

# TOWN OF FORT FRANCES

## Planning & Development Executive Committee

### AGENDA - November 19, 2018 at 8:00 AM

#### MEETING - Civic Centre - Committee Room

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1. <b><u>Call to Order</u></b> Session #49.	
2. <b><u>Disclosure of pecuniary interest and the general nature thereof</u></b>	
3. <b><u>Approval of Previous Committee Minutes</u></b>	
3.1 Approval of October 1st, 2018 meeting minutes.	2 - 3
4. <b><u>Non-agenda items identified to be considered later in this meeting, both in-camera and in open meeting.</u></b>	
5. <b><u>In-Camera</u></b>	
6. <b><u>Items Referred from Council</u></b>	
6.1 Request Letter from J. Stephenson, FORM Architecture - Request for Amendment of Site Plan Control Agreement.	4 - 7
6.2 Request Letter from T. Ross.	8 - 9
7. <b><u>New Business</u></b>	
7.1 Traffic By-Law #21/14 - Amendment I.	10 - 11
7.2 2019 User Fees.	12 - 14
7.3 Site Plan Control Agreement for Goodday Wholesalers (Crozier) Ltd - (335 Scott Street).	15 - 40
8. <b><u>Outstanding Items</u></b>	
8.1 255 Scott Street (TBT Engineering) - Proposed Plans for Building. - No update at this time.	
9. <b><u>Information</u></b>	
10. <b><u>Non-agenda Items</u></b>	
11. <b><u>Adjourn / Next Meeting Date</u></b> Monday December 3rd, 2018.	

## TOWN OF FORT FRANCES

### MINUTES

SESSION NO. #48

October 1, 2018

The meeting of Planning & Development Executive Committee of the Town of Fort Frances was held in the Civic Centre - Civic Centre on October 1, 2018 from 8:00 a.m. to 10:10 a.m.

PRESENT: D. Kitowski, Chair, J. Caul, Councillor, J. Albanese, Councillor.

ALSO PRESENT: D. Brown, CAO, K. Perry, L. Frenette, TBT Engineering, R. Frenette, TBT Engineering, DJ. MacKintosh, TBT Engineering, P. Briere, Secretary.

**1. Call to Order - 0800am**  
Session #48.

**2. Disclosure of pecuniary interest and the general nature thereof**  
None.

**3. Approval of Previous Committee Minutes**

- 3.1 Approval of September 17th, 2018 meeting minutes.  
- Approved as presented.

**4. Non-agenda items identified to be considered later in this meeting, both in-camera and in open meeting.**  
None.

**5. In-Camera**  
None.

**6. Items Referred from Council**

- 6.1 Request letter from T. Ross - Construct a 10 foot fence  
- back to PDEC for further consideration as per direction from Committee of the Whole.  
- A lengthy discussion was had on this item. The Planning & Development Executive Committee is recommending that Council  
1) approve a 9' over height fence in the rear yard only for this property.  
2) direct Administration to conduct a review of the fence by-law.
- 6.2 255 Scott Street (Brockie's Building) - Proposed Side Entrance.  
- An overview of this request was provided to the Committee by TBT Engineering. After a discussion was had with regards to the work plan and recommendations brought forward by Administration. The Planning & Development Executive Committee and TBT Engineering have agreed to continue discussions and create an agreement to deal with the items/recommendations that have been brought forward.
- 6.3 Letter from Ahlan & Judith Johanson - Property Standards.  
- A discussion was had on this item and the Planning & Development Executive Committee is recommending that Council receive the information as information and that no further action be taken.

**7. New Business**

- 7.1 Traffic By-Law #21/14 - Amendment H.  
- An overview of this amendment was provided to the Committee. After a brief discussion, the Planning & Development Executive Committee is recommending that Council approve the report as presented and have an amendment by-law prepared for signing by Mayor & Clerk.

- 7.2      Amendment to Site Plan Control Agreement for 810-840 King's Highway.  
         - An overview of this item was provided to the Committee. The Planning &  
         Development Executive is recommending that Council approve the report as presented.

8.      **Outstanding Items**  
None.

9.      **Information**  
None.

10.     **Non-agenda Items**  
None.

11.     **Adjourn / Next Meeting Date - 1010am**  
Monday November 5th, 2018.

\_\_\_\_\_  
Executive Committee Chair

\_\_\_\_\_  
Secretary, Planning & Development Executive  
Committee



Date: November 15, 2018

Report To: Planning and Development Executive Committee

From: Tyson Dennis, Chief Building Official/Municipal Planner

**Re: Form Architecture Request for Site Plan Control Agreement Fence Amendment for RRDSSAB**

The Planning and Development Department received a letter from Form Architecture requesting Council to approve a change to the Sight Plan Control Agreement condition from a six-foot buffer fence to be changed to a five-foot buffer fence at the new 8-plex complex at 1301 Elizabeth Street. This buffer fence separates the multi-residential and single residential properties. The request letter is attached to this report.

The Planning and Development Executive Committee will recall in July of 2017, Council passed Site Plan Control Agreement which the Rainy River District Social Services Administration Board, as well as the Town of Fort Frances agreed upon. One of the conditions was a six-foot buffering fence between the single and multi-residential areas located at 1301 Elizabeth.

The Site Plan Agreement lists the approved drawings showing a six-foot buffer fence along the West and part of the East property owned by the RRDSSAB. The contractor and designer were aware of the accepted agreement with the Town of Fort Frances and the Rainy River District Social Services Administrative Board prior to the start of construction of the 8-plex.

It is the recommendation of the Planning and Development Department to continue with the requirements of the existing six-foot buffer fencing which was part of the original design of the complex in July of 2017.

Originally Signed

Tyson Dennis  
Chief Building Official and Municipal Planner

Administration & Finance Division  
Planning & Development Division  
Phone: 807-274-5323  
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[www.fort-frances.com](http://www.fort-frances.com)

November 14, 2018

FORM Architecture Engineering  
Attn: J. Stephenson, Architect, Partner  
131 Court Street North  
Thunder Bay, Ontario  
P7A 4V1

Dear Sir:

At their meeting November 13, 2018, Council referred a request dated November 6, 2018 from J. Stephenson, FORM Architecture requesting an amendment to a Site Plan Control Agreement to the Planning and Development Executive Committee for recommendation.

By copy of this letter, your request has been referred as directed.

Please direct any questions you may have to Tyson Dennis, CBO / Municipal Planner at 274-5323, ext. 1216.

Yours very truly,

ADMINISTRATION & FINANCE DIVISION

A handwritten signature in black ink, appearing to read 'Slomke'.

Elizabeth (Lisa) Slomke, Clerk

ES/kl

c.c. Planning and Development Executive Committee  
T. Dennis, CBO/Municipal Planner

November 6, 2018

Town of Fort Frances  
320 Portage Avenue  
Thunder Bay, ON P7A 3P9

Attn: Tyson Dennis, Chief Building Officer e. [tdennis@fortfrances.ca](mailto:tdennis@fortfrances.ca)

**RE: RAINY RIVER DSSAB EIGHT PLEX APARTMENT BUILDING  
BUILDING PERMIT No. 2017-025  
REQUEST FOR AMENDMENT TO THE SITE PLAN AGREEMENT  
Project No. 2016042**

Dear Mr. Dennis,

We are writing to request for an amendment to the site plan control agreement for the above noted project to reduce the fence height requirement as agreed to from 1800mm to 1500mm to be consistent with the zoning bylaw requirements for a buffer fence between the subject property and adjacent single-family residential property.

The original site plan agreement indicated an 1800mm fence height despite the bylaw permitting a lower fence height. The higher height was not a design requirement of the municipality or of the building owner at the time the original SPA submission was prepared and that it was in excess of the required height was an oversight of the architect who originally proposed the higher fence and prepared the SPA drawings accordingly.

The agreed to extent of fencing is captured accurately on the SPA drawing however the contract documents for the build inadvertently omitted a section of it along the west side of the property. When it was subsequently identified by the municipality that an additional section of fencing along the west was required in order to comply with the SPA in order to reduce the cost of the increased length of fence the contractor was directed to reduce the fence height to the minimum required height stipulated in the zoning bylaw and to construct it on an existing steel framework. As a compensating measure additional board cladding is being provided on the exterior side of the fence to improve the appearance from the adjacent property.

**RE: RAINY RIVER DSSAB EIGHT PLEX APARTMENT BUILDING  
BUILDING PERMIT No. 2017-025  
REQUEST FOR AMENDMENT TO THE SITE PLAN AGREEMENT  
Project No. 2016042**

Page two continued

It is now being requested that the SAP be amended to reflect this modified, as constructed, design approach which, while different from the SPA, complies with the zoning bylaw requirements.

Thank you for the consideration of this request.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'John Stephenson', with a long horizontal stroke extending to the right.

John Stephenson, Architect, B.Arch., OAA, FRAIC,  
Partner, FORM Architecture Engineering



To Whom it may concern,  
My name is Terry Ross and I am asking town by-law officer Patrick Briere to read my letter to you on my behalf ~~and~~ concerning the fence I want to build on my property bordering 2 rental houses, one tenant of which has been recently charged with harassment and has a no communication bond ordered against her from the crown toward myself for her to leave me alone.

I want to bring to attention that there are numerous fences around town that exceed town by-law already and that I am not looking to change by-law rules on my behalf but to make an exception due to the circumstances surrounding my property and to make the decision before unnecessarily changing the by-law.

The fence will be built by my contractor and Tyson Dennis advising specifications not to create issues due to shoddy workmanship. A 6' fence would be useless in this case because the neighbour's step is 3' high looking into my back yard and the kitchen window looking directly into mine at 6'6" as well as my dog can jump 6' fence. I have been in contact with the homeowner and I believe she is in the process of eviction but that is not an issue to me as the property is still rental and have had trouble in the past (not as great as this one) with previous tenants that I wish ~~not~~ to deal with in the future.



Thank you for your consideration  
Terry Ross



Administration & Finance Division  
Planning & Development Division  
Phone: 807-274-5323  
Fax: 807-274-8479

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Fax: 807-274-3799

email: [town@fortfrances.com](mailto:town@fortfrances.com)  
[www.fort-frances.com](http://www.fort-frances.com)

November 14, 2018

Mr. Terry Ross  
1115 2<sup>nd</sup> Street E.  
Fort Frances, ON P9A 1P3

Dear Mr. Ross:

At their meeting November 13, 2018, Council referred a letter received October 11, 2018 from Terry Ross re: Fencing Issues to the Planning and Development Executive for recommendation.

By copy of this letter, your request has been referred as directed.

Please direct any questions you may have to Mr. Patrick Briere, By-law Enforcement Officer/Executive Committee Secretary at 274-5323, ext 1218 or Tyson Dennis, CBO/Municipal Planner at 274-5323, ext. 1216.

Yours very truly,

ADMINISTRATION & FINANCE DIVISION

Elizabeth (Lisa) Slomke, Clerk

/es

c.c. Planning and Development Executive Committee  
T. Dennis, CBO/Municipal Planner

Date: November 7<sup>th</sup>, 2018

Report To: Planning & Development Executive Committee.

From: Patrick Briere, By-Law Enforcement Officer

Re: Traffic Control By-Law #21/14 Amendment I.

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The By-Law Enforcement Department has received a request from the Operations & Facilities Division to amend the Traffic Control by-Law #21/14 to provide for the closure of the Asphalt topped sidewalk on the Waterfront & Colonization Road East. The attached Draft By-Law Amendment I is attached for your reference.

This request is part of the Operations & Facilities Division's new winter maintenance policy that was recommended for approval by the Operations & Facilities Executive Committee at their regular meeting on Wednesday November 7<sup>th</sup>, 2018 and approved by Council at their regular meeting Tuesday November 13<sup>th</sup>, 2018. This amendment is just a housekeeping item to keep the traffic by-law in line with this new policy.

Therefore, we are asking that The Planning & Development Executive Committee recommend that Council approve the report as presented and direct Administration to have the By-Law Amendment prepared for signing by Mayor and Clerk.

Respectfully submitted,

Original Signed By

Patrick Briere  
By-Law Enforcement Officer

**TOWN OF FORT FRANCES**

**BY-LAW NO. 21/14 - I**

(Being a by-law to amend by-law 21/14, being a by-law for the regulation of traffic on the highways and regulating the use of highways by pedestrians or vehicles within the Municipality. The *Municipal Act, 2001*, S.O. 2001, c. 25 and the *Highway Traffic Act*, R.S.O. 1990, CH.8.)

**WHEREAS** the Corporation of the Town of Fort Frances is authorized to regulate traffic on the highways and to regulate the use of highways by pedestrians or vehicles within the Municipality,

**AND WHEREAS** on **October 9th, 2018**, Council approved a report from the Planning & Development Executive Committee recommending an amendment to the Traffic Control By-law #21/14 regarding the addition of a sidewalk closure for snow deposit section and addition of Schedule “Z” listing the sidewalk closures.

**NOW THEREFORE** the Municipal Council of the Corporation of the Town of Fort Frances **HEREBY ENACTS** the following:

**Section 12.4**

Sidewalk Closures for Snow Deposit – The closure of sidewalks within the Town of Fort Frances is set-out in Schedule “Z” attached hereto and designate the closure of sidewalks for a specified time period.

**TOWN OF FORT FRANCES**

**BY-LAW NO. 21/14**

**SIDEWALK CLOSURES**

**SCHEDULE “Z”**

<b><u>NO.</u></b>	<b><u>STREET</u></b>	<b><u>SIDE</u></b>	<b><u>BEGINS</u></b>	<b><u>ENDS</u></b>
1.	Front Street & Colonization RD. E. (Asphalt Topped)	South	October 15 <sup>th</sup>	April 15th

READ THREE TIMES and finally passed in open Council this **9<sup>th</sup> day of October 2018**.

\_\_\_\_\_  
R. Avis, Mayor

\_\_\_\_\_  
E. Slomke, Clerk

November 6th, 2018

Report To: Mayor & Council

From: Doug Brown, CAO

**SUBJECT: 2019 Planning & Development Dept. User Fees & Charges**

Please find attached spreadsheet No. 1 outlining the proposed 2019 user fees and charges for the Planning & Development Dept. The 2018 rates were increased by 2.6 % across the board with a few exceptions.

The exceptions are as follows and are shown highlighted in “yellow” on the spreadsheet;

1. **General Building Permit Fees** –Same as in 2018 as a result of being the highest among the larger communities in Northwestern Ontario.
2. **Animal Control Impound Fee** –As in 2018 as a result of the Enforcement Officers requiring exact change to deal with customers at the animal shelter. Rounding to nearest half dollar.
3. **Planning Fees** – some fees same as in 2018 as a result of being the highest among the larger communities in Northwestern Ontario..

There is one new fee added to 2019 which is highlighted in “Red”

**Section 2.19 – Daily Impoundment Fee for vehicles, trailers, boats etc...**  
set at a \$ 100 per unit per day.

In addition, during the 3rd quarterly of 2018 several parking fees were reviewed and established for 2019 which are highlighted in “dark green”

The forecasted increase in revenue is as follows for the Planning & Development Dept.;

Area	2.6% & adjustments
Building	\$ 50.95
Planning	\$ 275.12
Animal control	\$ 29.78
Parking/Enforcement	\$ 1,207.47
Total	<b>\$ 1,563.32</b>

The Planning & Development Executive Committee recommends the following:

- 1) That Council endorses the 2019 proposed user fees and charges for the Planning & Development Division, in principle with an increase of 2.6 % with the exception of those highlighted fees as outlined on the attached spreadsheets and further recommends and that an authorizing by-law be prepared prior to January 1<sup>st</sup>, 2019.

Respectfully submitted,



Doug Brown, P. Eng.  
CAO

**Council approval of this report will ensure the following:**

- 1) That Council endorses the 2019 proposed user fees and charges for the Planning & Development Dept. in principle with an increase of 2.6% with a few exceptions as outlined on the attached spreadsheets and that a by-law be prepared prior to January 1<sup>st</sup>, 2019.

2018OctoberB&PDept.2019userfees&charges

**TOWN OF FORT FRANCES**  
**Spreadsheet No. 1 - 2019 SCHEDULE OF FEES- As of November 6th, 2018**

[illegible]



Date: November 15, 2018

Report To: Planning and Development Executive Committee

From: Tyson Dennis, Chief Building Official/Municipal Planner

**Re: Site Plan Control Agreement for 335 Scott Street Parking Lot Expansion**

The Planning and Development Department received plans from Wade Friesen of “Good Day Wholesalers (Crozier) Ltd”, which own the Sleepy Owl Motel (325 Scott Street) and 335 Scott Street, to demolish and expand parking at 335 Scott Street.

335 Scott Street will be demolished and transitioned into parking area for The Sleep Owl Motel. The properties will be deemed as a single property once demolition is complete. The Planning and Development Department has been working with the Operations and Facilities Division to determine the ground water flow design and demolition plans with Wade Friesen.

The Site Plan Control Agreement has specific conditions of paving timelines, storm water flows and demolition completion. Wade has completed submission for a demolition plan, storm water flow plan and paving plan. The demolition of the building is scheduled for late 2018 and completion of the paving is set for November 1, 2019 at the latest.

A holding or letter of credit of 5% will be collected by the Town of Fort Frances and returned once the agreement is fulfilled and warranty times have passed.

It is the recommendation of the Planning and Development Department to enter into a Site Plan Control Agreement with “Good Day Wholesalers (Crozier) Ltd” and have the 335 Scott Street building demolished and repurpose the land into parking for the Sleepy Owl Motel. By accepting the recommendation the agreement will go to Council for final approval.

Originally Signed

Tyson Dennis  
Chief Building Official and Municipal Planner



**SITE DEMOLITION AND REMOVAL PLAN**  
**335 Scott Street**  
**Fort Frances, ON**



**Submitted to:**  
The Town of Fort Frances  
320 Portage Avenue  
Fort Frances, ON  
P9A 3P9

**Prepared by:**  
Saulteaux Consulting & Engineering

**May 25, 2018**

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## **1.0 PROJECT AND SITE DESCRIPTION**

Saulteaux Consulting & Engineering has prepared this Demolition and Removal Plan, hereafter referred to as the "Workplan", for the purpose of providing a detailed description of demolition and removal procedures, which the owner will be implementing during the onsite activities at the 335 Scott Street site, located in Fort Frances, Ontario.

The project is situated at 335 Scott Street, in downtown Fort Frances and consists of a single storey, building and houses multiple businesses. The building was constructed in the mid 1900's and consists of concrete block walls and open web steel joist roof framing, with a concrete slab foundation.

The building has been used for various businesses & office space throughout the years, and is currently used for storage & office space.

The owner proposes to use the site, once demolition is complete, as a parking lot for his adjacent business (Makabi Inn).

## **2.0 GENERAL WORK ACTIVITY OVERVIEW**

The work covered under this Workplan will be conducted in a sequential manner, with some activities being conducted concurrently with others where practical. Depending upon site and other unknown conditions, the Contractor's general sequence of demolition activities may require alteration at any given time. A summary of the general sequence for the work activities is outlined as follows:

- Pre-construction activities and site mobilization.
- Installation of fence at back (south side) of building, along sidewalk at front (north side), along the sides (east/west) of building to protect the adjacent properties.
- Installation of fence to prevent access to parking lots on both sides of the building as well as restricted access to back alley.
- Verification of utility disconnects and isolations by others.
- Removal of remaining chemicals and hazardous materials that may still be present in the building.
- Removal of existing equipment located within the building, including heating and plumbing equipment.
- Demolition of existing building down to the foundation.
- Capping of all drainage (sanitary and storm) services and water supply in the building footprint /foundation area.
- Removal of demolition debris and material to appropriate offsite disposal/recycling facilities.



## 2.1 DEMOLITION SEQUENCE

The Owner proposes to demolish the building starting from the south end and work their way to the north end of the building.

- The demolition will start with the south-west corner
- Demolish the exterior wall with "Caterpillar 320" excavator (or equivalent) and simultaneously lower the roof deck proportionately working south to north
- Segregate the demolition material such as masonry, wood debris, metals and load in semi-end dump trucks.
- Lower the structural elements inward the building using a "Caterpillar 320" excavator (or equivalent).

- Machines are not to travel on adjacent properties unless permission has been granted.
- The roof and walls of the adjacent building (east of the property) will be protected with plywood in the event that any debris falls on the adjacent building.
- The owner will be responsible to make any repairs caused by the demolition.

## **2.2 WORK HOURS AND SCHEDULE**

Demolition activity shall be conducted between 7:00 a.m. and 7:00 p.m., for the duration of the project. Demolition work is expected to take approximately 1 week.

## **2.3 EQUIPMENT/MATERIAL STAGING AND PARKING**

Vehicle and equipment parking will be located immediately south of the building along the back alley. The site will be fenced to control access by the public. As work progresses from the back of the building to the front (north), the road will be fenced to control traffic.

## **2.4 DEBRIS/STOCKPILE STAGING**

Debris will be segregated on-site and immediately placed in semi-end dump trucks for hauling to an appropriate disposal site.

## **2.5 HAUL ROUTE / ESTIMATED VEHICULAR TRAFFIC**

Debris that is being disposed of in the Town's landfill site, will utilize the Portage Avenue route, off of the rear alley behind the building, and will proceed down 8<sup>th</sup> street and McIrvine road to the landfill site.

## **3.0 HEALTH AND SAFETY**

The Owner shall consider safety and the prevention of accidents an integral part of their operation. Under Federal, Provincial and local laws, the Owner is responsible to provide a safe working environment, and to protect life, health and safety of any on-site personnel. Although providing safe working conditions is primarily a management responsibility, safety and accident prevention can be accomplished only through coordinated efforts of all on-site personnel. If the task or service being undertaken cannot be done safely, the Owner shall discontinue work until proper controls can be established.

The proposed demolition will comply with all aspects of the Site Specific Health and Safety Plan and particularly as follows:

- All overhead and underground services will be disconnected and verified to be clear prior to demolition of each building
- Watering of building during demolition activities is required on dry days that potentially can create dust. This is understood and will be practiced by site personnel.

- All the workers have been informed and are required to wear appropriate personal protection equipment for dust control measures during all the demolition activities.
- All hazardous/designated wastes are to be removed from the building prior to demolition. All demolition activities will be conducted with the safety, health and welfare of workers as a priority.
- Partially demolished and unstable parts of the building will not be left standing overnight as a precaution for the safety of any authorized persons who may enter the site when it is occupied.
- All workers have been informed and are required to wear appropriate personal protection equipment on-site. Any additional tasks requiring special lifting devices will be conducted only by trained personnel wearing appropriate fall protection.
- All demolition activities are to be supervised by experienced personnel that will ensure safe demolition activity at all times.
- The site shall be secured all hours of the day to prevent unauthorized access in order to protect the public during unsupervised hours.

Finally, please be advised that we will follow up with any required inspections during the demolition of the building.

## **4.0 DEMOLITION ACTIVITIES**

### **4.1 PRE-DEMOLITION SURVEY AND HAZARDOUS MATERIAL ABATEMENT**

The Owner has indicated that they will proceed with their own Pre and Post demolition survey reports for the adjacent building.

The building does not appear to contain any known hazardous material. However, if any hazardous material is found during the demolition it is the Owners responsibility to undertake the removal in a manner that abides to all pertinent safety and disposal regulations.

### **4.2 GENERAL DEMOLITION ACTIVITIES**

In general, the tasks will include a variety of procedures. The most important aspect in the development of these procedures will be the safe conduct of the work. The Owners procedures will limit the use of labor to the most controlled and safe conditions and rely upon mechanized means of removal wherever possible. Excavators equipped with concrete breakers, concrete munchers, grapples, and other modern hydraulic demolition tools and attachments will be utilized. Wherever possible, large structures will be removed to ground level using mechanized means. Subsequent sizing of scrap materials such as steel and rebar and other material processing activities will take place at grade level, hauled offsite and recycled accordingly.

General building/structure demolition will be conducted in a manner that does not interfere with or encroach upon the existing surrounding pedestrian and vehicular traffic during normal activities. Contractor will provide fencing around the project site and will work within the confines of the site fencing whenever possible. However, depending upon site and structure conditions, alternative methods of demolition and alternative types of equipment may be used to ensure the safest and most efficient means of operation. This may involve modification of



the site fencing from time to time in order to complete the demolition activities. This will always be coordinated with the Property owner in advance.

## **5.0 PRE-STRUCTURAL DEMOLITION ACTIVITIES**

The building shall be enclosed with temporary fence or/and hoarding as required; further, the following should be noted:

- Provide exterior traffic control and signage as required
- Disconnect and remove all the underground and above ground service prior to demolition
- No machinery or personal will be under the portions of the buildings being demolished

The Owner plans to salvage any contents inside the building that is deemed in good working order. As for the remaining material the Owner may use Bobcat-type skid steer loaders and/or hand labor to remove all soft debris that is not easily separated.

## **6.0 MATERIAL RECYCLING AND DEMOLITION DEBRIS DISPOSAL**

There will be a fair amount of recycling that will be undertaken as part of the demolition. The Owner plans to recycle as much as possible. As for non-recycled material, the owner will load all non-hazardous waste material into semi-end dumps and will haul it to the Town's landfill site at the appropriate location for each material type (ie. wood, metals, etc.). If hazardous materials are found they will be removed from the building and disposed of at a licensed hazardous waste disposal site.

## **7.0 DUST CONTROL MEASURES**

Dust control will be considered an important part of the overall project. If deemed necessary the Owner will utilize a water truck and/or fire hose attached to a local hydrant during demolition operations. The Owner will direct a localized fine water spray to the source of demolition activities, as required, thereby reducing airborne dust particles. To minimize the run-off of water, the water supply will be used only when necessary. A proper backflow device will be installed at the hydrant locations, if utilized.



## SITE PLAN AGREEMENT

**THIS AGREEMENT** made this \_\_\_\_ day of December 2018.

B E T W E E N:

Good Day Wholesalers (Crozier)  
Ltd (the "Owner")

- and -

The Corporation of the Town of Fort Frances  
(the "Municipality")

### WHEREAS:

- A. The Owner has represented to the Municipality that the Owner is the registered and beneficial owner of the lands and premises (the "Lands") legally described in **Schedule 1** hereto;
- B. The Owner wishes to construct and develop, in and on the Lands or a portion thereof, a demolition of an existing building and paving for parking lot (herein sometimes referred to as the "Development" or "Proposed Development");
- C. By an application dated October 1, 2018, the Owner applied to the Municipality for site plan approval in respect of the Proposed Development;
- D. The Municipality provided approval of the Application in respect of the Proposed Development subject to certain conditions;
- E. The Owner has submitted to the Municipality the Plans and Drawings (as "Plans and Drawings" are defined in paragraph 3 of this Agreement) in respect of such Proposed Development by the Owner of the Lands; and
- F. s. 41(10) of the Planning Act (as "Planning Act" is defined in paragraph 3 of this Agreement) (the "Planning Act") permits the registration of this Agreement against the Lands.

NOW THEREFORE THIS AGREEMENT WITNESSETH THAT in consideration of the mutual covenants hereinafter expressed and other good and valuable consideration, the receipt of which is hereby acknowledged, the Owner and the Municipality (collectively the "Parties", individually a "Party") hereto agree one with the other as follows:

### The Lands

- 1. The Lands affected by this Agreement are as follows: the lands and premises municipally described as 335 Scott Street, more particularly described in **Schedule 1** attached hereto.

### Schedules

- 2. The following Schedules are attached hereto and form part of this Agreement:
  - (a) **Schedule 1** being a description of the Lands affected by this Agreement;
  - (b) **Schedule 2** being a Solicitor's Certificate of ownership of the Lands, which certificate shall be provided to the Municipality within 10 days of the request by the Municipality therefor;
  - (c) **Schedule 3** being a schedule of financial obligations of the Owner payable upon execution of this Agreement or as otherwise provided;
  - (d) **Schedule 4** being a list of the Plans and Drawings (as "Plans and Drawings" are defined in paragraph 3 of this Agreement) as filed by the Owner with the Municipality as may be, with the approval of the Municipality, revised at any time and from time to time;
  - (e) **Schedule 5** being a schedule of letters of credit (which shall be in form and substance satisfactory to the Municipality) to be obtained and filed with the Municipality by the Owner on or before execution of this Agreement; and
  - (f) **Schedule 6** being a schedule for the release/reduction of letters of credit by the Municipality to the Owner.

## Definitions

### 3. In this Agreement:

- (a) "Agreement" means this Agreement and any Schedules referred to in it or attached to it, as may be amended from time to time. The recitals to, and the Schedules attached to this Agreement shall be considered integral parts of it.
- (b) "Construction Lien Act" means the Construction Lien Act, R.S.O. 1990, c. C.30, as amended, including successor legislation.
- (c) "Municipal Act" means the Municipal Act, 2001, S.O. 2001, c.25, as amended, including successor legislation.
- (d) "Person" means an individual, association, partnership, syndicate, firm, organization, foundation, trust, estate, governmental authority, corporation, trustee, agent, or any other entity, and the heirs, administrators, executors, assigns and other legal representatives of any such person to whom the context may apply according to law.
- (e) "Planning Act" means the Planning Act, R.S.O. 1990, c. P.13, as amended, including successor legislation.
- (f) "Plans and Drawings" means the plans and drawings (and any accompanying materials) referred to in **Schedule 4** of this Agreement. The Parties acknowledge that, from time to time, the Plans and Drawings may, with the prior written acceptance of the Municipality, be revised, and if the Municipality provides its acceptance for any revision wherever there is, in this Agreement, any reference to Plans and Drawings, such reference shall be and be deemed to be to the Plans and Drawings so revised with the prior acceptance of the Municipality, and any and all obligations, responsibilities, and otherwise of the Owner to construct or otherwise under or pursuant to this Agreement shall be deemed to reference, apply, and have regard to (and the Owner shall follow and adhere to), the Plans and Drawings so revised.

The Owner shall, further:

- (i) obtain, from any and all authorities having jurisdiction, any and all approvals required for any proposed revision to Plans and Drawings or to any changes to design, construction, and otherwise as may be shown or contemplated therein and thereby; and
- (ii) when submitting and making application to the Municipality in respect of revisions to any and all Plans and Drawings, include with such application any and all approvals applicable or required to be obtained from any and all authorities having jurisdiction.
- (g) "Security" means any and all letters of credit, cash, and other security provided or to be provided the Municipality under or pursuant to the provisions of this Agreement in order to guarantee compliance with all conditions and things to be done or performed or caused to be done and performed by the Owner under or pursuant to this Agreement.
- (h) "Works" means any and all buildings, structures, works, services, facilities and matters and otherwise (and whether internal or external to the Lands) referred to or required by or under this Agreement.

## Terms and Conditions - General

### 4. The Owner:

- (a) covenants and agrees to develop the Lands and do, construct, and build all Works, whether internal or external to the Lands in strict compliance with the Plans and Drawings;
- (b) covenants, warrants, and represents, that the Plans and Drawings submitted to the Municipality have been prepared in a good and workmanlike manner, are accurate in all respects and comply with the requirements of all authorities having jurisdiction;
- (c) acknowledges that the Owner's application is on the basis of a proposal for the Proposed Development, namely the construction, development, and completion, in accordance with the terms and conditions contained in this Agreement of a motor vehicle services station. The Owner represents and warrants to the Municipality that no deviations or changes shall be made to the Plans and Drawings and no construction shall take place contrary to such Plans and Drawings, without the prior written approval of the Municipality, except such changes as may be required by the Municipality in order that said Plans and Drawings shall comply with all relevant provisions of the building or zoning or other by-laws or laws of the Municipality, and all regulations or laws of any other authority having jurisdiction;

- (d) covenants and agrees that no work shall be undertaken or performed on, or external to, the Lands except in accordance with the terms of this Agreement;
- (e) acknowledges and agrees that compliance with all applicable laws and regulations applicable, including, without limitation, the Ontario Building Code and the regulations thereunder, and all other applicable laws and requirements of all authorities having jurisdiction, is mandatory;
- (f) covenants and agrees not to convey a part or to further divide the Lands, except in pursuance of the Planning Act or any other similar legislation;
- (g) covenants and agrees that, unless otherwise determined by the Municipality in its sole and unfettered discretion, neither the Owner nor any entity under the authority of the Owner shall be entitled to the issuance of one or more permits to construct or otherwise proceed with any Works or otherwise contemplated under this Agreement until this Agreement has been fully executed and registered on title to the Lands;
- (h) covenants and agrees that it will hold back in its payments to any contractor who may construct services, facilities, or Works or any part thereof, such amounts as may be required under the provisions of the Construction Lien Act. The Owner shall indemnify and save completely harmless the Municipality from and against all claims, demands, actions, causes of action and costs resulting from any construction being performed, by the Owner, its agents and assigns, and any entity acting under the authority of the Owner, and, on demand by the Municipality, the Owner shall take such steps as may be necessary to immediately discharge all liens registered upon or against the Lands, the Works, or otherwise;
- (i) covenants and agrees to retain a professional engineer (the "Engineer") who holds a Certificate of Authorization for municipal engineering applications from the Association of Professional Engineers of Ontario to prepare such design of grading, site and external servicing plans, municipal service connection designs, storm water management, and other reports as may be required by the Municipality to be submitted to the Municipality.

The Engineer shall, prior to the reduction or release of any Security, be required to inspect and certify to the Municipality that all Works have been constructed in accordance with the Plans and Drawings. The certificate, or certificates, shall be in a format acceptable to the Municipality in its sole and unfettered discretion;

- (j) covenants and agrees not to permit occupancy of any building or part thereof for which building permits have been issued until:
  - (i) all Works required under this Agreement are completed in accordance with the requirements of the Ontario Building Code, the applicable zoning by-law and any other municipal by-laws and all other applicable law and requirements of all authorities having jurisdiction;
  - (ii) all water and sanitary sewer infrastructure has been properly tested, approved by all authorities having jurisdiction, and are operating in accordance with the conditions established by the Municipality; and
  - (iii) an occupancy permit has been issued.

To ensure compliance with this paragraph 4(j) of this Agreement, the Owner covenants and agrees that the Municipality may draw upon any Security the Owner has provided to the Municipality if, in the opinion of the Chief Building Official of the Municipality, a building or part thereof is occupied contrary to the said provision.

In the event that a building or part thereof is occupied otherwise than in accordance with the provisions of this paragraph 4(j) of this Agreement, the Owner covenants and agrees that the Municipality shall be entitled to obtain an order from a court of competent jurisdiction prohibiting the occupancy of any building or part thereof until such time as the terms of this Agreement have been fully complied with, and the Owner shall be stopped from opposing such application on the part of the Municipality;

- (k) that the Municipality shall be entitled, in its sole and unfettered discretion and at the sole cost and expense of the Owner, to retain the services of an independent qualified engineer to review all documentation submitted to the Municipality by the Owner and to conduct necessary inspections and otherwise of and in respect of the Works; and
- (l) that once all Works required to be provided, constructed, or installed by it that are internal to the Lands under the terms of this Agreement have been completed to the satisfaction of the Municipality, and in accordance with all Municipal specifications, the laws and requirements of all authorities having jurisdiction, and in a good and workmanlike manner, the Owner shall maintain such Works in accordance with the requirements of all authorities having jurisdiction until this Agreement is amended to provide otherwise or is otherwise released from title to the

the Lands. In the event that any of the internal Works are not being maintained in accordance with all applicable laws and requirements of all authorities having jurisdiction, or if the Owner is otherwise in default of this Agreement, the Municipality may, on written notice to the Owner, require the Owner to comply with the terms of this Agreement.

5. The Municipality may, by its agents, officers, employees, assigns, contractors, subcontractors, and other representatives and other Persons howsoever engaged by it, from time to time enter in and on the Lands or any part thereof as well as any building(s) erected thereon to ensure that any Works required to be provided, constructed, or installed by the Owner comply with this Agreement.
6. The Owner covenants and agrees as follows:
  - (a) Not to foul the highways leading to the Lands and to provide on all construction accesses leading to the Lands, an interim granular surface to prevent mud or dust from fouling any roads.
  - (b) Not to permit any approach ramps and driveways across the untraveled portion of any road allowance owned by the Municipality unless such approach ramps and driveways are constructed and installed to the Municipality's specifications.
  - (c) To install curbing to the Municipality's specifications along the approach ramps between the property line and the street, and at all locations shown on the Plans and Drawings.
  - (d) To provide fire access route signs, to locate such number of fire hydrants and size of watermains as approved by the Municipality and to satisfy any and all requirements of the Municipality's Fire Chief or the Fire Chief's designate at the Owner's sole cost and expense.
  - (e) To ensure, provide, and maintain, a proper plan with regard to ambulance and other emergency response and related measures and services.
  - (f) To ensure, provide, and maintain a proper access route for fire, ambulance, and other emergency response and related measures and services.
  - (g) To pave with asphalt or concrete all parking, loading, and walkway areas on the Lands to the Municipality's requirements and specifications. No parking or loading zone shall be permitted on any of the Lands unless all areas for which parking and loading are permitted are paved. All handicapped parking spaces shall be so identified with appropriate signage to the satisfaction of the Municipality. All parking and loading areas shall be constructed and maintained to the Municipality's satisfaction.
  - (h) To design, install, and maintain, in accordance with the Plans and Drawings, light standards, fixtures and illumination devices to adequately illuminate the Lands but to also prevent the spread of light onto other properties or onto public highways.
  - (i) To complete and maintain landscaping and planting on the Lands in accordance with the Plans and Drawings.
  - (j) Not to permit any refuse, junk, debris or other material to be deposited on any lands, school lands, or park lands in the area, and that any such refuse, junk, debris, or other material will be removed from the Lands at the expense of the Owner. If the Owner fails to remove the aforesaid material within a period of 48 hours from the time of delivery of written notice to the Owner, the Municipality may enter the Lands and remove the said material and the Owner shall pay for all costs and expenses incurred by the Municipality and the Owner further agrees that the Municipality shall be entitled to charge same against, and take any such costs and expenses from, any Security.
  - (k) To design, prior to construction, a waste management system for the collection, storage, and disposal of waste and recyclable materials, to implement such system and to maintain same following occupancy of the Proposed Development to the satisfaction of the Municipality.
  - (l) To provide internal recycling and garbage areas sufficient to contain the required number of containers and materials.
  - (m) To convey to the Municipality any easements or land (if any) required by the Municipality for the construction, maintenance and improvement of watercourses, ditches, and land drainage works, sewage facilities, and other public utilities.
  - (n) To obtain written confirmation from the appropriate Persons that all utility requirements for the Lands (including but not limited to telephone, telecommunications, hydro-electric power, gas, and postal services), have been satisfactorily arranged and installed, that servicing for same will be provided without any expense, cost, or obligation on the part of the Municipality, and that all requisite documents and otherwise have been or will be provided to such Persons.

- (o) To design, obtain approval in respect of, construct, install, and maintain, in accordance with all design and approval requirements of all authorities having jurisdiction and the Plans and Drawings, proper water, sewer, and drainage, systems and facilities, and to indemnify and save harmless the Municipality from actions, claims and suits whatsoever, which may arise out of the implementation or lack of maintenance thereof.
- (p) To implement and monitor on-site sediment and erosion control measures during construction of the Proposed Development, to the satisfaction of the Municipality and to allow the Municipality and its employees and agents, in perpetuity, access to the Lands to inspect roof drains, inlet control devices, and water and sewer management facilities.
- (q) To provide regular removal of snow from the site and that the parking spaces and landscaping areas will not be used for the stockpiling of snow.
- (r) To provide an environmental clearance certificate certified by a professional engineer or equivalent to the Municipality that all lands to be conveyed to the Municipality under this Agreement are environmentally suitable for their proposed use in accordance with any laws or guidelines from the Ministry of Environment or successor branch or agency (herein, "MOE").
- (s) to file with and provide to the Municipality, forthwith upon:
  - (i) completion of any buildings in or on the Lands, 2 complete hard copy sets of as built drawings for the buildings;
  - (ii) completion of any services, works, or facilities (including, without limitation, any utility infrastructure), 2 complete hard copy sets, and one complete electronic set, complete with UTM coordinates, of as built drawings for all such services, works, and facilities installed or constructed pursuant to and in accordance with this Agreement, and whether internal or external to the Lands; and
  - (iii) completion of the Proposed Development, 2 copies of survey and survey/real property reports prepared by and Ontario Land Surveyor complete with UTM coordinates;
- (t) To provide, during all hours of construction, competent on-site supervision of all Works required to be done on all public and private lands and building or other construction to be undertaken in or on the Lands.
- (u) To erect proper gates, signs, and protections surrounding or in respect of the Works and any construction on the Lands and to maintain same until final completion of construction.
- (v) That no antennae or associated equipment will be permitted on the roof and that all roof-top equipment shall be adequately screened from view to the satisfaction of the Municipality.
- (w) To ensure to get locates, and to verify the location of all existing and proposed utility infrastructure (including, without limitation, infrastructure relating to sewer, water, natural gas, hydro, cable, and other utilities), and whether such utility infrastructure is internal or external to the Lands, before commencing any digging or construction. The Owner shall be solely responsible for and pay all costs and expenses associated with any damage to any utility infrastructure and the relocation of any and all utilities as may be required. In the event of damage to any utility infrastructure by the Owner or its agents, assigns, employees, contractors, subcontractors, or other representatives or Persons howsoever engaged, or relocation of any utility infrastructure is, in the Municipality's sole discretion, required, the Municipality shall, in addition, without limitation and without prejudice to any and all other remedies that may be available to the Municipality in law or equity, be entitled, on written notice to the Owner (except in cases of emergency, in which case no notice shall be required), to require the Owner to comply with the terms of this Agreement and draw on, and utilize, the Security as the Municipality deems fit to pay for any and all costs, expenses, and damage, and costs of relocation, from the proceeds so drawn.
- (x) To make all necessary arrangements and to be solely responsible for the costs and expenses of removing and relocating any existing municipal or public services requiring relocation in the course of, or in connection with, the construction, installation or provision of the Works or otherwise required under this Agreement.
- (y) To comply with all provisions of the Municipality's noise by-law.
- (z) To provide the opportunity for ongoing and final site/Works inspection, monitoring, and testing (including, without limitation, prior to and during construction and material delivery, testing, or compaction) as required by the Municipality.

7. The Owner covenants and agrees to provide, arrange for, construct, install, and pay for all Works required to be provided, constructed, or installed by it that are internal to the Lands under the terms of this Agreement to the satisfaction of all authorities having jurisdiction, and in accordance with all municipal requirements and specifications, and

a good and workmanlike manner.

In the event of any of such internal Works not being or having been so constructed, installed, repaired, or if the Owner is otherwise in default of this Agreement, the Municipality shall, without limitation and without prejudice to any and all other remedies that may be available to it, be entitled, on written notice to the Owner (except in cases of emergency, in which case no notice shall be required), to:

- (a) require the Owner to comply with the terms of this Agreement; and
- (b) do or cause to be done whatever the Municipality deems necessary for or to ensure compliance with this Agreement (including, without limitation, the right to install, construct, and maintain any and all such Works)

all at the Owner's sole cost and expense, and to recover any and all costs and expenses (including, without limitation, all legal and related costs) expended or incurred by the Municipality in doing so, and draw on, and utilize, the Security as the Municipality deems fit to ensure, require, and complete, compliance, and pay all costs and expenses incurred thereby from the proceeds so drawn.

8. Notwithstanding any review (if any) or otherwise by the Municipality of the Plans and Drawings, and anything contained in this Agreement or otherwise, it is and shall throughout be and at all times remain the responsibility and liability of the Owner to ensure that all Plans and Drawings and any other documents provided by the Owner to the Municipality are accurate in all respects and comply with all provisions of the building or zoning or other by-laws of the Municipality and laws, regulations, and requirements of all authorities having jurisdiction, and the Municipality shall not, whether by or as a result of any review done by the Municipality of the Plans and Drawings, or any other action or non-action taken by the Municipality have any responsibility or liability to the Owner in respect thereof nor be deemed to have approved or confirmed that the Plans and Drawings are accurate in any respect or at all or comply with the provisions of the building or zoning or other by-laws of the Municipality or regulations, laws, or requirements of any other authority having jurisdiction.

The Owner is aware that, given the Municipality's staffing, budgeting, and other limitations, and considerations and the obligations of the Owner to ensure the provision of information and Plans and Drawings, which is complete and in compliance with the requirements of all authorities having jurisdiction, the Municipality may undertake a limited or cursory review of the Plans and Drawings, relying, as the Municipality does, on the Owner to ensure completeness and compliance.

#### Terms and Conditions - Other

9. The Owner acknowledges and confirms that, to the best of their knowledge and belief, there are no conditions known to them or any of them of or relating to the Lands (whether or not objected to by any authority with jurisdiction with respect to the same) which would adversely interfere with or derogate from, the uses to which Lands are presently put or the uses to which the Owner proposes to put the Lands, including, without limitation, the existence of any environmental hazard or other substance, material or contaminant of the soil or groundwater or any constituent element thereof causing or which would cause environmental contamination or concern.
10. (a) The Owner covenants and agrees to provide, arrange for, construct, install, and pay for the following Works external to the Lands, namely:
- (i) to repair and restore to the satisfaction of the Municipality any grounds, fences, and any other works, services, facilities, and otherwise, dug up or damaged during or as a result of the construction or execution of the Proposed Development; and
  - (ii) any and all Works shown on or spoken to in the Plans and Drawings as being external to the Lands, including, without limitation:
    - (A) the water, storm sewer, and sanitary sewer infrastructure to the property line of the Lands;
    - (B) concrete driveway approaches as shown on the Plans and Drawings; and
    - (C) hydro-electric power, gas, telephone, and other public utility requirements for the Proposed Development.
    - (D) the existing foundation slab at 335 Scott Street, if not demolished prior to grading of the land, sandbagging be installed to stop any debris or water to affect neighboring lands owned by the Town of Fort Frances and/or private neighboring properties until demolished
    - (E) as per the Zoning By-Law 03/14, parking lot surface completion to be finalized by November 1, 2019

- (F) the storm water on the property to be graded to the center of the property (325/335 Scott Street) and flow 1/3 to the North toward Scott Street entrance and 2/3 to the South toward the alleyway catch basin.
- (b) The Owner acknowledges that notwithstanding that the above-noted Works may be external to the Lands, it derives a direct benefit from the provision, construction, and installation of such Works and that the Proposed Development proposed hereunder could not be accommodated without the existence of such Works.
- (c) The Owner covenants and agrees to construct or install all Works required to be provided, constructed or installed by it that are external to the Lands under the terms of this Agreement to the satisfaction of the Municipality and any other authority having jurisdiction, and in accordance with all municipal specifications, and in a good and workmanlike manner. The Owner guarantees the workmanship and materials for the construction and installation of the external Works and to maintain same free of defects for a period (in this Agreement sometimes referred to as the "Guarantee and Maintenance Period") of one (1) year from the date of certification by the Municipality of completion thereof. The Owner covenants and agrees that it shall promptly and properly repair all defects in any and all such external Works to the complete satisfaction of the Municipality.

In the event of any of such external Works not being or having been provided, constructed, installed, repaired, or maintained to the satisfaction of the Municipality, or if the Owner is otherwise in default of this Agreement, the Municipality shall, without limitation and without prejudice to any and all other remedies that may be available to it, be entitled, on written notice to the Owner (except in cases of emergency, in which case no notice shall be required), to:

- (i) require the Owner to comply with the terms of this Agreement; and
- (ii) do or cause to be done whatever the Municipality deems necessary for or to ensure compliance with this Agreement (including, without limitation, the right to install, construct, and maintain any and all such Works)

all at the Owner's sole cost and expense, and to recover any and all costs and expenses (including, without limitation, all legal and related costs) expended or incurred by the Municipality in doing so, and draw on, and utilize, the Security as the Municipality deems fit to ensure, require, and complete, compliance, and pay all costs and expenses incurred thereby from the proceeds so drawn.

The Owner acknowledges that any action or non-action taken by the Municipality or by anyone on its behalf, including, without limitation, relating to the removal of snow and ice, or sanding, or cleaning of any roads, or permitting the connection of additional services to any of the external Works herein required to be constructed or installed, during the Guarantee and Maintenance Period or otherwise, is without prejudice to the Municipality's right to enforce any and all provisions of this Agreement.

- 11. The Owner covenants and agrees that there will be no blasting conducted in or on the Lands by the Owner.

#### Financial Conditions, Security, and Insurance

- 12. The Owner covenants and agrees to:

- (a) pay to the Municipality, forthwith upon request by the Municipality, for any and all costs and expenses whatsoever of and incurred by the Municipality with regard to the application, the preparation of this Agreement, any other matter or thing relating to the Agreement, and the registration of this Agreement against title to the Lands, and including, without limitation, all legal/lawyers fees and disbursements, engineers/engineering fees and disbursements, planning/planners fees and disbursements, Municipal staff time, notice, application, advertising, postage, court, land titles, mileage, material, HST as applicable, and any other costs and charges in any way related to the application or this Agreement;
- (b) pay any outstanding taxes (including arrears, interest and penalties) and local improvement charges; and
- (c) pay to the Municipality the Municipality's building permit fee and any other fees and otherwise payable pursuant to the Municipality's User Fees By-law.

- 13. (a) In order to guarantee compliance with all conditions contained herein, the Owner



covenants and agrees to file and maintain with and for the benefit of the Municipality, on the execution of this Agreement, (a) letter(s) of credit (collectively, the "Letter of Credit") in the amount set out in **Schedule 5** attached hereto. The Letter of Credit shall be in a form satisfactory to and approved by the Municipality, and the Owner covenants and agrees that the Letter of Credit shall be kept in full force and effect and that it will pay all premiums as the said Letter of Credit become due or until such time as set out in **Schedule 6** attached hereto.

- (b) The Owner hereby acknowledges and agrees that should there be a deficiency in or failure to carry out any Works, matter, or thing required under or by this Agreement, and the Owner fails to comply, within 30 days written notice (except in an emergency situation or other exigent circumstances requiring immediate response, in which case verbal notice less than 30 days shall be deemed sufficient) with a direction to carry out such work, matter, or thing, the Municipality shall be entitled to (in addition and without limitation and without prejudice to any and all other remedies that may be available to the Municipality in law or equity), without limitation, draw on the Letter of Credit or any of it to the extent necessary and complete all outstanding work, matters, and things, enter onto the Lands as necessary for any and all such purposes, and pay all costs and expenses incurred thereby from the proceeds so drawn.
  - (c) The Owner hereby acknowledges and agrees that the Municipality reserves the right to draw on and use the proceeds from the Letter of Credit to complete any Works, matter, or thing required to be done, observed, or performed by the Owner pursuant to this Agreement. The Owner further acknowledges and agrees that, notwithstanding anything contained in this Agreement, in the event that the Municipality determines that any reduction in the Letter of Credit will create a shortfall with respect to securing the completion of any Works, matter, or thing remaining to be carried out, observed, or performed by the Owner pursuant to this Agreement, the Municipality:
    - (i) shall not be obligated to reduce the Letter of Credit until such time as such Work, matter, or thing is satisfactorily completed or the Municipality has sufficient Letter of Credit to ensure that such work, matter, and thing will be completed; and
    - (ii) may request additional letters of credit for such additional amounts as the Municipality determines is necessary to fully secure the completion of any Works, matter, or thing to be or remaining to be carried out, observed, or performed by the Owner pursuant to this Agreement, and the Owner shall and does hereby agree to provide same within 30 days of demand by the Municipality therefor.
  - (d) Wherever in this Agreement a letter of credit is required to be filed with the Municipality, the Owner may deposit with the Treasurer of the Municipality cash or certified cheque in an amount equal to the Letter of Credit and such deposit shall be held by the Municipality as security to be utilized in a like manner as the letters of credit referred to above and otherwise as required or permitted by this Agreement, provided that no interest shall be payable on any such deposit.
  - (e) Notwithstanding anything contained in this Agreement, it is understood and agreed by the Parties that, except as may be otherwise permitted by the Chief Building Official of the Municipality in writing, the Owner shall not commence, undertake, engage in, or continue the Works nor any part of them without first having provided to the Municipality security satisfactory to the Municipality.
  - (f) The Owner acknowledges that upon the transfer of ownership of the Lands, the Municipality will not return any Letter of Credit until the new owner files with the Municipality a substitute Letter of Credit or such other Security as may be permitted in the required amounts.
14. The Owner shall provide or cause to be provided to the Municipality, on or prior to the execution of this Agreement:
- (a) a general comprehensive liability insurance policy in the amount of \$5,000,000.00 per occurrence in a form satisfactory to the Municipality, indemnifying the Municipality from any loss arising from claims or damages, injury or otherwise in connection with any and all Works, things, and matters done by or on behalf of the Owner. The policy shall include but not be limited to bodily injury, property damage, and contractual liability and contain a cross-liability clause and name the Municipality as additional insured. The policy shall be maintained in full force and effect from and after the execution of this Agreement until all Works external to the Lands have been assumed by the Municipality and in any event until the expiry of the Guarantee and Maintenance Period. The policy shall be endorsed to provide 30 days written notice of cancellation to the Municipality. The Owner shall, upon request therefor by the Municipality at any time and from time to time, promptly provide the Municipality with a certificate of insurance in accordance with the above and if requested a certified true copy(s) of the policy(s) certified by an authorized representative of the insurer together with copies of any amending endorsements applicable to this Agreement. In the event that any renewal premium is not paid, the Municipality, in order to prevent the lapse of such liability insurance policy, may pay the renewal premium or premiums and the Owner

agrees to pay the cost of such renewal or renewals within 30 days of the account therefor being rendered by the Municipality. The issuance of such policy of insurance shall not be construed as relieving the Owner from any liability or responsibility for any claims in excess of the aforementioned policy limits. Further, the Owner shall ensure that any contractor and subcontractor engaged to complete the Works or any matters to be done by and/or on behalf of the Owner or otherwise shall maintain the same as or equal insurance as required to be provided and maintained by the Owner hereunder; and

- (b) Professional Liability insurance in the amount of \$5,000,000.00 per claim in a form satisfactory to the Municipality. Such insurance shall provide coverage for all errors and omissions made by the Owner's Engineer and other professionals in the rendering of, or failure to render, professional services in connection with this Agreement, and remain in full force and effect for 12 months after completion of all things and matters to be done by or to be done by or on behalf of the Owner hereunder. Until the completion of all things and matters done by or to be done by or on behalf of the Owner, upon the placement, renewal, amendment, or extension of all or any part of the insurance, the Owner shall promptly provide the Municipality with a certificate of insurance and if requested a certified true copy(s) of the policy(s) certified by an authorized representative of the insurer together with copies of any amending endorsements applicable to this Agreement.

#### Administration

- 15. (a) If any notice is required to be given by the Municipality to the Owner with respect to this Agreement, such notice shall be mailed, delivered or sent by facsimile transmission to:

**Good Day Wholesalers (Crozier) Ltd**  
**325 Scott Street**  
**Fort Frances, ON**  
**P9A 1H1**  
**1-807-274-5504 Fax**  
**1-807-275-5683 Telephone**

or such other address of which the Owner has notified the Municipality in writing.

- (b) If any notice is required to be given by the Owner to the Municipality with respect to this Agreement, such notice shall be mailed, delivered or sent by facsimile transmission to:

The Corporation of the Town of Fort Frances  
320 Portage Avenue  
Fort Frances, Ontario  
P9A 3P9

Attention: Clerk

Facsimile: 807.274.8479

or such other address of which the Municipality has notified the Owner in writing.

- (c) Any notice so given shall be deemed conclusively to have been given and received when so delivered personally or via facsimile, or on the third day following the sending thereof by mail. Any party hereto may change any particulars of its address for notice by notice to other party in the manner aforesaid.
- 16. The Owner hereby agrees that this Agreement, together with any schedules thereto, shall be registered upon title to the Lands at the sole cost and expense of the Owner. The covenants, agreements, conditions and undertakings herein contained on the part of the Owner shall run with the Lands and shall be binding upon it, its successors and assigns as owners and occupiers from time to time and this covenant shall be to the benefit of the Municipality and its lands and highways appurtenant and adjacent to the Lands. The Owner further covenants and agrees to pay to the Municipality the cost of registration of this Agreement, as well as any further costs incurred by the Municipality as a result of the registration of any other documents pertaining to the application and this Agreement.
  - 17. The Owner covenants and agrees, at its own expense, to obtain and register such documentation (collectively, the "Subordination and Postponement Documentation") from its mortgagees, lessees, and encumbrancers and other Persons interested therein or with respect thereto as may be deemed necessary by the Municipality to postpone and subordinate their interest in the Lands to the interest of the Municipality in order to ensure that this Agreement shall take effect and have priority as if it had been executed and registered prior to the execution and registration of the document or documents giving to the mortgagee, lessees, and encumbrancers and other Persons interested therein their interest in the Lands. The Subordination and Postponement Documentation shall be registered on title to the lands immediately after the registration of this Agreement.
  - 18. The Owner acknowledges that the Municipality, in addition to any other remedies it may

have at law or equity, shall also be entitled to enforce this Agreement in accordance with s. 446 and any other applicable provisions of the Municipal Act.

19. Nothing in this Agreement shall relieve the Owner from compliance with all applicable municipal by-laws, laws, regulations, notices, or other policies or laws and regulations established by any other authority having jurisdiction.
20. If the Proposed Development governed by this Agreement is not commenced within 1 year from the date of the execution of this Agreement, the Municipality may, at its sole option and on 60 days notice to the Owner, declare this Agreement null and void and of no further force and effect. Under no circumstances shall the Municipality be obligated to refund any fees, levies, or other charges paid by the Owner pursuant to this Agreement.
21.
  - (a) The part numbers and headings, subheadings and section, subsection, clause and paragraph numbers are inserted for convenience of reference only and shall not affect the construction or interpretation of this Agreement.
  - (b) This Agreement shall be construed with all changes in number and gender as may be required by the context.
  - (c) Every provision of this Agreement by which the Owner is obligated in any way shall be, unless otherwise specifically stated, deemed to include the words "at the sole cost and expense of the Owner" including the payment of any applicable taxes (including, without limitation, HST).
  - (d) References herein to any statute or any provision thereof include such statute or provision thereof as amended, revised, re-enacted or consolidated from time to time and any successor legislation thereto.
  - (e) All obligations herein contained to be performed and observed on the part of the Owner shall, although not expressed to be covenants, be deemed to be covenants.
  - (f) Whenever a statement or provision in this Agreement is followed by words denoting inclusion or example and then a list of or reference to specific items, such list or reference shall not be read so as to limit the generality of that statement or provision, even if words such as "without limiting the generality of the foregoing" do not precede such list or reference.
  - (g) The Owner and the Municipality agree that all covenants and conditions contained in this Agreement shall be severable, and that should any covenant or condition in this Agreement be declared invalid or unenforceable by a court of competent jurisdiction, the remaining covenants and conditions and the remainder of the Agreement shall remain valid and not terminate thereby.
  - (h) Any rule of construction that a document is to be construed more strictly against the Party who itself, or through its agent, drafted such document, shall not apply to this Agreement as it is agreed that the Parties, directly or through their agents, have participated in the preparation of this Agreement.
  - (i) The Owner shall execute any further and other documents and do such further and other things as may be required or desirable to give effect to this Agreement.
22. Neither this Agreement nor any interest therein nor any rights under it shall be assigned or otherwise transferred by the Owner in whole or in part without the prior consent in writing of the Municipality.
23. If the Owner is constituted by or of more than one Person, their obligations hereunder shall be joint and several.
24. The Owner shall indemnify and save harmless the Municipality for and against all actions, causes of action, claims, suits, and demands whatsoever which may or do arise directly or indirectly by reason of, this Agreement, the construction and otherwise of the Proposed Development, or the Owner undertaking the Proposed Development.
25. The Owner agrees to do such further and other things and sign any further documents necessary or desirable to give effect to this Agreement.
26. The failure of the Municipality at any time to require performance by the Owner of any obligation under this Agreement shall in no way affect the Municipality's right thereafter to enforce such obligation, nor shall the waiver by the Municipality of the performance of any obligation hereunder be taken or be held to be a waiver of the performance of the same or any other obligation hereunder at any later time. The Municipality shall specifically retain its rights to enforce this Agreement in such manner as it deems fit.
27. Time shall always be of the essence of this Agreement. Any time limits specified in this Agreement may be extended with the consent in writing of the Parties, but no such extension of time shall operate or be deemed to operate as an extension of any other time limit, and time shall be deemed to remain of the essence of this Agreement notwithstanding any extension of any time limit.
28. The Parties covenant and agree with each other not to call into question or challenge, directly or indirectly, in any proceeding or action in court, or before any administrative

tribunal, the Party's right to enter into and enforce this Agreement. The law of contract applies to this Agreement and the Parties are entitled to any and all remedies arising from it, notwithstanding any provision in s.41 of the Act interpreted to the contrary. The Parties agree that adequate consideration has flowed from each party to the other and that they are not severable. This provision may be pleaded by either party in any action or proceeding as an estoppel of any denial of such right.

29. The Owner understands and agrees that this Agreement and any materials or information provided to the Municipality may be subject to disclosure under the *Municipal Freedom of Information and Protection of Privacy Act* or as otherwise required by law.
30. This Agreement shall be interpreted under and be governed by the laws of the Province of Ontario.
31. This Agreement may be executed in any number of counterparts and all of these counterparts shall for all purposes constitute one agreement, binding on the Parties, notwithstanding that all Parties are not signatory to the same counterpart.
32. This Agreement and everything herein contained shall ensure to the benefit of and be binding upon the Parties hereto and their successors and assigns.

IN WITNESS WHEREOF the Parties hereto have hereunto affixed their corporate seals duly attested to by their proper signing officers in that behalf.

**Wade Adam Friesen**

per \_\_\_\_\_  
Name:  
Title:

per \_\_\_\_\_  
Name:  
Title:

We have authority to bind the corporation

**The Corporation of the Town of Fort Frances**

per \_\_\_\_\_  
Name: R. Avis,  
Title: Mayor

per \_\_\_\_\_  
Name: E. Slomke,  
Title: Town Clerk

We have authority to bind the Municipality

**Schedule 1**

Legal Description of Lands

PLAN ALB E1/2 LOT 358 PCL;8509

**Schedule 2**

Solicitor's Certificate of Ownership

TO: The Corporation of the Town of Fort Frances (the "Municipality")

I, Clint Calder, a Solicitor of Ontario, do hereby certify that Goodday Wholesalers (Crozier) Ltd is the sole registered and beneficial owners in fee simple of the lands and premises legally described as PLAN ALB E1/2 LOT 358 PCL;8509.

I further certify that there are no mortgages or other encumbrances upon the said lands or any part thereof save and except the following: None.

All easements, licenses, and or rights-of-way to be conveyed to the Municipality, if any, will be so conveyed with the consent of all charges and other encumbrancers.

This certificate is given by me to the Municipality for the purpose of having the said Municipality act in reliance on it in entering into this Agreement.

DATED at \_\_\_\_\_, Ontario, this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

\_\_\_\_\_  
Solicitor for the Owner



### **Schedule 3**

#### **Schedule of Financial Obligations of the Owner**

1. Any and all costs and expenses whatsoever incurred by the Municipality with regard to:
  - (a) Application for site plan;
  - (b) Preparation of this agreement;
  - (c) Registration of this Agreement on title and preparation of any and all land titles documentation in relation thereto, all such documentation to be provided to the Municipality for approval prior to registration thereof;
  - (d) All legal / lawyer fees and disbursements;
  - (e) Engineer / engineering fees and disbursements;
  - (f) Planning / planner fees and disbursements;
  - (g) Municipal staff time;
  - (h) All Land title fees and charges;
  - (i) Any other costs or charges in any way related to the application, the development, or this agreement; and
  - (j) HST and any other taxes applicable on or to any of the above.

**Schedule 4**

List of Plans and Drawings  
(Appendix 'A')

Demolition Plans as submitted an attached to agreement.

**\*\*Changes or additional plans and drawings must be submitted to the Municipality for approval. Once approval is granted by the Municipality, the listing of Schedule 4 will be amended.**

**Schedule 5**  
Letters of Credit

Letter of Credit to be provided by the Owner to ensure provision, fulfillment, and completion of the Works and to ensure the Owner's obligations, responsibilities, and otherwise as set out in this Agreement	5% of the project value \$40 000.00 = \$2000.00
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\*\* If project value changes, then Letter of Credit value will be amended accordingly.

## **Schedule 6**

### **Reduction or Release of Security**

#### **Application for Reduction of Securities**

1. Prior to the reduction or release of any portion of the Letter of Credit security held by the Municipality for the Works, facilities and matters set out in this Agreement, the Owner shall supply the Municipality with the following documentation:
  - (a) letter of application for reduction/release;
  - (b) the consultant's certificate confirming that services completed;
  - (c) as-constructed drawings;
  - (d) satisfactory evidence of no construction liens filed;
  - (e) workplace safety certificate;
  - (f) statutory declaration as to accounts;
  - (g) surveyor's certificate and real property report(s); and
  - (h) composite utility plan.
2. Upon receipt by the Municipality of all the documents identified in paragraph 1 of this Schedule 7, and confirmation by the Municipality that all obligations as set out in the Agreement on the part of the Owner to be observed and performed have been so observed and performed to the satisfaction of the Municipality, the Municipality agrees to permit the reduction of the Letter of Credit by ninety percent (90%).
3. Upon the satisfactory completion of the Maintenance period noted in paragraph 13 of the Agreement, and the receipt by the Municipality of all the documents identified in paragraph 1 of this Schedule, and confirmation by the Municipality that all obligations as set out in the Agreement on the part of the Owner to be observed and performed have been so observed and performed to the satisfaction of the Municipality, the Municipality agrees to permit the reduction of the Letter of Credit to zero and thereupon release or return the Letter of Credit to the Owner or to the issuing financial institution.
4. The Municipality shall not be required under any circumstances to refund the Letter of Credit or any part of it utilized by the Municipality as a result of any failure on the part of the Owner to perform and observe, to the satisfaction of the Municipality, any or all obligations as set out in the Agreement on the part of the Owner to be observed and performed.