company agrees that this Agreement may be registered by the City by way of Caveat against the Company Lands and that the City shall not be obligated to postpone that Caveat to any financing or encumbrances. For this purpose, the City shall have an interest in the Company Lands.

ARTICLE IV

CAVEAT BY COMPANY

4.01 The City agrees that this Agreement may be registered by the Company by way of Caveat against the Park Lands (with the exception of the lands referred to in Article 2.03). For this purpose, the Company shall have an interest in the said Park Lands.

ARTICLE V

SPECIAL COVENANTS

5.01 Time shall be of the essence of this Agreement.

5.02 This Agreement does not constitute a development permit or any other permit of the City.

5.03 Prior to the assignment, sale or transfer of any portion of the Company's Lands or interest therein, wherein the rights and obligations under this agreement are assigned, sold or transferred in whole or in part, the Company shall deliver to the City an Assumption Agreement acceptable to the City Solicitor (acting reasonably), duly executed by the Assignee, Purchaser or Transferee.

5.04 The provisions of this Agreement shall be binding upon and enure to the benefit of the Company and the City and their respective successors, assigns, transferees and successors in title.

5.05 The Company agrees to indemnify and save harmless the City from and against all claims, demands, actions, damages, losses, costs and expenses which arise out of or are related to

- (a) any construction or installation which the Company is required or authorized to carry out under this Agreement, including without restricting the generality of the foregoing, the grading, berming, loaming, seeding of the Park Lands and the planting of trees thereon,
- (b) the maintenance of the Park Lands by the Company, or the failure to maintain, or properly maintain, the Park Lands as required under this Agreement,

- (c) the existence of any signage placed on the Park Lands by or at the request of the Company, or
- (d) the use or occupation of the Park Lands by the Company, its servants, agents, officers, contractors or tenants.

5.06 Any notice, communication or request to be given to either party shall be in writing by registered mail, postage prepaid, or by personal delivery or by telex or telegram addressed to such party at the following address:

as to the City: Director, Parks/Recreation
City Hall
P.O. Box 2100
Postal Station "M"
Calgary, Alberta
T2P 2M5

as to the Company: INTRAWEST PROPERTIES LTD.
2680 Bow Valley Square 3
255 - 5th Avenue S.W.
Calgary, Alberta
T2P 6E6

or at such other address as either party may from time to time advise the other in writing by notice. Any such notice, communication or request whenever mailed shall be deemed to have been received on the Fourth (4th) business day next following the date it is so mailed or, if by telex or telegram, Twelve (12) hours after transmission; provided that if normal mail, telex or telegram service is interrupted by strikes, slowdown or other cause, then any of the said services which have not been so interrupted

shall be utilized or the notice, communication or request shall be personally delivered to ensure prompt receipt.

ARTICLE VI

ARBITRATION

6.01 Any dispute as to any of the matters which, if no agreement is reached upon them by the provisions of this Agreement are to be determined by arbitration, shall be settled and determined by three arbitrators appointed in the manner following, that is to say:

- (a) either party may appoint an arbitrator and on doing so shall forthwith give notice in writing thereof to the other party;
- (b) the party in receipt of a notice of the appointment of an arbitrator as aforesaid shall, unless it has already done so, within Seven (7) days from the date of receiving the notice appoint an arbitrator and give notice thereof to the other party;
- (c) if either party does not appoint an arbitrator within the time limited under the preceding Subsection (b), the other party may apply to a Judge of the Court of Queen's Bench of Alberta to appoint an arbitrator on behalf of and at the expense of the party so in default;
- (d) the arbitrators appointed by or for the parties hereto shall appoint a third arbitrator and, if they fail to do so within Fourteen (14) days after the last of them was appointed, either party on notice to the other may apply to a Judge of the Court of Queen's Bench of Alberta to appoint a third arbitrator;
- (e) the appointment of all arbitrators except those appointed by a Judge as herein provided shall be in writing;

- (f) the arbitrators shall have the power to obtain the assistance, advice or opinion of such engineer, architect, surveyor, appraiser, valuer or other expert as they may think fit and shall have the discretion to act upon any assistance, advice or opinion so obtained;
- (g) the arbitration award may include an award of costs and interest, and, notwithstanding the provisions of The Arbitration Act of the Province of Alberta, the amount of costs shall not be limited to the scale of rates provided in the Arbitration Act of Alberta;
- (h) each of the parties will do all acts and things and execute all deeds and instruments necessary to give effect to any award made upon any such arbitration.

IN WITNESS WHEREOF the Company and the City have caused to be hereto affixed their respective corporate seals, attested by their respective proper officers in that regard, on the day and year first above written.

INTRAWEST PROPERTIES LTD.

Per: *[Signature]*
MANAGER

Per: _____

APPROVED	
As To Content	<i>[Signature]</i>
PLANNING	<i>[Signature]</i>
PARKS REC	<i>[Signature]</i>
ENG	<i>[Signature]</i>
As To Form	<i>[Signature]</i>
Solicitors	<i>[Signature]</i>

THE CITY OF CALGARY

Per: *[Signature]*
Commissioner

Per: *[Signature]*
City Clerk

DEC 28 1983

(211283/324)

SOLLISTER & SOLICITOR

Dated:

BETWEEN:

INTRAWEST PROPERTIES LTD.

- and -

THE CITY OF CALGARY

A G R E E M E N T

The City of Calgary
Law Department
P. O. Box 2100
Postal Station "M"
Calgary, Alberta
T2P 2M5

Solicitor: CRAIG R. MEYERS/pl

File No. : P 0231

SCHEDULE "A"

ON FILE WITH THE CITY CLERK
THE CITY OF CALGARY.

cm under File No. 20373-A *cm*

REGISTER & SOLICITOR

CAVEAT

FORBIDDING REGISTRATION

To the Registrar of the South Alberta Land Registration District

Take Notice that THE CITY OF CALGARY

ARM

in the Province of Alberta ^{*claim*} claims an ^{*interest*} interest in the following described lands under any virtue of an Agreement in writing dated the *28* day of *December*, 1983 between INTRAWEST PROPERTIES LTD. and THE CITY OF CALGARY, a copy of which is attached hereto and made a part hereof:

Block 1

Plan **8311942**

Re: Agreement

standing in the register in the name of INTRAWEST PROPERTIES LTD.

; and

It forbids the registration of any person as transferee or owner of, or of any instrument affecting the said estate or interest unless the instrument or certificate of title, as the case may be, is expressed to be subject to its claim.

It appoints the office of the City Solicitor, City Hall, Calgary, Alberta as the place at

which notice and proceedings relating hereto may be served.

DATED this *28* day of December A.D. 19 83

THE CITY OF CALGARY
By its agent in that behalf

Craig R. Meyers

Agent for The City of Calgary
CRAIG R. MEYERS,
Barrister & Solicitor