

TOWN OF FORT FRANCES

BY-LAW NO. 27/14

(Being a By-Law to approve the 16-lot subdivision on property previously occupied by the Huffman School; to establish, dedicate and name the public highway within the said subdivision; and to declare the lots within the subdivision as surplus to the needs of the municipality and provide for the disposition thereof.)

WHEREAS section 51 of the *Planning Act*, R.S.O. 1990, CHAPTER P.13, as amended, gives authority to the Council of the Corporation of the Town of Fort Frances to approve subdivisions and on May 13, 2013 the Council approved draft Plan of Subdivision for a 16-lot subdivision on that part of Block C on SM-112 now designated as parts 1, 2, 3, 4 and 5 on plan 48R-4374 ("Subdivision");

AND WHEREAS section 31(2) of the *Municipal Act, 2001*, S.O. 2001 c. 25, as amended, requires a municipality by by-law to establish a highway and is it deemed expedient and in the interest of the Town of Fort Frances to dedicate certain lands in the Subdivision as a public highway and assign the name of "Huffman Court" to the cul-de-sac roadway constructed within the Subdivision;

AND WHEREAS on May 27, 2013, Council of the Corporation of the Town of Fort Frances approved the sale price of each lots within the subdivision as contained in report of the Municipal Planner dated May 24, 2013;

NOW THEREFORE the Council of the Corporation of the Town of Fort Frances **HEREBY ENACTS** as follows: -

1. That the draft Plan of Subdivision on that part of Block C on Plan SM-112 designated as parts 1 to 5 on plan 48R-4374 as prepared by J. D. Barnes dated April 17, 2014 as attached to and forming part of this by-law as Schedule A be and is hereby approved;
2. That the lands identified on attached Schedule A as "Huffman Court" be and is hereby dedicated as a public highway;
3. That the property contained within the Subdivision be and is hereby declared surplus to the needs of the municipality and is approved for sale at the prices as established below and as per Agreement of Purchase and Sale attached as Schedule B to and forming part of this by-law:

Lot 1 - \$ 39,900	Lot 9 - \$ 41,500
Lot 2 - \$ 39,900	Lot 10 - \$ 49,500
Lot 3 - \$ 39,900	Lot 11 - \$ 65,000
Lot 4 - \$ 39,900	Lot 12 - \$ 65,000
Lot 5 - \$ 39,900	Lot 13 - \$ 49,500
Lot 6 - \$ 45,500	Lot 14 - \$ 41,500
Lot 7 - \$ 41,500	Lot 15 - \$ 41,500
Lot 8 - \$ 41,500	Lot 16 - \$ 41,500

4. That the Mayor and Clerk are hereby authorized and instructed to perform all acts and to take such steps and execute such documents under the seal of the Corporation as may be necessary to effect to the foregoing.
5. That this By-Law shall come into force and take effect when the Plan Document and this by-Law are registered in the Office of the Land Registrar;

READ THREE TIMES and finally passed in open Council this 14th day of July 2014.

MAYOR

CLERK

Agreement of Purchase and Sale

This Agreement of Purchase and Sale dated this day of, 20.....

BUYER,, agrees to purchase from
(Full legal names of all Buyers)

SELLER, THE CORPORATION OF THE TOWN OF FORT FRANCES (the "Seller" or the "Town")....., the following **REAL PROPERTY**:

Address

fronting on the side of

in the **TOWN OF FORT FRANCES**

and having a frontage of more or less by a depth of more or less

and legally described as

..... (the "property").
(Legal description of land including easements not described elsewhere)

PURCHASE PRICE:

..... Dollars (CDN\$)

DEPOSIT: Buyer submits.....
(Herewith/Upon Acceptance/as otherwise described in this Agreement)

..... Dollars (CDN\$).....

by negotiable cheque payable to **TOWN OF FORT FRANCES** "Deposit Holder" to be held in trust pending completion or other termination of this Agreement and to be credited toward the Purchase Price on completion. For the purposes of this Agreement, "Upon Acceptance" shall mean that the Buyer is required to deliver the deposit to the Deposit Holder within 24 hours of the acceptance of this Agreement. The parties to this Agreement hereby acknowledge that, unless otherwise provided for in this Agreement, the Deposit Holder shall place the deposit in trust in the Deposit Holder's non-interest bearing Trust Account and no interest shall be earned, received or paid on the deposit.

Buyer agrees to pay the balance of the Purchase Price to the Seller on the completion date subject to any increase or decrease by virtue of adjustments (if any).

SCHEDULE(S) **A** attached hereto form(s) part of this Agreement.

1. **IRREVOCABILITY:** This offer shall be irrevocable by until on
(Seller/Buyer)
the day of, 20....., after which time, if not accepted, this offer shall be null and void and the deposit shall be returned to the Buyer in full without interest.
2. **COMPLETION DATE:** This Agreement shall be completed by no later than 6:00 p.m. on the day of, 20..... (the "completion date" or the "closing date"). Upon completion, vacant possession of the property shall be given to the Buyer unless otherwise provided for in this Agreement.

INITIALS OF BUYER(S):

INITIALS OF SELLER(S):

3. **NOTICES:** The Seller hereby appoints the Listing Brokerage as agent for the Seller for the purpose of giving and receiving notices pursuant to this Agreement. Where a Brokerage (Buyer's Brokerage) has entered into a representation agreement with the Buyer, the Buyer hereby appoints the Buyer's Brokerage as agent for the purpose of giving and receiving notices pursuant to this Agreement. **Where a Brokerage represents both the Seller and the Buyer (multiple representation), the Brokerage shall not be appointed or authorized to be agent for either the Buyer or the Seller for the purpose of giving and receiving notices.** Any notice relating hereto or provided for herein shall be in writing. In addition to any provision contained herein and in any Schedule hereto, this offer, any counter-offer, notice of acceptance thereof or any notice to be given or received pursuant to this Agreement or any Schedule hereto (any of them, "Document") shall be deemed given and received when delivered personally or hand delivered to the Address for Service provided in the Acknowledgement below, or where a facsimile number or email address is provided herein, when transmitted electronically to that facsimile number or email address, respectively, in which case, the signature(s) of the party (parties) shall be deemed to be original.

Fax No.: 807-274-8479 Fax No.:
(For delivery of Documents to Seller) (For delivery of Documents to Buyer)

Email Address: fflatt@fort-frances.com Email Address:
(For delivery of Documents to Seller) (For delivery of Documents to Buyer)

4. **CHATELS INCLUDED:**

Unless otherwise stated in this Agreement or any Schedule hereto, Seller agrees to convey all fixtures and chattels included in the Purchase Price free from all liens, encumbrances or claims affecting the said fixtures and chattels.

5. **FIXTURES EXCLUDED:**

6. **RENTAL ITEMS:** The following equipment is rented and **not** included in the Purchase Price. The Buyer agrees to assume the rental contract(s), if assumable:

7. **HST:** If the sale of the property (Real Property as described above) is subject to Harmonized Sales Tax (HST) then such tax shall be **in addition to** the Purchase Price. If the sale of the property is not subject to HST, Seller agrees to certify on or before closing that the sale of the property is not subject to HST. Any HST on chattels, if applicable, is not included in the Purchase Price.

8. **TITLE SEARCH:** Buyer shall be allowed until 6:00 p.m. on the day of, 20..... (Requisition Date) to examine the title to the property at Buyer's own expense and until the earlier of: (i) thirty days from the later of the Requisition Date or the date on which the conditions in this Agreement are fulfilled or otherwise waived or; (ii) five days prior to completion, to satisfy Buyer that there are no outstanding work orders or deficiency notices affecting the property, that its present use (.....) may be lawfully continued and that the principal building may be insured against risk of fire. Seller hereby consents to the municipality or other governmental agencies releasing to Buyer details of all outstanding work orders and deficiency notices affecting the property, and Seller agrees to execute and deliver such further authorizations in this regard as Buyer may reasonably require.

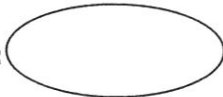
9. **FUTURE USE:** Seller and Buyer agree that there is no representation or warranty of any kind that the future intended use of the property by Buyer is or will be lawful except as may be specifically provided for in this Agreement.

INITIALS OF BUYER(S):

INITIALS OF SELLER(S):

10. **TITLE:** Provided that the title to the property is good and free from all registered restrictions, charges, liens, and encumbrances except as otherwise specifically provided in this Agreement and save and except for (a) any registered restrictions or covenants that run with the land providing that such are complied with; (b) any registered municipal agreements and registered agreements with publicly regulated utilities providing such have been complied with, or security has been posted to ensure compliance and completion, as evidenced by a letter from the relevant municipality or regulated utility; (c) any minor easements for the supply of domestic utility or telephone services to the property or adjacent properties; and (d) any easements for drainage, storm or sanitary sewers, public utility lines, telephone lines, cable television lines or other services which do not materially affect the use of the property. If within the specified times referred to in paragraph 8 any valid objection to title or to any outstanding work order or deficiency notice, or to the fact the said present use may not lawfully be continued, or that the principal building may not be insured against risk of fire is made in writing to Seller and which Seller is unable or unwilling to remove, remedy or satisfy or obtain insurance save and except against risk of fire in favour of the Buyer and any mortgagee (with all related costs at the expense of the Seller), and which Buyer will not waive, this Agreement notwithstanding any intermediate acts or negotiations in respect of such objections, shall be at an end and all monies paid shall be returned without interest or deduction and Seller, Listing Brokerage and Co-operating Brokerage shall not be liable for any costs or damages. Save as to any valid objection so made by such day and except for any objection going to the root of the title, Buyer shall be conclusively deemed to have accepted Seller's title to the property.
11. **CLOSING ARRANGEMENTS:** Where each of the Seller and Buyer retain a lawyer to complete the Agreement of Purchase and Sale of the property, and where the transaction will be completed by electronic registration pursuant to Part III of the Land Registration Reform Act, R.S.O. 1990, Chapter L.4 and the Electronic Registration Act, S.O. 1991, Chapter 44, and any amendments thereto, the Seller and Buyer acknowledge and agree that the exchange of closing funds, non-registrable documents and other items (the "Requisite Deliveries") and the release thereof to the Seller and Buyer will (a) not occur at the same time as the registration of the transfer/deed (and any other documents intended to be registered in connection with the completion of this transaction) and (b) be subject to conditions whereby the lawyer(s) receiving any of the Requisite Deliveries will be required to hold same in trust and not release same except in accordance with the terms of a document registration agreement between the said lawyers. The Seller and Buyer irrevocably instruct the said lawyers to be bound by the document registration agreement which is recommended from time to time by the Law Society of Upper Canada. Unless otherwise agreed to by the lawyers, such exchange of the Requisite Deliveries will occur in the applicable Land Titles Office or such other location agreeable to both lawyers.
12. **DOCUMENTS AND DISCHARGE:** Buyer shall not call for the production of any title deed, abstract, survey or other evidence of title to the property except such as are in the possession or control of Seller. If requested by Buyer, Seller will deliver any sketch or survey of the property within Seller's control to Buyer as soon as possible and prior to the Requisition Date. If a discharge of any Charge/Mortgage held by a corporation incorporated pursuant to the Trust and Loan Companies Act (Canada), Chartered Bank, Trust Company, Credit Union, Caisse Populaire or Insurance Company and which is not to be assumed by Buyer on completion, is not available in registrable form on completion, Buyer agrees to accept Seller's lawyer's personal undertaking to obtain, out of the closing funds, a discharge in registrable form and to register same, or cause same to be registered, on title within a reasonable period of time after completion, provided that on or before completion Seller shall provide to Buyer a mortgage statement prepared by the mortgagee setting out the balance required to obtain the discharge, and, where a real-time electronic cleared funds transfer system is not being used, a direction executed by Seller directing payment to the mortgagee of the amount required to obtain the discharge out of the balance due on completion.
13. **INSPECTION:** Buyer acknowledges having had the opportunity to inspect the property and understands that upon acceptance of this offer there shall be a binding agreement of purchase and sale between Buyer and Seller. **The Buyer acknowledges having the opportunity to include a requirement for a property inspection report in this Agreement and agrees that except as may be specifically provided for in this Agreement, the Buyer will not be obtaining a property inspection or property inspection report regarding the property.**

INITIALS OF BUYER(S):



INITIALS OF SELLER(S):



14. **INSURANCE:** All buildings on the property and all other things being purchased shall be and remain until completion at the risk of Seller. Pending completion, Seller shall hold all insurance policies, if any, and the proceeds thereof in trust for the parties as their interests may appear and in the event of substantial damage, Buyer may either terminate this Agreement and have all monies paid returned without interest or deduction or else take the proceeds of any insurance and complete the purchase. No insurance shall be transferred on completion. If Seller is taking back a Charge/Mortgage, or Buyer is assuming a Charge/Mortgage, Buyer shall supply Seller with reasonable evidence of adequate insurance to protect Seller's or other mortgagee's interest on completion.
15. **PLANNING ACT:** This Agreement shall be effective to create an interest in the property only if Seller complies with the subdivision control provisions of the Planning Act by completion and Seller covenants to proceed diligently at Seller's expense to obtain any necessary consent by completion.
16. **DOCUMENT PREPARATION:** The Transfer/Deed shall, save for the Land Transfer Tax Affidavit, be prepared in registrable form at the expense of Seller, and any Charge/Mortgage to be given back by the Buyer to Seller at the expense of the Buyer. If requested by Buyer, Seller covenants that the Transfer/Deed to be delivered on completion shall contain the statements contemplated by Section 50(22) of the Planning Act, R.S.O. 1990 and any amendments thereto.
17. **RESIDENCY:** Buyer shall be credited towards the Purchase Price with the amount, if any, necessary for Buyer to pay to the Minister of National Revenue to satisfy Buyer's liability in respect of tax payable by Seller under the non-residency provisions of the Income Tax Act by reason of this sale. Buyer shall not claim such credit if Seller delivers on completion the prescribed certificate or a statutory declaration that Seller is not then a non-resident of Canada.
18. **ADJUSTMENTS:** Any rents, mortgage interest, realty taxes including local improvement rates and unmetered public or private utility charges and unmetered cost of fuel, as applicable, shall be apportioned and allowed to the day of completion, the day of completion itself to be apportioned to Buyer.
19. **PROPERTY ASSESSMENT:** The Buyer and Seller hereby acknowledge that the Province of Ontario has implemented current value assessment and properties may be re-assessed on an annual basis. The Buyer and Seller agree that no claim will be made against the Buyer or Seller, or any Brokerage, Broker or Salesperson, for any changes in property tax as a result of a re-assessment of the property, save and except any property taxes that accrued prior to the completion of this transaction.
20. **TIME LIMITS:** Time shall in all respects be of the essence hereof provided that the time for doing or completing of any matter provided for herein may be extended or abridged by an agreement in writing signed by Seller and Buyer or by their respective lawyers who may be specifically authorized in that regard.
21. **TENDER:** Any tender of documents or money hereunder may be made upon Seller or Buyer or their respective lawyers on the day set for completion. Money shall be tendered with funds drawn on a lawyer's trust account in the form of a bank draft, certified cheque or wire transfer using the Large Value Transfer System.
22. **FAMILY LAW ACT:** Seller warrants that spousal consent is not necessary to this transaction under the provisions of the Family Law Act, R.S.O. 1990 and any amendments thereto unless Seller's spouse has executed the consent hereinafter provided.
23. **UFFI:** Seller represents and warrants to Buyer that during the time Seller has owned the property, Seller has not caused any building on the property to be insulated with insulation containing ureaformaldehyde, and that to the best of Seller's knowledge no building on the property contains or has ever contained insulation that contains ureaformaldehyde. This warranty shall survive and not merge on the completion of this transaction, and if the building is part of a multiple unit building, this warranty shall only apply to that part of the building which is the subject of this transaction.
24. **LEGAL, ACCOUNTING AND ENVIRONMENTAL ADVICE:** The parties acknowledge that any information provided by the brokerage is not legal, tax or environmental advice.

INITIALS OF BUYER(S):

INITIALS OF SELLER(S):

INFORMATION ON BROKERAGE(S)

Listing Brokerage

Phone Fax

Co-operating/Buyer Brokerage

Phone Fax

ACKNOWLEDGEMENT

I acknowledge receipt of my signed copy of this accepted Agreement of Purchase and Sale and I authorize the Brokerage to forward a copy to my lawyer.

..... DATE
(Seller)

..... DATE
(Seller)

Address for Service:

.....Phone

Seller's Lawyer

Address

.....
Phone Fax

I acknowledge receipt of my signed copy of this accepted Agreement of Purchase and Sale and I authorize the Brokerage to forward a copy to my lawyer.

..... DATE
(Buyer)

..... DATE
(Buyer)

Address for Service:

.....Phone

Buyer's Lawyer

Address.....

.....
Phone Fax

INITIALS OF BUYER(S): 

INITIALS OF SELLER(S): 

Schedule A Agreement of Purchase and Sale

This Schedule is attached to and forms part of the Agreement of Purchase and Sale between:

BUYER,, and

SELLER, **THE CORPORATION OF THE TOWN OF FORT FRANCES**

for the purchase and sale of

Agreement of Purchase and Sale dated

1. Notwithstanding anything contained in this Agreement, the Buyer shall:
 - a. remove and deposit, or cause to be removed and deposited, to and at a location on or adjacent to the development area as may be directed by the Town, all excavated earth material of and from the property considered by the Town to be excess and not required to bring the grade of the property to the grade set or established by the Town;
 - b. on or before a date which is 5 years from the completion date, complete the construction, in and on the property, of a single family detached residential dwelling (the "Single Family Dwelling"), and:
 - i. be in receipt of an Occupancy Permit, issued by the Town pursuant to Section 1.1.3 of O' Reg. 350/06 of the Ontario Building Code; and
 - ii. which Single Family Dwelling shall otherwise comply with the minimum size and other requirements of the Town's zoning bylaw; and
2. If the Buyer fails to fulfill the Buyer's obligations as set out in paragraph 1(b) of this Schedule A, then, notwithstanding the transfer of the property to the Buyer or otherwise, and in addition to any other rights and/or remedies of or available to the Town and whether by law, statute, equity, or otherwise, it is understood and agreed that the Buyer shall, within 90 days of receiving notice from the Town to do so, transfer ("Transfer"), at no cost or expense to the Town, the property to the Town free and clear of all registered charges, liens and encumbrances whatsoever except for any charges or encumbrances registered by or in favour of the Town.

The Buyer and the Town agree that no monies whatsoever shall or need be paid by the Town to the Buyer for or in respect of such Transfer of the property to the Town, whether because of any work and/or improvements and/or otherwise (collectively referred to as "Improvements") done or made by the Buyer or anyone else in or to the property or otherwise. Neither any Improvements nor any cost or expense therefor and/or otherwise shall be nor need be paid and/or reimbursed by the Town to the Buyer or otherwise; all Improvements shall be forfeited to, and be and become the property of the Town upon the Transfer of the property to the Town without any compensation or otherwise for or in respect thereof to the Buyer and/or anyone else.

3. The covenants contained herein shall run with the property, and bind the property and the Buyer for the benefit of the lands and premises of the Town.

INITIALS OF BUYER(S):



INITIALS OF SELLER(S):



4. It is covenanted and agreed by and between the parties that, notwithstanding anything contained in this Agreement, any and all conditions, covenants, agreements, and otherwise of the Buyer contained in this Agreement (including, without limitation, in Schedule A, and/or in any documents to be delivered by the Buyer on closing), shall not merge in the closing of the purchase and sale transaction contemplated herein, nor in the conveyance of ownership of the property by the Seller, but shall remain in full force and effect subsequent to the completion date.

This page must be initialed by all parties to the Agreement of Purchase and Sale.

INITIALS OF BUYER(S):



INITIALS OF SELLER(S):

