

OFFER TO PURCHASE

(the "Agreement")

CANADIAN TIRE REAL ESTATE LIMITED

1. OFFER

CANADIAN TIRE REAL ESTATE LIMITED (the "Purchaser") hereby offers to purchase from THE CITY OF MOOSE JAW (the "Vendor" or the "Municipality"), certain lands as hatched and described in Schedule "B1" (the "Property") to comprise approximately a total of 11.95 acres more or less, in and derived from that certain parcel of land as legally described in Schedule "A" and outlined in red in Schedule "B" (the "Parcel") situated in the City of Moose Jaw, in the Province of Saskatchewan. The Vendor is retaining lands from and in the Parcel that are shown and described in Schedule "B1" (the "Retained Lands"), subject to the Purchaser's right in Section 26 below to purchase a portion of such Retained Lands that are crosshatched and described in Schedule "B2" (the "ROFR Lands").

Included with the Property (and collectively referred to here as the "Collateral Services"), and included in the Purchase Price, as hereinafter set forth, are:

- (a) the Vendor, at the Vendor's expense, causing and completing (or causing to be completed) both:
 - (i) the subdivision of the Parcel to create the Property in accordance with the formal subdivision plan prepared in accordance with the Subdivision Approval (the "Subdivision Plan") which, upon registration at the Information Services Corporation of Saskatchewan ("ISC"), will result in a severance of the Property from the Parcel and the creation of a separate certificate of title to for the Property which is substantially shown outlined in Schedule "B" (the "Subdivision"); and
 - (ii) if necessary, the redesignation of the Property to **C3 Vehicle-Oriented Commercial District** zoning (the "Redesignation");
- (b) the Vendor paying for (or causing the payment for) all costs as required by the appropriate approving governmental authority (the "Authority"), inclusive of off-site levies, all acreage assessments, all application and registration costs relating to such subdivision, providing all municipal reserve dedications, any other reserves and dedications (or cash-in-lieu, or the case may be without deferral) and development levies payable upon development of the property and in relation to the items referred to in Paragraphs 1(a)(i) and 1(a)(ii) of this Agreement including paying all sums to developers to whom there are endeavours to assist given by the Authority in relation to the Property (or its development), and providing, all rights-of-way and easements as may be required to permit such subdivision;

- (c) the Vendor, at the Vendor's expense, installing or causing the installation of all utility and service connections, specifically being sanitary sewer, storm sewer, water, electrical supply, natural gas supply and telephone and telecommunication services to one point two (1.2) meters inside the property line of the Property as and where determined pursuant to Schedule "C" in the approximate location as shown in Schedule "C1", and available to the Purchaser for connection to the Property without fee or contribution to the cost of such services, as same are described in Schedule "C" in the approximate location as shown in Schedule "C1" (such utilities and services being called herein the "**Utilities**"); and
- (d) the Vendor, at the Vendor's expense, installing or causing the installation of the elements of infrastructure, specifically being all of those "off site" requirements, roadways, roadway widening, traffic control devices (including signalized intersection as more particularly shown on Schedule "C1"), curbs and curb cuts, and any easements, and right-of-way for the development and operation of the facilities on the Parcel, only to the extent that same are described in Schedule "D" and as shown on Schedule "C1" such easements are to be a minimum of five point five (5.5) meters on either side of the infrastructure line identified in blue on Schedule "C1". In the event the City of Moose Jaw in its capacity as the Authority or Municipality requires any additional infrastructure in the nature of roadways, roadway widening, traffic control devices, curbs and curb cuts, then the Vendor shall be responsible, at its expense, to complete those elements as well (collectively, such elements of infrastructure being called the "**Infrastructure**" herein).

All Schedules in this Agreement shall form an integral part of this Agreement and any agreement arising from this Agreement.

2. **PURCHASE PRICE**

The purchase price of the Property (including all of the Collateral Services) shall be THREE MILLION ONE HUNDRED SEVENTY TWO THOUSAND SEVEN HUNDRED AND TWENTY FIVE DOLLARS (\$3,172,725.00) (the "**Purchase Price**"), calculated at Two Hundred Sixty Five Thousand Five Hundred Dollars (\$265,500.00) per acre, (subject to readjustment as hereinafter provided), and payable as follows:

- (a) an initial deposit (the "**First Deposit**") in the amount of \$50,000.00 by cheque to the Purchaser's solicitor, Bennett Jones LLP, 4500 Bankers Hall East, 855 - 2nd Street SW, Calgary, Alberta T2P 4K7 Attention: Alixe Cameron (the "**Purchaser's Solicitor**") shall be paid within ten (10) days of the acceptance of this Agreement by the Vendor, to be held by the Purchaser's Solicitor in trust, and released in accordance with this Agreement;
- (b) a further deposit (the "**Second Deposit**") in the amount of \$200,000.00 by cheque to the Purchaser's Solicitor, shall be paid within ten (10) days of the satisfaction or waiver, as the case may be, of the last of the conditions set out in Subsection 6(b) to be held by the Purchaser's Solicitor in trust, and released in accordance with this Agreement; and

- (c) the balance upon Closing and completion of the transaction contemplated by this Agreement.

The First Deposit and the Second Deposit (together the "**Deposits**") will be held by the Purchaser's Solicitor in trust (and if available, invested in a term deposit issued by a Canadian chartered bank), pending completion or other termination of this Agreement and to be credited on account of the Purchase Price on Closing.

In the event the purchase herein is completed by the Purchaser, any interest earned on the Deposits shall be credited to the Purchaser on account of the Purchase Price, but in the event the purchase is not completed by the Purchaser by reason of the non-fulfillment of the conditions as hereinafter contained or by reason of the default of the Vendor, the Deposits shall be returned to the Purchaser without deduction but with interest on the Deposits as aforesaid.

In the event that the Purchaser fails to complete the purchase herein contemplated after all conditions have been waived or satisfied, as the case may be, the Deposits shall be paid to the Vendor on demand together with all interest earned thereon, as a genuine and honest pre-estimate and in full satisfaction of all of the Vendor's losses and damages, and shall be the sole recourse of the Vendor.

3. **SUBDIVISION AND REDESIGNATION**

The Purchaser and the Vendor acknowledge and agree that this Agreement is and shall be subject to the true condition precedents that the Vendor obtains (or causes to be obtained) the Subdivision and that, if required, the Vendor applies for and obtains the Redesignation, and it is particularly agreed that:

- (a) the Vendor represents that the Property is or will at Closing be zoned or designated as **C3 Vehicle-Oriented Commercial District**, provided that if this representation is wrong, the Vendor will cause the Redesignation of the Property in accordance with Paragraph 1(a)(ii) hereof;
- (b) the Vendor will be responsible to obtain (or cause to be obtained) the approval of the Municipality to create a separate title to the Property (both preconditions and conditions subsequent to Subdivision) (the "**Subdivision Approval**");
- (c) the Vendor, will be responsible to obtain (or cause to be obtained), if necessary, the Redesignation to the Property (both preconditions and conditions subsequent to Subdivision) in compliance with the requirements of Subsection 1(a);
- (d) the Vendor shall be responsible to ensure that all conditions of the Subdivision Approval as contemplated by this Agreement and the Redesignation are satisfied to enable the development of the Property as explicitly set out in this Agreement, and including without limiting the generality of the foregoing, the payment of the items referred to in Subsection 1(b) of this Agreement;

- (e) the parties acknowledge and agree that the Subdivision Plan shall be consistent with the plan set out in Schedule "B";
- (f) the Vendor hereby authorizes the Purchaser to make any and all applications, as the Purchaser considers prudent or necessary, to apply for a development permit for the Property as contemplated in this Offer;
- (g) the Vendor shall act duly and diligently to obtain the Subdivision and the Redesignation as provided above;
- (h) if the Subdivision is approved by the Authority with the Property area being less than eleven point five (11.5) acres in net developable area, Subdivision shall, at the Purchaser's option, be deemed and considered to have not been obtained for the purposes hereof; and
- (i) the Vendor shall keep the Purchaser fully and regularly advised of the progress in the Vendor's applications for Subdivision and Redesignation.

Notwithstanding anything expressed or implied herein, the Vendor may delay registration of the plan of subdivision herein to occur concurrently with closing and completion of this transaction, and the Vendor's obligation to complete registration of the plan of subdivision herein may be predicated on the Closing and completion of this transaction.

4. ACCEPTANCE

The offer contained in this Agreement shall be irrevocable by the Purchaser until **4:00 p.m. (Alberta time) fifteen (15) Business Days after the receipt by the Vendor of a signed offer by the Purchaser**, after which time if not accepted by the Vendor this offer shall be null and void and the Deposit, if paid hereunder, returned to the Purchaser without interest or deduction of any kind.

5. TITLE

The title to the Property shall be, on Closing as hereinafter provided, good and free from all registrations, charges and interest excepting those Permitted Encumbrances described in Schedule "A1". The Purchaser will accept the restrictions, if any, as contained in Schedule "A1"; but unless otherwise agreed to in writing by the Purchaser, the Purchaser will neither assume any obligations for capital contributions thereunder nor agree to reimburse the Vendor for same.

6. CONDITIONS PRECEDENT

This offer and all obligations arising under the Agreement formed or acceptance hereof, shall be subject to the following conditions:

- (a) for the mutual benefit of both Purchaser and Vendor:
 - (i) the Vendor and Purchaser agreeing upon an access, utility and right-of-way easement to benefit the Property and the Retained Lands by no later than thirty (30) days after the waiver by the Purchaser of the Purchaser's conditions in Subsection 6(b);
 - (ii) the Purchaser obtaining on or before seventy five (75) days from the date of acceptance of this Agreement by the Vendor:
 - (A) a geotechnical report (the "**Geotechnical Report**") for the ROFR Lands from a registered geotechnical engineer;
 - (B) a Phase I Environmental Site Assessment ("**Phase I ESA**"), and if recommended under the Phase I ESA, a Phase II Environmental Site Assessment (the "**Phase II ESA**") for the ROFR Lands;
 - (C) a Geotechnical Report for the Parcel from a registered geotechnical engineer; and
 - (D) a Phase I ESA, and if recommended under the Phase I ESA, a Phase II ESA for the Parcel;

(collectively, the Geotechnical Reports, Phase I ESAs, and Phase II ESAs set out in Subparagraphs 6(a)(ii)(A) – (D) above are the "**Environmental Reports**")

and both the Purchaser and Vendor being satisfied, in their sole and absolute discretion, with:

- (x) the results of the Environmental Reports; and
 - (y) the allocation of the costs of the Environmental Reports between the Purchaser and the Vendor;
- (iii) the Vendor obtaining all requisite approvals from the Authority of the Subdivision and Redesignation, if necessary, as set out in Subsection 3(a) hereof, on or before one hundred and forty (140) days from the date of acceptance of this Agreement by the Vendor, on conditions acceptable to the Purchaser and Vendor each in their sole and unfettered discretion; and
 - (iv) registration and completion of the Subdivision to create the title to the Property no later than the Closing Date prescribed herein;

- (b) for the benefit of the Purchaser:
- (i) the Purchaser, at its sole and exclusive cost, conducting its due diligence review relating to the acquisition, servicing, development, suitability and feasibility of the Property for its purposes, as determined by the Purchaser in its sole and absolute discretion, to be completed or waived by the Purchaser within ninety (90) days after the Vendor's waiver or satisfaction of the Vendor's condition in Paragraph 6(c)(i)
 - (ii) obtaining approval from the Purchaser's real estate committee within thirty (30) days of the removal of the Purchaser's condition precedent in Paragraph 6(b)(i);
 - (iii) the Purchaser obtaining, at the Vendor's sole cost and expense, on or before the earlier of either eight (8) months from the date of acceptance of this Agreement by the Vendor or January 15, 2020 (the "**BA Condition Date**"):
 - (A) a biophysical assessment, including but not limited to an assessment in relation to burrowing owls (the "**Biophysical Assessment**") for the ROFR Lands, if such Biophysical Assessment results are not included within the Phase I ESA or Phase II ESA; and
 - (B) a Biophysical Assessment for the Parcel; if such Biophysical Assessment results are not included within the Phase I ESA or Phase II ESA

and the Purchaser being satisfied, in its sole and absolute discretion, with the results of the Biophysical Assessments.

If the results of the Biophysical Assessments impose further requirements and/or approvals from an Authority on the Purchaser's intended development on the Property, the Purchaser may elect, prior to the BA Condition Date to unilaterally extend the BA Condition Date (for the purposes hereof, the "**Rescheduled BA Condition Date**") by delivering a notice to this effect to the Vendor on or before 5:00 p.m. (Calgary time) on the then scheduled BA Condition Date. In such an event, the parties acknowledge and agree that the BA Condition Date will be amended to be the Rescheduled BA Condition Date for all purposes of this Agreement, provided, however the Purchaser may never extend the BA Condition Date pursuant to this Paragraph 6(b)(iii) for more than six (6) months in the aggregate;

- (c) for the benefit of the Vendor:
- (i) Vendor obtaining all required authorizations and approvals to permit the Vendor to proceed with the transaction contemplated under this Agreement, within thirty (30) days from the Vendor's acceptance of this Agreement.

The conditions in Subsection 6(a) are for the mutual benefit of both Purchaser and the Vendor and may only be varied with the mutual consent of both parties. The conditions in Subsection 6(b) are for the benefit of the Purchaser and the fulfillment of any one or more of them may be waived in whole or in part by the Purchaser at any time or times. The foregoing conditions in Subsection 6(c) are for the benefit of the Vendor and the fulfillment of any one or more of them may be waived in whole or in part by the Vendor at any time or times.

In the event that the above conditions, have not been fulfilled, satisfied or waived as above provided) in writing within the time prescribed above, including any extensions thereof, (the "**Condition Dates**"), this Agreement shall become null and void and the Deposit shall be returned to the Purchaser without deduction but with interest on the Deposit as aforesaid.

7. **HOLDBACK FOR INCOMPLETE WORK**

If the Purchaser elects by the Closing Date (as hereinafter established) to close the acquisition of the Property notwithstanding the failure of the Vendor to complete and pay for any outstanding obligation of the Vendor as prescribed in this Agreement, including without limitation to the generality of the foregoing any of those obligations arising pursuant to Subsections 1(b), 1(c), and 1(d) of this Agreement (collectively, the "**Vendor's Work**"), the Vendor and Purchaser will execute and deliver a holdback agreement (with such holdback agreement to be based on the form attached as Schedule "E" hereto, subject to reasonable revisions as required to reflect the provisions of this Section 7 (the "**Escrow Agreement**")) which will secure the performance of the outstanding Vendor's Work. The Holdback Agreement shall provide, among other things:

- (a) that the Purchaser's Solicitor will hold back from the Purchase Price an amount of up to NINE HUNDRED THIRTY ONE THOUSAND FOUR HUNDRED SIXTY TWO (\$931,462.00) DOLLARS (the "**Holdback**") being the genuine pre-estimate by the Purchaser of the costs of the Vendor's Work;
- (b) the Holdback will be held and released to the Vendor (including in stages or components, which shall allow the Vendor to apply for a partial release of the Holdback upon completion of a component of Vendor's Work) as such obligations are completed, pursuant to the term of the Escrow Agreement;
- (c) subject to Subsection 7(e), if the Vendor does not complete to the Purchaser's reasonable satisfaction the Vendor's Work set out in Schedule "C" and Schedule "D" (collectively, the "**Off-Site Works**") on or before September 30, 2020 (the "**Off-Site Date**"), then the Purchaser may, but is not obligated to, undertake such incomplete or defective Off-Site Works to allow for the scheduled opening to the public from the business on and from the Property;
- (d) the Vendor shall proceed expeditiously and with due diligence to complete the Off-Site Works on or before the Off-Site Date, recognizing that any delay by the Vendor in completing such Off-Site Works may adversely affect the ability of the Purchaser to undertake the same thereafter in time to allow for the scheduled opening to the

public of the Purchaser's business on and from the Property. The Vendor shall promptly provide notice to the Purchaser if, at any time during the course of the completion of the Off-Site Works, an activity to be performed or achieved by or on behalf of any contractor is not completed within the time periods anticipated by the Vendor. The Purchaser shall also be entitled at any time prior to the Off-Site Date, (but not more than once per calendar month) to request the Vendor (or the Vendor's general contractor) provide progress reports on construction and anticipated timing schedules of the Off-Site Works;

- (e) notwithstanding the date set out in Subsection 7(c), if, prior to May 31, 2020 (the "Trigger Date") the Vendor fails to post an open competition for tenders to construct the Off-Site Works, the Purchaser may require, by providing written notice to the Vendor on or prior to the Trigger Date that the Off-Site Date be brought forward to July 2, 2020, and all references to the Off-Site Date shall thereafter be deemed to be July 2, 2020;
- (f) the Holdback shall be released to the Purchaser pursuant to the terms set out in the Escrow Agreement which shall include that the Purchaser's Solicitors will be authorized to pay to the Purchaser from the Holdback the amounts incurred by the Purchaser in completing such Vendor's Work upon receipt by the Purchaser's Solicitors of written notice from the Purchaser requesting such payment; and
- (g) if the actual cost to complete the outstanding Vendor's Work exceeds the Holdback, the Vendor shall remain responsible for all such costs and, if the Purchaser has undertaken to complete the Vendor's Work pursuant to the terms of the Escrow Agreement, the Vendor will promptly pay to the Purchaser, following delivery by the Purchaser of an invoice in respect thereto, all such amounts incurred in excess of the Holdback.

8. VENDOR'S REPRESENTATIONS AND WARRANTIES

The Vendor represents and warrants to the Purchaser that, as of the date of acceptance of this Offer (or such other date as specified below) and at Closing, and the Vendor further acknowledges and agrees that it is a condition of the Purchaser's obligation to complete the purchase contemplated herein that:

- (a) the Vendor is a corporation duly existing under the laws of the jurisdiction of its incorporation or amalgamation and has the necessary corporate authority, power and capacity to own the Property and to enter into this Agreement and the documents and transactions contemplated herein and, on the Closing Date, will have the necessary corporate authority, power and capacity to carry out the agreement of purchase and sale constituted on the execution and delivery of this Agreement and the documents and transactions contemplated herein on the terms and conditions herein contained;
- (b) subject to Subsection 6(c) of this Agreement, this Agreement has been duly authorized, validly executed and delivered by the Vendor, who is authorized and

empowered to enter into, carry out and complete its obligations under this Agreement;

- (c) on the Closing Date, the Vendor will be the registered owner of the Property;
- (d) the Vendor is not a non-resident of Canada within the provisions of Section 116 of the *Income Tax Act* (Canada);
- (e) there will be no tenancies affecting the Property as at the Closing Date;
- (f) except as otherwise noted herein (including any utility rights of way or easements required in connection with Subdivision Approval and disclosed to the Purchaser), the Vendor is not aware of any expropriation or other proceedings by the Municipality or any other department or government agency or engineering department or any utility company which has jurisdiction over the Parcel which may materially affect the size of the Property;
- (g) the Vendor is not aware of any outstanding orders against the Parcel by any Authority, including without limitation the fire warden, health department, building or engineering departments of the Municipality or any other department of government agency which has jurisdiction over the Parcel;
- (h) to the knowledge of the Vendor, there are no actions or proceedings instituted or threatened before any court or before any administrative agency which might result in any material adverse change in the title to or condition of the Parcel or any part thereof;
- (i) to the best of the knowledge of the Vendor there are no actions, suits or proceedings pending or threatened against or affecting the Vendor, the Property or the occupancy or use of the Property by the Vendor or by the Purchasers, in law or, in equity, which could affect the validity of any agreement or transaction provided for herein, the title to the Property, the conveyance of the Property to the Purchaser or the right of the Purchaser from and after the Closing Date to own, occupy and obtain the revenue from the Parcel;
- (j) to the best of the knowledge of the Vendor, the development agreement if any, is in good standing;
- (k) neither the Parcel nor any part of the Parcel has been expropriated and there are no existing or, to the knowledge of the Vendor, contemplated expropriation proceedings or other similar public or private proceedings affecting the Parcel or any part of the Parcel;
- (l) it has not received, nor does it have knowledge of, any written work order, deficiency notice, notice of violation or other similar communication from any municipal or governmental Authority, board of insure underwriters, regulatory authority or otherwise that is outstanding requiring or recommending that work, or

repairs in connection with the Parcel or any part of the Parcel is necessary, desirable or required;

- (m) on the Closing Date, the Purchaser will have good and marketable title to the Property free and clear of all liens, charges, encumbrances, restrictions and interests whatsoever except for the Permitted Encumbrances and any liens, charges, encumbrances, restrictions and interests for which the Vendor's Solicitors have provided an undertaking to discharge post-Closing;
- (n) to the best of the knowledge of the Vendor, none of the Permitted Encumbrances have been amended or varied other than as disclosed herein and, to the best of the knowledge of the Vendor, there is no material default nor is there any event as of the date hereof or as of the Closing Date that would constitute an event of default existing in the performance or observance of the terms and provisions of the Permitted Encumbrances each of which has been complied with in all material respects and is in good standing and the Vendor shall undertake to obtain all consents, approvals, waivers and assumptions required thereunder in connection with the transactions contemplated by this Agreement on or before the Closing Date or within a reasonable time thereafter;
- (o) to the best of the knowledge of the Vendor, there are no unregistered agreements in respect of access to the Parcel or encroachments onto or by the Parcel;
- (p) to the actual knowledge of the Vendor, and without any enquiry, and except as disclosed to the Purchaser, the Parcel does not contain any Contaminants other than as permitted by Environmental Laws or other than as may be disclosed in environmental reports, if any, in the possession of the Vendor relating to the condition of the Parcel, provided however, the Vendor makes no representation, or warranty, as to the truth, quality or accuracy of such reports, if any, and it is expressly acknowledged and agreed that the Purchaser will inspect the Parcel and conduct its own independent investigation thereof in respect of the existence of any Contaminants not permitted by Environmental Laws;
- (q) the Vendor has not received any written work order, deficiency notice, notice of violation or other similar communication from any municipal, Governmental Authority, board of insurance underwriters, regulatory authority or otherwise which is outstanding requiring or recommending that work or repairs in connection with the Parcel or any part thereof is necessary or required;
- (r) as of the Closing Date, all accounts owing for work, labour, materials, services and equipment performed for or on behalf of the Vendor in respect of or relating to the Parcel will have been fully paid for, and the Vendor has not received notice of any claim of any person, firm, corporation or contractor in respect of any lien under the *Builders' Lien Act* (Saskatchewan) affecting the Parcel;
- (s) except as disclosed to the Purchaser, the Vendor has not received any notice from any Governmental Authority having jurisdiction of any breach or outstanding work

order in respect of any Environmental Laws, whether federal, provincial or municipal, relating to or during the period of its ownership of the Parcel;

- (t) at Closing Date, the Vendor shall deliver a certificate executed by a senior officer of the Vendor familiar with the Parcel, as the case may be, stating that at such time the above representations and warranties continue to be true and correct or, if not true and correct in all material respects, stating details thereof;
- (u) the Vendor has not received any notices of any proposed local improvement charges or special levies (provided that the Purchaser will be responsible for any such levies and other charges arising from the Purchaser's development of the Property and thereafter); and
- (v) to the best of the Vendor's knowledge, as of the Closing Date all municipal taxes, rates, levies and assessments with respect to the Parcel will be paid in full or will be adjusted as provided in this Agreement and, to the best of the Vendor's knowledge, there are no pending appeals or other proceedings in existence with respect to such taxes, rates, levies and assessments (provided that the Purchaser will be responsible for any such levies and other charges arising from the Purchaser's development of the Property and thereafter).

The Vendor and Purchaser agree to cooperate in the Purchaser's review and assessment of the development of the Property, and any application for a development permit; provided that, until but not after the Closing Date, the Purchaser agrees to make the foregoing inquiries through or in co-operation with the Vendor and to keep such enquiries confidential to the extent commercially reasonable and the Vendor covenants to, within a reasonable period of time, process any enquiries and to arrange or facilitate meetings with any Authority or the Municipality and to allow testing. The Vendor covenants and agrees to sign such general authorization or specified documents as may be required to enable the Purchaser to effect and process its development permit on the Parcel provided that the Vendor shall incur no liability under any application. The Purchaser shall keep the Vendor reasonably apprised with respect to its activities under this paragraph.

For the purposes of this Section 8 the following definitions shall apply:

"Contaminants" means any explosives, radioactive materials, asbestos materials, urea formaldehyde, chlorobiphenyls, hydrocarbon contaminants, underground tanks, pollutants, contaminants, hazardous, corrosive or toxic substances, special waste or waste of any kind or any other substance the storage, manufacture, disposal, treatment, generation, use (including as part of any building or improvement whether existing or to be constructed), transport, remediation or release into the environment of which is prohibited, controlled, regulated or licensed under Environmental Laws;

"Environmental Laws" means any and all statutes, laws, regulations, orders, bylaws, permits and other lawful requirements of any federal, provincial, municipal or other Governmental Authority having jurisdiction over the Parcel in force with respect, in any way, to the environment, health or occupational health and safety, including with respect,

in any way, to the protection of people, plants, animals, natural ecosystems and the natural environment (including in the context of the development of land, workplace safety and otherwise), and including all applicable policies, guidelines and standards with respect to the foregoing as adopted by any of those Governmental Authorities from time to time; and

"**Governmental Authority**" means the government of Canada and any province or territory or political subdivision thereof, whether federal, provincial or local, and any agency, authority, instrumentality, regulatory body, court, central bank or other entity exercising executive, legislative, judicial, quasi-judicial, taxing, regulatory or administrative powers or functions of or pertaining to government.

9. SOILS AND ENVIRONMENTAL INFORMATION AND GEOTECHNICAL REPORT

The Vendor covenants to deliver to the Purchaser within ten (10) days of acceptance any reports in its possession relating to soils and environmental matters including any environmental audits that may have been conducted in connection with the Parcel.

10. ACCESS TO PROPERTY

The Purchaser and/or any authorized representative of the Purchaser shall be permitted access to the Property at all reasonable times and upon at least three (3) business days' prior written notice prior to Closing, and the Vendor shall, promptly upon receipt of a written request from the Purchaser, provide all necessary authorizations to permit such access. The Vendor shall have the right to accompany the Purchaser, its representatives and advisors onto the Property. The Purchaser will be responsible for returning the Property to its state at the time of entry (or reasonably close thereto) and shall indemnify and save the Vendor harmless from any and all liability of the Vendor caused directly by the Purchaser's (and or its agents') conduct of the Parcel.

11. CLOSING ADJUSTMENTS

The Purchase Price will be adjusted by apportioning between the Purchaser and the Vendor as of the Closing Date all adjustments which are customarily made in transactions similar to this transaction including, without limiting the generality of the foregoing, all real property taxes (or grants in lieu thereof), local improvement rates, utilities, all to the end that all costs relating to the Property for or in respect of periods up to but not including the Closing Date will be to or for the account of the Vendor.

The Purchaser and Vendor acknowledge and agree that the Purchase Price has been calculated on the basis of **Two Hundred Sixty Five Thousand Five Hundred Dollars (\$265,500.00)** per acre for the actual area of the Property (subject to the provisions of Subsection 3(h) herein), and, accordingly, the Vendor shall have the area of the Property measured by a licensed surveyor and shall on or before Closing deliver to the Purchaser the said surveyor's certificate confirming the actual area of the Property (to the nearest hundredth of an acre).

The Vendor will prepare a draft statement of adjustments and submit same to the Purchaser at least ten (10) business days before the Closing Date.

The Vendor and the Purchaser hereby irrevocably covenant and undertake to and in favour of the other to re-adjust as between themselves any errors or omissions in the statement of adjustments prepared as at the closing of the transaction of purchase and sale of the Property including, without limitation, any required additions, deletions or changes thereto resulting from any determination after the Closing Date of any item of revenue or expense relating to the Property to be adjusted in accordance with this Agreement.

12. CLOSING DELIVERIES

- (a) On the Closing, the Vendor shall deliver to the Purchaser the following, all of which, save as expressly provided herein, shall be prepared at the Vendor's expense and shall be subject to the prior approval of the Purchaser, acting reasonably:
- (i) a registrable Transfer of title to the Property;
 - (ii) the Statement of Adjustments;
 - (iii) an undertaking to readjust as contemplated by Section 11 (the "**Undertaking to Readjust**");
 - (iv) a certificate of the Vendor stating that the Vendor is not a non-resident of Canada within the meaning of the *Income Tax Act* (Canada);
 - (v) the surveyor's certificate confirming the area of the Property referred to in Section 11;
 - (vi) the executed Restrictive Covenant Agreement;
 - (vii) access, utility and right-of-way agreement as contemplated in Paragraph 6(a)(i) (the "**AUROW Agreement**");
 - (viii) such other assurances and documents as the Purchaser may reasonably require of the Vendor in a timely fashion prior to Closing to be delivered at Closing, for more perfectly and absolutely assigning, transferring and vesting in the Purchaser title to the Property free and clear of any mortgage, lien, charge or encumbrance (unless the Vendor's solicitors have provided their undertaking to obtain and register a discharge), except those Permitted Encumbrances described in Schedule "A1";
 - (ix) the Subdivision Plan with all necessary consents thereto, suitable for registration (together with the fees for registration, if applicable); and
 - (x) such other assurances, documents and instruments reasonably required by either or both of the terms of this Agreement or the Purchaser's solicitors acting reasonably; provided, however, that none of the documents referred

to in this Subsection 12(a) shall contain covenants, obligations, representation or warranties that are in addition to or more onerous upon the Purchaser or Vendor than those expressly set forth in this Agreement.

- (b) On the Closing, the Purchaser shall deliver to the Vendor a certified cheque or bank draft in an amount equal to the adjusted balance of the Purchase Price and such other assurances, documents and instruments reasonably required to give effect to the terms of this Agreement, including without limitation, the Restrictive Covenant Agreement, the Undertaking to Readjust, the Access, Utility and Right-of-Way Agreement and the GST Certificate and Indemnity.

13. CLOSING

The purchase herein shall be completed no later than one hundred eighty (180) days after acceptance of this Agreement by both parties (the "**Closing Date**" and, when referring to the event of closing and completion, the "**Closing**") or such other date as the Vendor and Purchaser may agree upon; provided that if the Closing Date as before determined is not a day on which ISC is open for business, the Closing Date will be postponed until the next following day on which ISC is open for business.

Vacant possession of the Property is to be given to the Purchaser on the Closing Date.

14. ENTIRE AGREEMENT

It is agreed that there are no representations, warranties, collateral agreements or conditions affecting this Agreement or the Property except as expressed herein. All schedules, appendices and attachments to this Agreement and all provisions therein contained are hereby incorporated herein (without further mention or reference) and shall form an integral part hereof.

15. TRANSFER

The Transfer and all other documentation necessary to effect the conveyance of the Property shall be prepared by the Vendor at its expense and all other usual closing documents shall be prepared at the expense of the Purchaser in a form acceptable to the Vendor's solicitors acting reasonably.

16. TENDER

Any tender of documents or money may be made upon either party or their solicitors and money may be tendered by cash or certified cheque, provided that written confirmation from the Purchaser's solicitors that such solicitors hold sufficient money to complete closing shall suffice to be tender of money hereunder.

17. NOTICE

Any notice required to be given pursuant to this Agreement shall be sufficiently given if served personally or delivered by courier or by facsimile and in the case of the Purchaser addressed to it at:

Canadian Tire Real Estate Limited
c/o Canadian Tire Corporation, Limited
2180 Yonge Street
Toronto, Ontario M4P 2V8
Attention: Vice President, Real Estate Operations
Facsimile: 416-544-7715

with a copy to:

Canadian Tire Real Estate Limited
Unit #110 - 205 Quarry Park Blvd. SE,
Calgary, AB T2C 3E7
Attention: Ron Odagaki, Associate Vice President, Real Estate Development
Email Address: ronald.odagaki@cantire.com

and in the case of the Vendor to it at:

CITY OF MOOSE JAW
228 Main Street N
Moose Jaw, SK, S6H 3J8
Attention: Director of Planning and Development Services

Either party may at any time give notice in writing to the other of any change of address of the party giving such notice, and from and after the giving of such notice the address herein specified shall be deemed to be the address of such party for the giving of notices herein. The word "notice" in this paragraph shall be deemed to include request, statement and other writing in this Agreement provided or permitted to be given by the Vendor to the Purchaser or by the Purchaser to the Vendor.

18. REPRESENTATION BY PURCHASER

- (a) The Purchaser represents and warrants:
- (i) that it is registered to do business in the Province of Saskatchewan;
 - (ii) that it is a resident of Canada within the provisions of Section 116 of the *Income Tax Act* (Canada);
 - (iii) the Purchaser is a corporation duly existing under the laws of the jurisdiction of its incorporation or amalgamation and has the necessary corporate authority, power and capacity to own the Property and to enter into this Agreement and the documents and transactions contemplated herein and, on the Closing Date, will have the necessary corporate authority,

power and capacity to carry out the agreement of purchase and sale constituted on the execution and delivery of this Agreement and the documents and transactions contemplated herein on the terms and conditions herein contained; and

- (iv) this Agreement has been duly authorized, validly executed and delivered by the Purchaser, who is authorized and empowered to enter into, carry out and complete its obligations under this Agreement.

19. REAL ESTATE AGENT'S COMMISSION

The Vendor covenants and agrees with the Purchaser that the Vendor shall be responsible for and shall pay any real estate commission payable with respect to this transaction.

20. VACANT POSSESSION

The Vendor covenants to deliver vacant possession of the Property on Closing hereof.

21. TIME OF THE ESSENCE

Time in all respects shall be of the essence hereof.

22. ASSIGNMENT

The Purchaser may, without the Vendor's prior consent, assign its interest in this Agreement to: (i) any affiliate of the Purchaser (as such term is defined in the Canada Business Corporations Act), (ii) CT Real Estate Investment Trust ("CT REIT"), (iii) any entity or limited partnership that is controlled by the CT REIT, (iv) any nominee of a limited partnership controlled by CT REIT, or (v) Canadian Tire Corporation, Limited, (vi) any affiliate of Canadian Tire Corporation, Limited, but the Purchaser shall not otherwise assign its interest in this Agreement without the Vendor's prior written consent, which consent may be unreasonably withheld. Where such assignment is permitted in accordance with the above, the assignee shall enter into an assignment and assumption agreement with the Vendor on the Vendor's solicitor's form prepared at the Purchaser's expense, and such assignment shall not relieve the Purchaser of its obligations hereunder.

23. NON-BUSINESS DAY

In the event that any date established by or in accordance with this Agreement or any date of termination for a period of time set forth or referred to in this Agreement shall fall upon a non-business day or a Saturday, then such date shall be deemed to be the next following business day which is not a Saturday.

24. SCHEDULES/ATTACHMENTS

All Schedules, Appendices and Attachments to this Agreement are hereby incorporated into this Offer and the Agreement, when accepted, and form an integral part hereof, without further or other reference. Terms therein contained shall be terms of this Agreement.

25. GOODS AND SERVICE TAX

The Purchaser shall pay Goods and Services Tax (GST) to the Vendor only if required by law to do so. The parties acknowledge that the Purchaser is registered under Subdivision D of Division V of Part IX of the *Excise Tax Act* and is accordingly not obliged to pay GST to the Vendor. The Purchaser shall file returns and remit GST to the Canada Revenue Agency in respect of the purchase and sale of the Property when and to the extent required by the ETA. The Purchaser shall indemnify the Vendor and save it harmless from and in respect of any liability of the Purchaser under the ETA arising because of any breach of the obligations of the Purchaser under the ETA or this Section 25, together with all loss, costs and expenses resulting from such breach. The Purchaser shall provide to the Vendor a certificate on Closing confirming its GST registration number under the Act, indemnifying the Vendor pursuant to this Section 25 and containing any other matters reasonably required by the Vendor (the "**GST Certificate and Indemnity**"). The provisions of this Section 25 shall survive Closing.

26. RIGHT OF FIRST REFUSAL

- (a) In the event the Vendor or its successors and assigns desires at any time to sell the ROFR Lands (as shown in Schedule "B2") or any portions thereof, Vendor hereby grants to Purchaser a right of first opportunity to purchase the ROFR Lands or any portions thereof on the following terms and conditions:
- (i) Vendor shall provide Purchaser with the terms and conditions of the proposed transaction (the "**Original Proposed Terms**"), the proposed purchase price (together with any appraisal upon which it is based), the closing date of a purchase and sale (being not earlier than fourteen (14) days after the date Purchaser elects to purchase the Property), and other terms that are reasonably necessary to enable Purchaser to make an evaluation of the proposed transaction, all such terms to be bona fide and reasonably capable of being met by an arm's length third party.
 - (ii) Vendor shall allow Purchaser a period of sixty (60) days from its receipt of the Original Proposed Terms (the "**Notice Period**") to determine whether to exercise its right to purchase the ROFR Lands on the Original Proposed Terms or to allow Vendor to proceed to effect a sale of the ROFR Lands on the Original Proposed Terms to an arm's length party.
 - (iii) If Purchaser elects to purchase the ROFR Lands in accordance with the Original Proposed Terms, Purchaser shall advise Vendor in writing of the same prior to the expiry of the Notice Period and Vendor and Purchaser shall be considered to have entered into a binding agreement upon the Original Proposed Terms. Vendor and Purchaser shall complete the transaction pursuant to the Original Proposed Terms.
 - (iv) If Purchaser elects not to purchase the ROFR Lands on the Original Proposed Terms, Purchaser shall notify Vendor in writing prior to the expiry

of the Notice Period. If Purchaser fails to give written notice it shall be deemed to have elected not to purchase the ROFR Lands and Vendor may, without Purchaser's consent, thereafter proceed for a period of three hundred and sixty-five (365) days (the "Offer Period") to offer to sell the ROFR Lands to an arm's length third party on the Original Proposed Terms.

- (v) In the event that within the Offer Period Vendor receives an offer to purchase the ROFR Lands on the Original Proposed Terms, Vendor may, within the Offer Period, enter into a binding and unconditional agreement to effect a sale of the ROFR Lands to such arm's length third party without Purchaser's consent and Vendor shall deliver notice to the Purchaser of the receipt of the offer and subsequent execution of an unconditional agreement.
- (vi) In the event that within the Offer Period Vendor does not enter into a binding and unconditional agreement to effect a sale of the ROFR Lands on the Original Proposed Terms to an arm's length third party then the Vendor shall notify Purchaser in writing and the Vendor shall not, at any time, enter into any agreement to effect a sale of the ROFR Lands without again complying with the forgoing provisions of this Section 26, in which case, Purchaser shall again have the rights set forth in this Section 26 in respect of any further or subsequent proposed sale.
- (vii) Notwithstanding anything contained herein to the contrary, in the event that the Vendor does not notify the Purchaser of its intent to sell the ROFR Lands within ten (10) years of the Closing Date, then the Purchaser's right under this Section 26 shall expire and be of no further force and effect.

27. CONSTRUCTION COVENANT

- (a) Purchaser covenants to construct improvements on the Property in accordance with plans and specifications submitted to the City of Moose Jaw and shall have commenced such construction in accordance with the project schedule set out in Subsection 27(b).
- (b) Subject always to Force Majeure, if the Purchaser fails to satisfy the milestones set out below by the corresponding milestone deadline, then the Purchaser will pay the Vendor \$125,000.00 per delayed milestone within thirty (30) days following written demand by the Vendor, as a genuine pre-estimate of liquidated damages and not as a penalty:
 - (i) Purchaser shall commence construction before the later of: (A) two (2) years of the date of Infrastructure Completion; (B) October 31, 2021; or (C) one (1) year from the Closing Date; and
 - (ii) Purchaser shall ensure that construction is substantially complete for its intended use before the later of either: (A) four (4) years of the date of

Infrastructure Completion; or (B) two (2) years from the date the milestone set out in Paragraph 27(b)(i) is met.

(c) For the purposes of this Section:

"Infrastructure Completion" means the date the Vendor has completed all of the Collateral Services to the Property, including work outlined in Subsections 1(b), 1(c), and the work required to be completed prior to the Purchaser commencing construction of the improvements on the Property outlined in Subsection 1(d) of this Agreement (for clarity, certain Infrastructure requirements set out in Subsection 1(d), such as traffic control devices, may not be required to be completed prior to the Purchaser commencing construction); and

"Force Majeure" means any of the following events or circumstances which directly causes the Purchaser or Vendor to be unable to perform all or a material part of its obligations under this Agreement:

- (i) war, civil war, armed conflict, terrorism, acts of foreign enemies or hostilities;
- (ii) nuclear or radioactive contamination of the Property, unless the Purchaser or any of its agents or subcontractors are the source or cause of the contamination;
- (iii) chemical or biological contamination of the Property from any event referred to in this Subsection 27(c);
- (iv) the occurrence of an extreme weather event that occurs no more frequently than once every 100 years, but, for certainty, does not include those weather events (no matter how extreme) that are typical or are usually experienced in the vicinity of the Property;
- (v) pressure waves caused by devices traveling at supersonic speeds; or
- (vi) the discovery of any artifacts, which, as a result of applicable laws, requires the Collateral Services or improvements required in Subsection 27(a) to be abandoned.

If there is an event of Force Majeure, the date or period of time by or within which such covenant or compliance is to be performed, observed or complied with will be extended by a period of time equal to the duration of the delay; provided that nothing herein excuses a delay caused by lack of funds or other financial circumstances, or excuses a party from payment of any amount payable hereunder when due.

(d) The Purchaser and the Vendor agree that the liquidated damages set out in Subsection 27(b) are genuine pre-estimates of the damages that the Vendor will suffer if the construction schedule is not completed within the time requirements of this Section.

28. LETTER OF CREDIT

- (a) As security for the Purchaser's obligation to pay the liquidated damages set out in Section 27, the Purchaser shall furnish to the Vendor an irrevocable stand-by letter of credit (the "**Letter of Credit**") on or before the Closing Date, in the amount of TWO HUNDRED FIFTY THOUSAND DOLLARS (\$250,000.00).
- (b) The Letter of Credit delivered to the Vendor pursuant to this Agreement shall:
 - (i) include an acknowledgement and undertaking by the issuing bank to promptly honour and pay draws made by the Vendor, provided that the Vendor delivers to the issuing bank sufficient evidence of the notice of the Purchaser's failure to meet the obligations set out in Subsection 27(b) of this Agreement;
 - (ii) be irrevocable;
 - (iii) include a statement that the Letter of Credit is issued in favour of the Vendor;
 - (iv) be in a form acceptable to the Vendor, acting reasonably;
 - (v) contain a condition for automatic renewal to the mutual satisfaction of the Vendor and the Purchaser, acting reasonably; and
 - (vi) permit partial drawings and release.

Without limiting any of the rights and remedies of the Vendor, the Vendor may draw upon the Letter of Credit if the Purchaser fails to pay any liquidated damages in accordance with Section 27 and the Vendor provided sufficient notice as set out in Subsection 27(b).

- (c) In the event the Vendor draws down on the Letter of Credit for any amount as permitted by Paragraph 28(b)(vi), the Purchaser shall immediately replenish the Letter of Credit to the original amount as set out in Subsection 28(a).
- (d) Upon the Purchaser fulfilling its obligations set out in Paragraph 27(b)(ii), the Purchaser shall request approval for an occupancy permit along with the return of the Letter of Credit. Upon approving the occupancy permit, the Vendor shall return the Letter of Credit to the Purchaser.

29. OPTION TO REACQUIRE

If the Purchaser has not met the obligations set out in Paragraph 27(b)(i) by the date set out therein (the "**Option Date**"), the Vendor will have the option to purchase the Property back from the Purchaser. The option purchase price will be the Purchase Price. If the Vendor does not exercise this option to purchase within thirty (30) days of the Option Date, the Vendor's option shall be of no further force and effect.

30. BOULEVARD MAINTENANCE, TREES AND PATHWAY

- (a) The Purchaser shall care for and maintain along the length of the Thatcher Drive East boulevard located directly adjacent to the Property (the "**Boulevard**") to the standards set out in the City of Moose Jaw Landscaping Standards, which standards are set out in Schedule "G".
- (b) The trees, situated on the south portion of the Property and the Boulevard which are required to be moved to accommodate the Purchaser's development, shall be relocated by the Purchaser where possible within the same proximity; and for each tree that cannot be so moved, in the Purchaser's reasonable opinion, the Purchaser shall, at its cost, plant a new tree as a replacement at a location(s) mutually agreed upon by the parties acting reasonably. The Purchaser will also be responsible for the maintenance of any newly planted trees for three (3) years.
- (c) Should the pathway, situated on the south portion of the Property, be damaged or altered in any way during construction, shall be repaired and/or replaced in accordance with the City of Moose Jaw pathway specifications.
- (d) Prior to the Purchaser commencing work on the Property that affects the trees and pathway located on the southern portion of the Property or the Boulevard, the Purchaser will contact the City of Moose Jaw's Parks and Recreation Director or designate to co-ordinate the required tree protection, removal, relocation and /or replacement, as well as any pathway reconstruction.
- (e) The Purchaser grants to the Vendor a perpetual easement on the south portion of the Property to permit for constructing, installing, inspecting, altering, repairing, replacing, maintaining, or removing the pathway. Such easement shall be included in the AUROW Agreement to be delivered on Closing.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

31. COUNTERPART

This Agreement may be executed and delivered in any number of counterparts with the same effect as if all parties had signed and delivered the same document, and all counterparts shall be construed together to be an original and shall constitute one and the same agreement. Any party may deliver an executed copy of this Agreement by facsimile or email transmission.

DATED at Toronto, on December 4, 2019.

CANADIAN TIRE REAL ESTATE LIMITED

Per: _____



Per: _____

| |
|--|
| David Bianchi Vice President Real Estate Development |
|--|

The undersigned, as Vendor in the above Agreement, hereby accept the above offer and its terms, covenants and conditions and agree to and with the above named Purchaser to duly carry out same on the terms and conditions above mentioned.

DATED at _____ on _____, 2019.

THE CITY OF MOOSE JAW

Per: _____

MAYOR

Per: _____

CITY CLERK

SCHEDULE "A"

THE PARCEL AND THE PROPERTY

Parcel Legal Description

BLK/PAR A PLAN NO 74MJ00968 EXTENSION 1 AS SHOWN ON PLAN 101583154

Property

The Property is that portion of the Parcel referred to as the "Property", the approximate location shown on Schedule "B".

SCHEDULE "A1"

Permitted Encumbrances



- (a) Such registrations as required by any planning authority with jurisdiction in respect of subdivision, zoning, servicing (to a minimum of 5.5 meters on either side of the service lines as identified in blue on Schedule "C1") and development of the Property and the Parcel, (which shall include a mutual easement and operating agreement and utility easement, all that have been reviewed and approved in advance in writing by the Purchaser) provided that such registrations do not materially interfere or impair, in the Purchaser's reasonable opinion, the Purchaser's development criteria and plans for the Purchaser's Facilities, and provided that if any such registration provides for a financial charge the Purchaser is satisfied that the financial obligations of the Vendor therein are adequately secured by holdback or other security as set out in Section 7 of this Agreement;
- (b) Such utility supply easements and rights of way necessary to provide utility services to the Property provided that such registrations do not interfere or impair, in the Purchaser's reasonable opinion, the Purchaser's development criteria and plans for the Purchaser's Facilities;
- (c) Cross access agreement in a form and content agreed upon by the Vendor and Purchaser as set out in Subsection 6(a) herein
- (d) Anything which by the terms of this Agreement, as accepted, is contemplated to be registered in fulfillment of the obligations, rights and privileges contained herein;
- (e) Anything caused to be registered against title to the Property by or through the Purchase; and
- (f) The registrations appearing on the certificate of title to the Property as accepted by the Purchaser, acting reasonably, after review of title pursuant to the Purchaser's due diligence condition set out in Paragraph 6(b)(ii)above.

SCHEDULE "B"

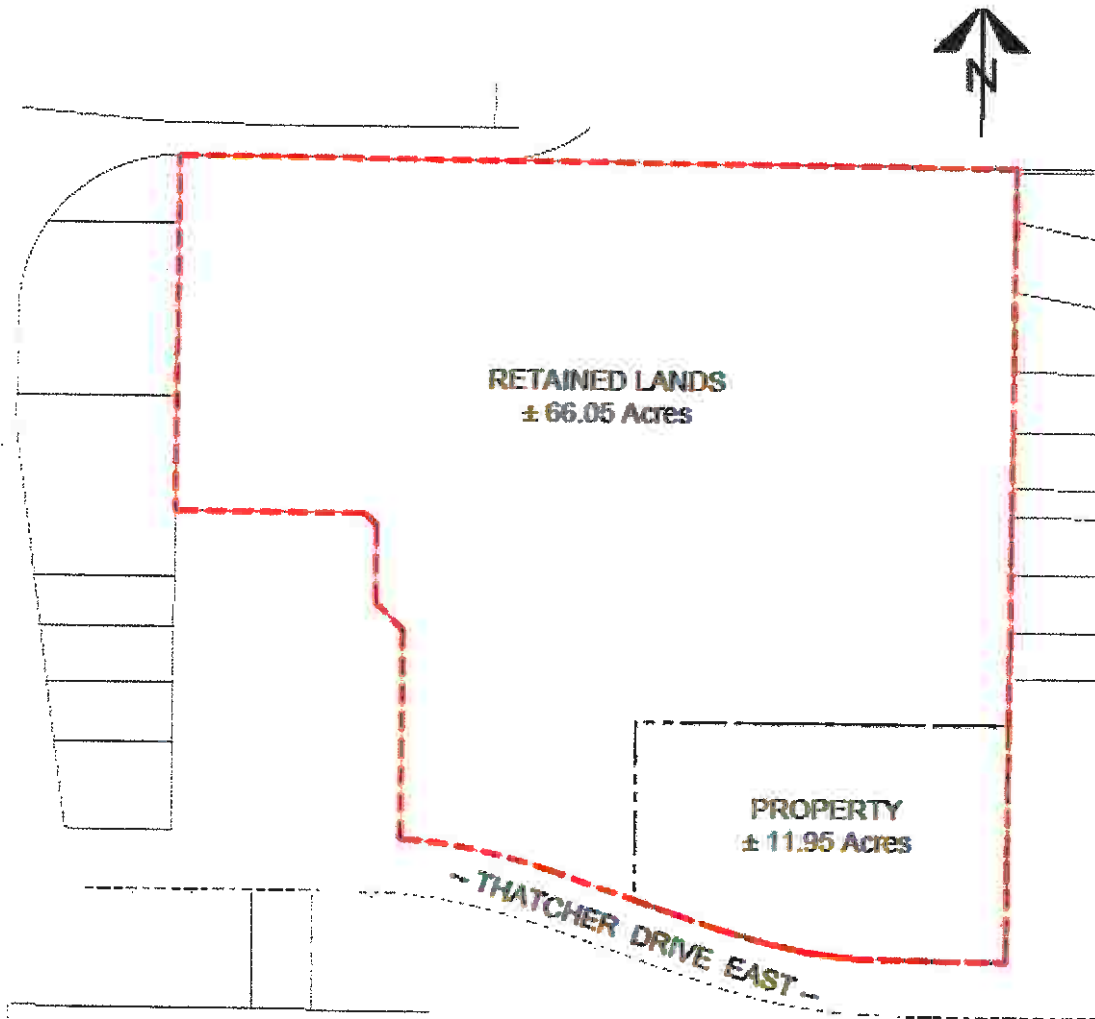
Site Plan





LEGEND

-  THE 'PARCEL' = ± 78.0 Acres
(BLOCK A PLAN 74M.00968)
-  THE 'PROPERTY' = ± 11.95 Acres

SCHEDULE "B1"
Property and the Retained Lands

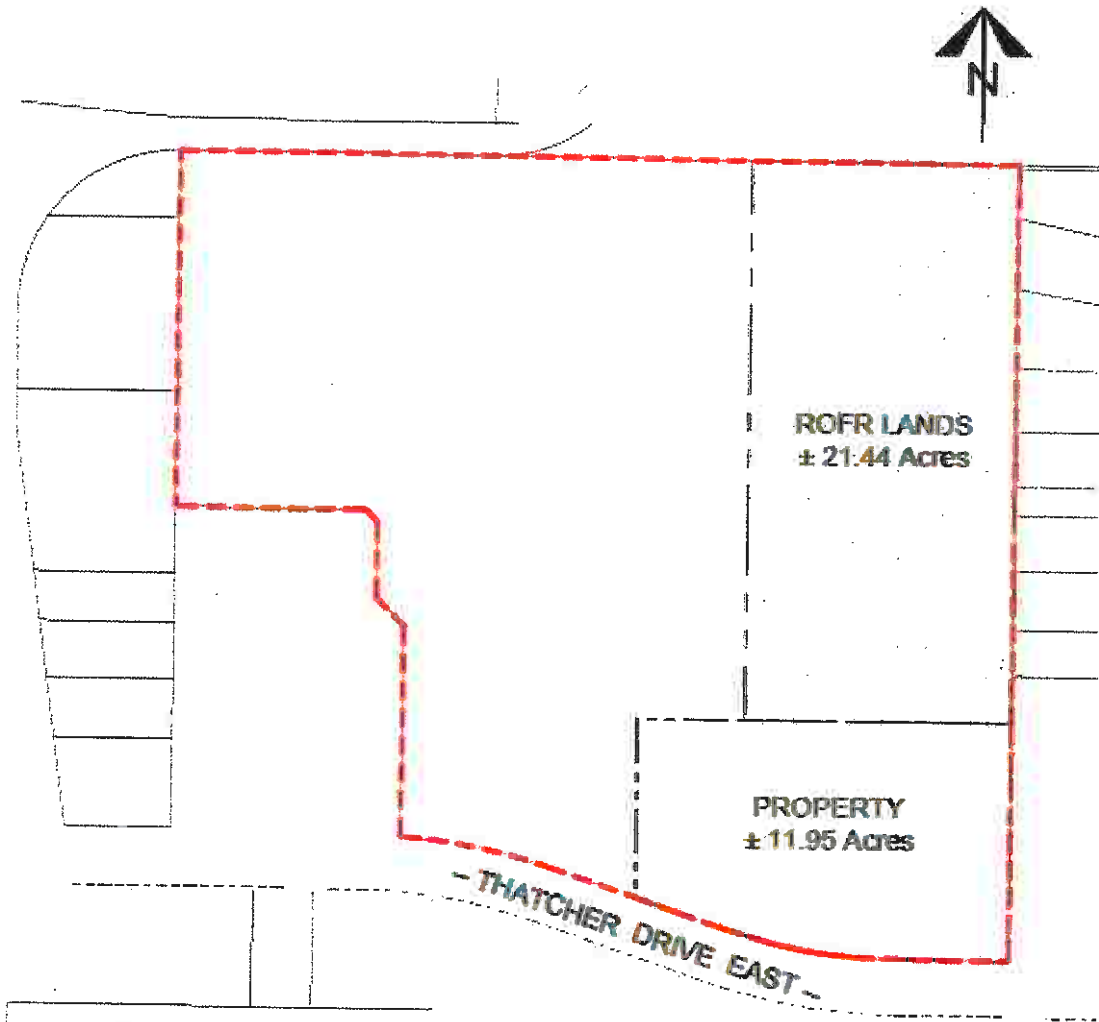


LEGEND




-  THE 'PARCEL' = ± 78.0 Acres
(BLOCK A PLAN 74MJ00968)
-  THE 'PROPERTY' = ± 11.95 Acres
- RETAINED LANDS = ± 66.05 Acres

SCHEDULE "B2"

Property and ROFR Lands



LEGEND

-  THE 'PARCEL' = ± 78.0 Acres
(BLOCK A PLAN 74MJ00968)
-  THE 'PROPERTY' = ± 11.95 Acres
-  ROFR LANDS = ± 21.44 Acres

SCHEDULE "C"

Vendor's Work

The Vendor shall design and construct, at the Vendor's expense, the following infrastructure in accordance with Section 7:

- (a) the construction of suitable access to the Property from public roads;
- (b) the following services are provided in the lands adjacent to the property line as shown on Schedule "C1" and shall be such specifications as would typically be required for the Purchaser's intended use of the Property:
 - (i) A 375 mm diameter sanitary sewer, to the invert dedication on Schedule "C1", in accordance with provincial regulations, to the Purchaser's design, to a location as designated by the Purchaser, acting reasonably, within one point two (1.2) metres inside of the property line at a location designated by the Purchaser or their engineer.
 - (ii) A 200 mm diameter water service. Water service to provide 1250 USGPM at 45 psi and be terminated, capped, chlorinated, tested and located within one point two (1.2) metres inside of the property line at a location designated by the Purchaser or their engineer.
 - (iii) High pressure natural gas utility service, approximately 8,000 cfh within one point two (1.2) metres inside of the property line at a location designated by the Purchaser or their engineer.
 - (iv) Telephone and separate cable TV conduits within one point two (1.2) metres inside of the property line at a location designated by the Purchaser or their engineer.
 - (v) Primary Electrical service including a transformer to the Purchaser's standards and requirements (347/600V 2000 amp 3 phase 4 wire) within one point two (1.2) metres inside of the property line at a location designated by the Purchaser or their engineer.
 - (vi) A 300 mm diameter storm water service connection, in accordance with provincial regulations, within one point two (1.2) metres inside the property line at a location designated by the Purchaser or their engineer.
- (c) Vendor to provide to the Purchaser inspection and testing certificates of all underground services, including but not limited to:
 - (i) flushing and testing of all underground water mains;
 - (ii) bacteriological test of domestic water and certificate of approval from applicable governmental authority;

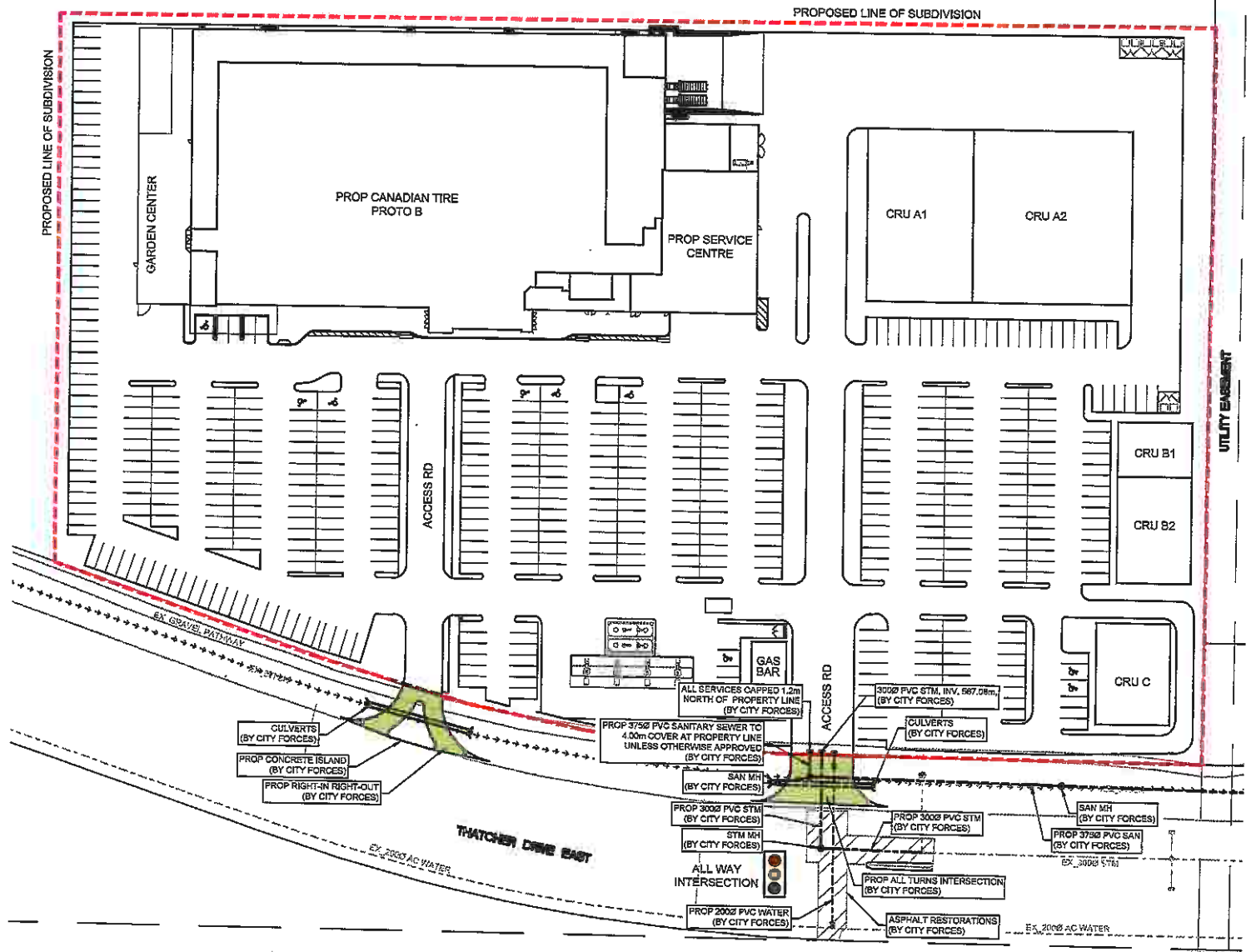
- (iii) water flow and pressure test on the sprinkler and domestic mains at point of connection; and
- (iv) hydrant flow test.
- (d) Vendor shall also supply as-built survey of underground services complete with inverts.
- (e) All off-site shared curb cuts, offsite road work, and vehicle access to the Property as shown on Schedule "C1". All offsite road work may include, but shall not be limited to, sub cuts, sidewalks, turning lanes, medians, signal lights, new roadways and road widening.

Notwithstanding anything contained herein to the contrary, the signalization of the intersection as shown on Schedule "C1" shall be commenced on the date the Purchaser commences construction on the Property and shall be completed no later than the date the development is open to the public.

SCHEDULE "C1"
Vendor's Infrastructure

See attached.

SCHEDULE C1 - VENDOR'S WORK



**CANADIAN TIRE COMMERCIAL
DEVELOPMENT MOOSEJAW, SK**

SCHEDULE "D"

Infrastructure

Subject to Section 7 and any amendments agreed to by the parties in writing based on the review of the Environmental Reports, at the Vendor's expense the Vendor shall:

- (a) provide curb cuts and vehicle access to the Property as shown on Schedule "C1";
- (b) pay for and complete the construction (including paving and related curbs and gutters) of 2 offsite drive ways (to specifications reasonably prescribed by the Purchaser) as shown outlined on Schedule "C1"; and
- (c) provide all signalized and non-signalized access points identified on Site Plan in the Agreement.

SCHEDULE "E"
FORM OF ESCROW AGREEMENT

ESCROW AGREEMENT

THIS AGREEMENT dated for reference the ____ day of _____, 20____,

AMONG:

CANADIAN TIRE REAL ESTATE LIMITED
(the "Purchaser")

AND:

THE CITY OF MOOSE JAW
(the "Vendor")

AND:

BENNETT JONES LLP
(the "Escrow Agent")

WHEREAS:

- A. the Purchaser and Vendor have entered into a purchase and sale agreement dated the ● day of ●, 2019 (the "**Purchase Agreement**") for the purchase of a certain bare lands situate in the City of Moose Jaw in the Province of Saskatchewan (the "**Lands**");
- B. The Purchase Agreement provides, pursuant to Section 7, that if the Vendor's Work is not completed on or before the Closing Date then, the Purchaser's Solicitor shall hold back from the Purchase Price, an amount of up to NINE HUNDRED THIRTY ONE THOUSAND FOUR HUNDRED SIXTY TWO (\$931,462.00) DOLLARS (the "**Escrow Funds**"), being the genuine pre-estimate by the Purchaser of the costs of the Vendor's Work, and agreed to by the parties, each acting reasonably and in good faith and shall be held by the Escrow Agent in an interest bearing escrow account;
- C. The Escrow Funds will be held and released to the Vendor (including in stages or components, which shall allow the Vendor to apply for a partial release of the Escrow Funds upon completion of a component of Vendor's Work), pursuant to the terms and conditions set out in this Agreement;
- D. Pursuant to the Purchase Agreement, the Purchaser has the option of completing the Off-Site Work (as defined in the Purchase Agreement) which has not been completed by the Off-Site Date (as defined in the Purchase Agreement), or, if the Purchaser reasonably believes that the Vendor will be unable to complete the Off-Site Work by the Off-Site Date

by providing notice to the Vendor before the Trigger Date (as defined in the Purchase Agreement). If the Purchaser has commence completing any of the Vendor's Work, the Escrow Funds shall be held in order to secure all third party costs incurred by the Purchaser in connection with the completion of the Vendor's Work and released to the Purchaser (including in stages or components, which shall allow the Purchaser to apply for a partial release of the Escrow Funds upon completion of a component Off-Site Works) pursuant to the terms and conditions set out in this Agreement;

E. The Escrow Agent has agreed to fulfill the role of escrow agent under this Agreement.

NOW THEREFORE in consideration of the mutual covenants and agreements hereinafter set forth (the receipt and sufficiency of which is hereby acknowledged by all parties hereto), the parties hereto covenant and agree as follows:

1. DEFINITIONS

1.1 In this Agreement, the following words and phrases will have the following meanings, unless the context otherwise requires:

- (a) "**Agreement**" means this Agreement and any amendments to this Agreement agreed in writing by the Vendor, the Purchaser and the Escrow Agent from time to time;
- (b) "**Arbitrator's Order**" means a final order (in respect of which all relevant appeal periods have expired) of an arbitrator appointed pursuant to Subsection 6.3(c);
- (c) "**Business Day**" means any day except for Saturdays, Sundays and any other day which is a statutory holiday in the Provinces of Alberta, Saskatchewan or Ontario;
- (d) "**Direction**" means a written direction to the Escrow Agent with respect to the release of the Escrow Funds or otherwise with respect to this Agreement, which is executed by both the Vendor and the Purchaser;
- (e) "**Draw Notice**" means a written notice from either the Vendor or the Purchaser, as applicable delivered to the other Party and the Escrow Agent setting out:
 - (i) its intention to draw funds from the Escrow Funds for Vendor's Work completed by the Vendor at the Vendor's expense, or by the Purchaser at the Purchaser's expense;
 - (ii) a specific description of the Vendor's Work to which the Draw Notice relates; and
 - (iii) the amount of the Escrow Funds to be drawn down;
- (f) "**Draw Objection Notice**" means a written notice from either the Vendor or the Purchaser, as applicable, delivered to the Party that provided the Draw Notice and the Escrow Agent within ten (10) business days from receipt of a Draw Notice (the "**Draw Objection Notice Period**") that the Party providing the Draw Objection

Notice objects to the Draw Notice including a reasonable explanation of such objection;

- (g) "**Escrow Account**" means the interest bearing account or term deposit with any one of the five (5) largest Canadian chartered banks to be established and administered by the Escrow Agent into which the Escrow Funds will be paid by the Vendor in accordance with this Agreement;
 - (h) "**Escrow Funds**" means the amount held in trust by the Escrow Agent;
 - (i) "**Interest**" means all interest earned on the Escrow Funds pursuant to the investment of the Escrow Funds made by the Escrow Agent under Section 5.1 hereof;
 - (j) "**Outside Date**" means October 30, 2020, unless otherwise agreed to in writing between the Purchaser and Vendor;
 - (k) "**Purchase Agreement**" has the meaning set out in recital A of this Agreement; and
 - (l) "**Release Date**" means the date which is on or before thirty (30) days from the expiry of the Draw Objection Notice Period.
- 1.2 Except as otherwise defined in this Agreement, terms used in this Agreement which are defined in the Purchase Agreement will have the meanings given to them in the Purchase Agreement.
- 1.3 The recitals shall be incorporated into and form a part of this Agreement.
2. **APPOINTMENT OF ESCROW AGENT**
- 2.1 The Purchaser and the Vendor hereby constitute and appoint the Escrow Agent as, and the Escrow Agent hereby assumes and agrees to perform the duties of, escrow agent under and pursuant to this Agreement.
3. **DELIVERY OF ESCROW FUNDS**
- 3.1 The Escrow Funds shall for all purposes be and be deemed to be paid by the Purchaser to the Vendor effective as of the date on which the Escrow Funds are paid into the Escrow Account.
4. **ESCROW FUNDS**
- 4.1 Upon receipt of the Escrow Funds, the Escrow Agent will hold the Escrow Funds together with Interest, if any, pursuant to the terms of this Agreement.
- 4.2 The Escrow Funds shall not be subject to any lien, attachment or any other judicial process of any creditor or any party hereto and shall be used solely for the purposes and subject to the conditions set out in this Agreement.

4.3 The Escrow Funds shall be invested in accordance with Section 5.1.

5. INVESTMENT OF ESCROW FUNDS

5.1 So long as any of the Escrow Funds are held by the Escrow Agent, the Escrow Funds shall be invested with any one of the five (5) largest Canadian chartered banks, in such interest bearing trust account, term deposits, savings accounts, investment receipts or other investments, upon such terms and conditions and for such period of time as the Escrow Agent shall think fit from time to time in its discretion. All Interest shall be for the account of the Vendor and shall be deposited in the Escrow Account and form part of the Escrow Funds and invested in accordance with this Section 5.1.

6. PAYMENTS OUT OF ESCROW FUNDS

6.1 The Escrow Agent will pay to the Vendor all or any portion of the balance of the Escrow Funds held by the Escrow Agent that are not in dispute as of the Outside Date, together with any Interest thereon within three (3) Business Days of the Outside Date subject to the provisions of this Section 6. If prior to the Release Date, the Purchaser delivers written notice to the Vendor together with invoices and reasonable back-up, that the actual cost of Vendor's Work which the Purchaser has caused to be completed (together with an administration fee of fifteen percent (15) of the cost of such Vendor's Work) exceeds the Escrow Funds, the Vendor shall remain responsible for such costs and will pay to the Purchaser all such amounts, subject to the right of the Vendor to object to all or part of such excess amount and to the obligation of the parties to resolve such dispute, acting reasonably and in good faith, failing which the dispute will be referred for resolution by an arbitrator in the same manner as noted below.

6.2 On the Outside Date, the Purchaser and Vendor shall provide the Escrow Agent a Direction which sets out the amount, if any, in dispute and authorizes the Escrow Agent to release the balance of the Escrow Funds not in dispute (plus applicable Interest) to the Vendor. If both the Purchaser and Vendor fail to provide a Direction on or before the Outside Date, the Escrow Agent will release all or any portion of the balance of the Escrow Funds to the Vendor within three (3) Business Days of the Outside Date. If either the Purchaser or the Vendor fail to execute and deliver a Direction to the Escrow Agent, the Escrow Agent shall comply with the written direction of the party that delivered the direction (including, without limitation, releasing the Escrow Funds) within three (3) Business Days of the Outside Date.

6.3 Except for the payment by the Escrow Agent in accordance with Subsection 6.1 and Section 6.2, no payments or disbursements out of the Escrow Funds shall be made by the Escrow Agent except as follows:

- (a) unless the party that received the Draw Notice delivers a Draw Objection Notice to the Escrow Agent by the tenth (10th) business day after receipt by the Escrow Agent of the Draw Notice, the Escrow Agent shall release the amount stipulated in the Draw Notice to the party that provided the Draw Notice;

- (b) upon receipt of a Draw Objection Notice by the Escrow Agent, the Escrow Agent shall only make disbursements of Escrow Funds pursuant to a Direction or an Arbitrator's Order;
- (c) if the party that received the Draw Notice delivers a Draw Objection Notice, for the period of sixty (60) days following receipt of such notice, the parties shall endeavour to resolve such dispute. If the parties, acting reasonably and in good faith, are not able to resolve such dispute within such period, the dispute shall be finally resolved by a single arbitrator pursuant to the Simplified Arbitration Rules of the ADR Institute of Canada, Inc. The place of arbitration shall be Moose Jaw, Saskatchewan, or, if agreed to between the parties, Calgary, Alberta; and
- (d) if the Escrow Agent resigns or is removed pursuant to Section 10 or if this Agreement is terminated in accordance with Section 12, the Escrow Agent shall pay to the successor Escrow Agent appointed pursuant to Subsection 10.3 all of the Escrow Funds held by the Escrow Agent to the successor Escrow Agent.

7. RESPONSIBILITY OF ESCROW AGENT

- 7.1 The duties and obligations of the Escrow Agent hereunder shall be confined to dealing with the Escrow Funds in accordance with this Agreement, or in accordance with any Direction received by the Escrow Agent. Otherwise the Escrow Agent shall have no duties or obligations other than those expressly provided in this Agreement or any Direction and shall not be required to take any action other than in accordance with the terms hereof or of any Direction.
- 7.2 In particular, but without limiting the generality of Subsection 7.1, the parties agree that:
- (a) the Escrow Agent shall not be responsible for the genuineness of any signature or document presented to it pursuant to this Agreement and may rely conclusively upon and shall be protected in acting upon any Direction, advice, order, Arbitrator's Order, judicial order or decree, certificate, notice, request, consent, statement, instruction or other instrument believed by it in good faith to be genuine or to be signed or presented by the proper person hereunder, or duly authorized by such person or properly made;
 - (b) the Escrow Agent shall not be responsible for any of the agreements contained herein except the performance of its duties as expressly set out herein;
 - (c) the Escrow Agent shall not be bound by any notice of, or demand with respect to, any waiver, modification, amendment, termination, cancellation or rescission of this Agreement, unless in writing and signed by the Vendor and the Purchaser and, if the duties of the Escrow Agent are affected thereby, unless it shall have given its prior written consent thereto;
 - (d) the Escrow Agent is not a party to, nor is bound by, any provisions which may be evidenced by, or arise out of, any agreement other than as therein set forth under the express provisions of this Agreement;

- (e) the Escrow Agent shall not be liable to the Purchaser, the Vendor or any other parties for any error of judgment, or for any act done or omitted by it in good faith, or for any mistake of fact or law, or for anything which it may do or omit from doing in connection herewith, except its own fraud or willful misconduct;
- (f) the Escrow Agent shall not be required to expend or risk its own funds or otherwise incur financial liabilities in the performance of any of its duties hereunder, or in the exercise of any of its rights and powers hereunder;
- (g) the Escrow Agent will disburse monies according to this Agreement only to the extent that monies have been deposited with it; and
- (h) the Escrow Agent shall not be responsible for assessing the validity or advisability of any Direction or instructions received by it. The Escrow Agent shall under no circumstances be deemed to provide legal, investment, tax or trading advice or counseling.

7.3 In the event of any controversy or dispute hereunder or with respect to any question as to the construction of this Agreement, or any action to be taken by the Escrow Agent hereunder, the Escrow Agent may pay the Escrow Funds into Court.

8. FEES AND EXPENSES OF ESCROW AGENT

8.1 The Purchaser shall, within thirty (30) days of receipt of an invoice therefore, pay to the Escrow Agent its reasonable fees and all out-of-pocket costs, charges and expenses (including GST as applicable) properly incurred by the Escrow Agent in connection with the performance by the Escrow Agent of its duties or rights or other work incidental to or contemplated pursuant to the provisions of this Agreement.

9. NON-LIABILITY/INDEMNIFICATION OF ESCROW AGENT

9.1 Without limiting any protection or indemnity of the Escrow Agent under any other provision hereof, or otherwise at law, the Purchaser and Vendor hereby jointly and severally agree to indemnify and hold harmless the Escrow Agent, its partners, directors, officers, employees, and agents, and all of their respective representatives, heirs, successors and assigns (collectively, the "**Indemnified Parties**") from and against any and all liabilities, losses, damages, penalties, claims, actions, suits, costs, expenses and disbursements, including reasonable legal or advisor fees and disbursements, of whatever kind and nature which may at any time be imposed on, incurred by or asserted against the Indemnified Parties in connection with the performance of the Escrow Agent's duties and obligations hereunder, other than such liabilities, losses, damages, penalties, claims, actions, suits, costs, expenses and disbursements arising by reason of fraud or willful misconduct of the Escrow Agent. This provision shall survive the resignation or removal of the Escrow Agent, or the termination of this Agreement. The Escrow Agent shall not be under any obligation to prosecute or to defend any action or suit in respect of the relationship which, in the opinion of its counsel, may involve it in expense or liability, unless the parties hereto shall, so often as required, furnish the Escrow Agent with satisfactory indemnity and funding against such expense or liability.

10. RESIGNATION, REMOVAL AND REPLACEMENT OF ESCROW AGENT

- 10.1 The Escrow Agent or any successor Escrow Agent may resign at any time by giving thirty (30) days' prior written notice of resignation to the Vendor and the Purchaser and such resignation shall be effective on the date specified in such notice.
- 10.2 The Vendor and the Purchaser may at any time remove the Escrow Agent with or without cause by a Direction to that effect delivered to the Escrow Agent, and such removal shall be effective on the first Business Day which occurs thirty (30) days after the receipt by the Escrow Agent of the Direction.
- 10.3 Upon the appointment of any successor Escrow Agent pursuant to this Section 10, such successor Escrow Agent shall immediately without further act or agreement succeed to all the rights and obligations of the retiring Escrow Agent hereunder as if originally named herein and the retiring Escrow Agent will duly assign, transfer and deliver to such successor Escrow Agent the Escrow Funds.
- 10.4 If no successor Escrow Agent has been appointed as at the effective date of the Escrow Agent's resignation or removal, the Escrow Agent may, at its option, pay the Escrow Funds into court.

11. NO CONFLICT

- 11.1 The fact that Bennett Jones LLP is acting as the Escrow Agent under this Agreement shall not in any way prevent it from representing Canadian Tire Real Estate Limited in connection with the Purchase Agreement or any litigation arising therefrom (except for any dispute arising in connection with this Agreement) or representing Canadian Tire Real Estate Limited or any affiliate or other party in any other capacity or in any other transaction.

12. TERMINATION

- 12.1 Other than the provisions for the protection of the Escrow Agent or which are stated to survive the termination of this Agreement, this Agreement shall terminate upon all of the Escrow Funds being released by the Escrow Agent pursuant to this Agreement.

13. NOTICES

- 13.1 Any notice or other writing required or permitted to be given hereunder to any party hereof shall be sufficiently given if delivered personally or if transmitted by facsimile to such party:

Purchaser: Canadian Tire Real Estate Limited
c/o Canadian Tire Corporation, Limited
2180 Yonge Street
Toronto, Ontario M4P 2V8
Attention: Vice President, Real Estate Operations
Facsimile: 416-544-7715

with a copy to:

Canadian Tire Real Estate Limited
Unit #110 - 205 Quarry Park Blvd. SE,
Calgary, AB T2C 3E7
Attention: Ron Odagaki, Associate Vice President, Real Estate Development
Email Address: ronald.odagaki@cantire.com

Vendor: CITY OF MOOSE JAW
228 Main Street N
Moose Jaw, SK, S6H 3J8
Attention: Director of Planning and Development Services

Escrow Agent:
Bennett Jones LLP
4500, 855 – 2nd Street SW
Calgary, Alberta T2P 4K7

Attention: Alixe Cameron
Facsimile No.: (403) 265-7219

or at such other address as the party to whom such writing is to be given it shall have last notified the party giving the same in the manner provided in this Section.

13.2 Any notice delivered to the party to whom it is addressed as hereinbefore provided shall be deemed to have been given and received on the day it is so delivered at such address, provided that if such day is not a Business Day then the notice shall be deemed to have been given and received on the Business Day next following such day.

13.3 Any notice which is transmitted by facsimile shall be deemed to be given and received on the first Business Day after its transmission.

14. GOVERNING LAW

14.1 This Agreement shall be governed by and construed in accordance with the laws of the Province of Alberta.

15. AMENDMENTS

15.1 This Agreement may be amended only by an instrument signed by the Purchaser and the Vendor. The consent in writing of the Escrow Agent shall be required to any such amendment, provided that such consent shall not be unreasonably withheld with respect to any matters in which the duties or responsibilities of the Escrow Agent are not involved.

16. DISPUTE RESOLUTION

16.1 If there is any dispute about the interpretation of the terms of this Agreement or the person to whom money should be paid or the amount of money to be paid under this Agreement,

the Escrow Agent shall be entitled to refrain from acting and may refuse to act until such dispute shall have been settled by agreement and the Escrow Agent shall have been notified thereof by the Vendor and the Purchaser in writing, or, until such dispute has been determined by an Arbitrator's Order; provided however, that the Escrow Agent may at any time apply to the Court of Queen's Bench in Saskatchewan for direction and may pay the Escrow Funds or any part thereof into Court pending receipt of that direction. Notwithstanding any other provision of this Agreement, the Escrow Agent may act in accordance with the order of a court of competent jurisdiction or any other lawful order in connection with the Escrow Funds.

17. SUCCESSORS

17.1 This Agreement shall be binding upon the parties hereto and their respective successors and assigns and shall enure to the benefit of the Purchaser, the Vendor and the Escrow Agent and their respective successors and permitted assigns. The Purchaser shall not assign or transfer this Agreement or any of its rights hereunder except with the prior written consent of the Vendor, which consent may be withheld in the sole discretion of the Vendor.

18. ENTIRE AGREEMENT

18.1 This Agreement, except insofar as it relates to the Purchase Agreement, contains the entire agreement and understanding of the parties with respect to the transactions contemplated hereby. No prior agreement either written or oral shall be construed to change, amend, alter, repeal or invalidate this Agreement.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

19. COUNTERPARTS

19.1 This Agreement may be executed in any number of counterparts, which may be separately executed by the parties hereto, each of which shall be an original and all of which taken together shall constitute one and the same instrument.

IN WITNESS WHEREOF the parties have executed and delivered this Agreement as of the day and year first above written.

CANADIAN TIRE REAL ESTATE LIMITED

Per: _____
Name:
Title:

Per: _____
Name:
Title:
I/We have the authority to bind the Corporation

CITY OF MOOSE JAW

Per: _____
MAYOR

Per: _____
CITY CLERK
I/We have the authority to bind the City

BENNETT JONES LLP

Per: _____
Name: Alixe Cameron
Title: Partner
I have the authority to bind the LLP

SCHEDULE "F"

RESTRICTIVE COVENANT AGREEMENT

The Vendor shall provide in writing on the Closing Date in closing and completion hereof, the Purchaser's standard Restrictive Covenant Agreement ("**Restrictive Covenant Agreement**") as Schedule "F1", in respect of the ROFR Lands, granting certain restrictions on use of the ROFR Lands to the benefit of the Purchaser and the Purchaser's use of the Property as set out in Section 3 thereof.

SCHEDULE "F1"
RESTRICTIVE COVENANT AGREEMENT

THIS AGREEMENT made effective _____ of _____, _____.

BETWEEN:

THE CITY OF MOOSE JAW
having an Office at 228 Main Street N
Moose Jaw, SK S6H 3J8
(hereinafter called "The City")

AND:

Canadian Tire Real Estate Limited.
having an office at 2180 Yonge Street, 15th Floor North
Toronto, Ontario M4P 2V8

(hereinafter called "CTREL")

Recitals/Preamble:

1. The City owns the lands and premises identified in Schedule "B" (the "**ROFR Lands**"), hereby incorporated into this Agreement and forming an integral part hereof.
2. CTREL owns or will become the owner of the lands and premises described in Schedule "A" (the "**CTREL Lands**"), hereby incorporated into this Agreement and forming an integral part hereof.
3. The parties have agreed to enter into this Agreement in connection with the sale of the CTREL Lands to CTREL by The City.

NOW THIS INDENTURE WITNESSES that in consideration of the mutual covenants and agreements herein contained and the sum of TEN DOLLARS (\$10.00) now paid by each of the parties hereto to the other (the receipt whereof is hereby acknowledged) the parties hereto mutually covenant and agree as follows:

1. PREAMBLE/SCHEDULES

- 1.1 The recitals of fact contained in the preamble hereto are true and form an integral part thereof.
- 1.2 All Schedules shall form an integral part hereof, without specific reference to incorporation to this Agreement.

2. USE

2.1 The City will not use nor permit the use of any portion of the ROFR Lands, for a period not to exceed twenty (20) years from the date of this Agreement, for the purpose of:

- (a) a store selling automotive parts or supplies;
- (b) an automobile service station, car wash, a gas bar or an energy dispensing station (such as, by way of example but without limitation, a fuel or recharging station or facility);
- (c) a sporting goods store;
- (d) a home improvement or hardware store, such as but not limited to Home Depot, Lowes, RONA, Home Hardware, ACE, True Value, Pro Hardware or variations of any of the foregoing;
- (e) a plumbing supply store;
- (f) an electrical lighting or supply store;
- (g) a paint and wallpaper store;
- (h) a horticultural nursery or garden centre supply store facility;
- (i) the sale of pet food, pet accessories and pet products;
- (j) an automobile rental agency that has no more than six (6) cars parked on the ROFR Lands and available for rent;
- (k) a store having as its principal business, the sale of work wear apparel, work boots, uniforms, and safety footwear, or any of the foregoing;
- (l) the sale or provision of any merchandise, products or services usually sold or provided at any of the establishments described in items (a) through (j) above, including without limitation, any automotive parts or supplies, sporting goods and/or sportswear ancillary thereto, hardware, plumbing supplies, electrical or lighting supplies, building supplies, paint and wallpaper, gardening supplies, plants and other items typically sold at a horticultural nursery or garden centre, automobile rentals, and any work wear apparel, work boots, uniforms, and safety footwear;
- (m) carrying on the business (whether such business is the principal or primary business or is incidental or supplementary to the principal or primary business of the owner, tenant, occupier, licensee of the ROFR Lands of a food supermarket or green grocer offering for sale food for off premises consumption, and/or a pharmaceutical dispensary (also known as pharmacy or drugstore) by way of example only "Safeway", "Sobeys", "Loblaws", "Superstore", "Shopper's Drug Mart", "London Drugs" and "Rexall";

- (n) a cinema or theatre;
- (o) a bowling alley;
- (p) a billiard or pool parlour;
- (q) a bingo hall;
- (r) an entertainment centre or video game arcade or any other place of recreation or amusement within 300 feet of any property line;
- (s) a night club;
- (t) an off track betting establishment;
- (u) the sale of second hand goods, insurance salvage stock, fire sale stock, or bankruptcy stock;
- (v) an auction, bulk sale, liquidation sale, "going out of business" or bankruptcy sale;
- (w) payday advance services;
- (x) a house of worship;
- (y) an adult entertainment centre, strip club or adult book store;
- (z) a store selling legalized marijuana; or
- (aa) any other use which creates strong, unusual or offensive odours, fumes, dust or vapours, is a public or private nuisance, emits noise or sounds which are objectionable due to intermittence, beat, frequency, shrillness or loudness, or creates fires, explosive or other hazards. Excepting, however, agricultural, such as the annual fair and recreational operations, such as annual midway, or other events currently or traditionally carried on by the Moose Jaw Exhibition Company Limited.

2.2 In the event that CTREL has not acquired the ROFR Lands and a minimum of two (2) years have passed since a "Canadian Tire" store has opened and is operating on the CTREL Lands then notwithstanding the restriction above in 2.1(1), any portion of the ROFR Lands shall be permitted to be used for the purposes of the use set out in 2.1(1).

3. MISCELLANEOUS

3.1 The provisions of this Agreement are restrictive covenants encumbering the ROFR Lands for the benefit of the CTREL Lands, and shall enure to the benefit of and be binding upon each owner from time to time of the respective lands and any mortgagee while in possession of any part or all of such lands.

- 3.2 For certainty, no breach of the provisions of this Agreement by either party shall entitle the other party to cancel, rescind or otherwise terminate this Agreement, but such limitation shall not affect, in any manner, any other rights or remedies which either party may have hereunder by reason of any breach of the provisions of this Agreement.
- 3.3 Any notice, demand or request which any party shall give to any other party shall be sufficiently given if served personally or mailed by prepaid registered post (return receipt requested), in the case of the City, at:

City of Moose Jaw
228 Main Street North
Moose Jaw, SK S6H 3J8
Attention: Director of Planning and Development
FAX: 1-306-691-0292

and in the case of CTREL, at:

Canadian Tire Real Estate Limited
c/o Canadian Tire Corporation, Limited
2180 Yonge Street
Toronto, Ontario M4P 2V8
Attention: Vice President, Real Estate Operations
Facsimile: 416-544-7715

with a copy to:

Canadian Tire Real Estate Limited
Unit #110 - 205 Quarry Park Blvd. SE,
Calgary, AB T2C 3E7
Attention: Ron Odagaki, Associate Vice President, Real Estate Development
Email Address: ronald.odagaki@cantire.com

The date of the receipt of any such notice given by mailing aforesaid shall be deemed to be the date of delivery by postal authorities, and given by personal service on the date of delivery, and if telefaxed, on the first business day following the date of transmission. Either party may at any time give notice in writing to the other of any change of address of the party giving such notice and from and after the giving of such notice, the address herein specified shall be deemed to be the address of such party for the giving of such notices herein.

- 3.4 This Agreement shall be registered against the title to the ROFR Lands and the CTREL Lands and each party covenants, within thirty (30) days of request of the other parties to deliver an acknowledgement of such priority from any mortgagee or similar party claiming a financial interest.
- 3.5 Nothing herein contained shall be deemed or construed by the parties hereto or by any other party as creating the relationship of partnership or joint venture between the parties hereto.

- 3.6 Disputes as to the implementation hereof or as to the reasonableness of any disapproval or refusal to give consent, shall be resolved by a single arbitrator appointed and proceeding under the applicable arbitration legislation of the jurisdiction in which the lands are situate, whose decision shall be final and binding upon the parties.
- 3.7 This Agreement shall extend to and be binding upon the parties hereto and their respective successors and assigns.
- 3.8 This Agreement may be signed in counterpart and will be effective upon all counterparts being executed
- 3.9 This Agreement shall be governed under and pursuant to the laws of the Province of Saskatchewan.

IN WITNESS WHEREOF the parties hereto have caused their respective seals to be affixed hereto duly attested to by the signatures of their respective proper signing officers in that behalf.

CANADIAN TIRE REAL ESTATE LIMITED

Per: _____
Name:
Title:

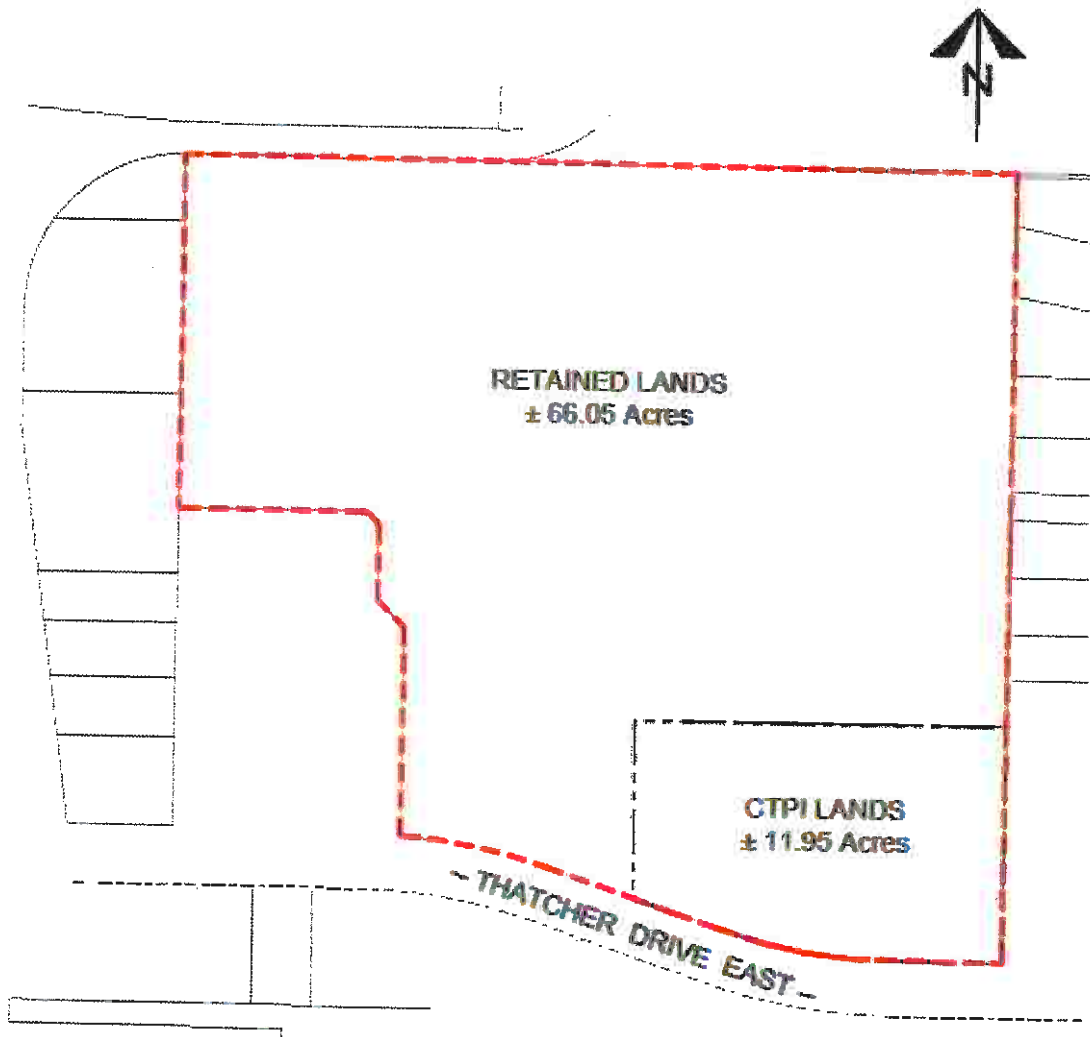
Per: _____
Name:
Title:
I/We have the authority to bind the Corporation

THE CITY OF MOOSE JAW

Per: _____
MAYOR

Per: _____
CITY CLERK
I/We have the authority to bind the City

SCHEDULE "A"
to the Restrictive Covenant Agreement
Retained Lands



SCHEDULE "B"
to the Restrictive Covenant Agreement

ROFR Lands



SCHEDULE "G"

City of Moose Jaw Landscaping Standards



City of Moose Jaw Landscaping Standards

1. General

1. All landscaping and maintenance must adhere to the City of Moose Jaw's bylaws and any applicable provincial or federal laws.
2. All tree maintenance is to be performed according to the City of Moose Jaw Tree Maintenance Standards.

2. Evaluation and Protection of Existing Site Elements

1. Prior to the start of work on the project site, all site elements that may be suitable for preservation shall be reviewed and evaluated. Examples of site elements that may be protected are trees, monuments, wildlife, water, and historical features.
2. All elements that are to be preserved should be documented before the start of work on the project site. Information such as location, size and condition of each element should be recorded and pictures should be taken.
3. Any damages shall be documented and reported.
4. Trees and other plant material
 - i. All trees shall be evaluated by a Certified Arborist according to current International Society of Arboriculture standards and their value taken into consideration when developing the landscape or redevelopment plan.
 - ii. Trees, shrubs and perennials may be relocated if they are healthy, sufficiently valuable and of an appropriate size.
 - a. Root pruning before relocation of trees and shrubs is recommended and should be carried out while the plant is dormant (ie late fall or early spring). Roots should be pruned to the depth of proposed excavation, at least 30 cm, and 20 cm in from the edge of the proposed root ball.
 - b. Root ball diameter for trees shall be a minimum of 12 times the diameter of the trunk measured 1 m above the base of the tree.
 - c. Root ball diameter for shrubs shall be a minimum of half the height of the shrub.
 - d. Root balls shall be of a depth that encompasses enough of the fibrous and absorptive root system to enable full recovery of the plant.
 - iii. All existing trees, shrubs and perennials that will be retained must be adequately protected from damage during the work. The minimum protection zone for trees is according the following table

| Trunk Diameter (DBH) | Minimum Protection Radius |
|-----------------------------|----------------------------------|
| 20 cm | 1.6 m |
| 25 cm | 2.0 m |
| 30 cm | 2.4 m |
| 35 cm | 2.8 m |
| 40 cm | 3.2 m |
| 50 cm | 3.6 m |
| 50 cm | 4.0 m |
| 55 cm | 4.4 m |
| 60 cm | 4.8 m |
| 75 cm | 6.0 m |
| 90 cm | 7.2 m |
| 100 cm | 8.0 m |
| 120 cm | 9.6 m |

- iv. If the drip line of the tree (directly under the edge of the canopy) extends farther than the radius in the above table, the drip line should be used as the critical protection zone.
- v. For shrubs the greater of the drip line or half the height of the shrub shall serve as the diameter for the critical protection zone.
- vi. For herbaceous perennials the area covered by the plants when at their maximum size (ie late summer) shall be protected.
- vii. Physical barriers such as a fence should be erected at the edge of the critical protection zone before the start of any other on-site work to prevent passage of equipment over the zone and storage of any materials or chemicals within the zone.
 - a. If equipment travel or other activities are unavoidable within the critical protection zone, the area shall be mulched with 6 inches of wood chip mulch to avoid soil compaction.
 - b. Protective fencing shall be removed only after work is complete

5. Tree removals

- i. All removals of city owned trees must be approved by the Department of Parks and Recreation according to the Boulevard Tree Removal Policy.
- ii. For every tree removed a new tree should be planted in a suitable location within the City of Moose Jaw to maintain the urban forest. If possible, the replacement tree(s) should be placed near the site of the original tree(s).
- iii. If a city owned tree is removed, replacement of that tree is mandatory. If the city owned tree is not replaced for any reason, a \$100 reforestation fee must be paid to the Department of Parks and Recreation, as stated in the Boulevard Tree Removal Policy.

3. Grading

1. Remove topsoil from areas to be re-graded. Strip topsoil when dry enough to prevent contamination with sub grade material. Do not handle wet or frozen topsoil.
 - i. Topsoil may be stockpiled on site away from critical root zone.
2. Rough grade to the following depths below finishing grade
 - i. 15 cm for lawn areas
 - ii. 30 cm for ground cover, perennials, and dwarf shrubs less than 1m tall
 - iii. 45 cm for shrubs between 1 and 2.5 m tall
 - iv. 60 cm for trees and shrubs over 2.5 m
 - v. 90 cm for trees over 6 m tall
3. Grading shall eliminated uneven areas and low spots to ensure positive drainage of the site.
4. Prior to placing fill over existing ground, scarify the surface to a depth of 15 cm. Maintain fill and existing surface at approximately the same moisture content to facilitate bonding.
5. Compact fill to the corrected maximum dry density of 85% under planted areas and 95% under paved and walk areas.
6. Remove any debris over 40 mm in diameter including roots, branches and rocks before the addition of topsoil.
7. Topsoil shall be as per the specifications under Section 4 "Soil".
8. Any fertilizer applied shall be incorporated into the topsoil uniformly over the entire planting area.
9. Eliminate rough spots and low areas during finish grading. Areas to be seeded or sodded should be rolled to leave a smooth, uniform surface that is firm against deep foot printing.

4. Soil

1. Topsoil shall be friable and
 - i. A clay loam (27-40% clay, 20-45% sand, 15-53% silt) or loam (7-27% clay, 23-52% sand, 28-50% silt) texture according to the Canadian System of Soil Classification, Third Edition
 - ii. Have a soil pH from 6.5 – 8.0 inclusive
 - iii. Salinity level less than 2 mS/cm
 - iv. Contain between 4 and 20% organic matter by weight
2. Topsoil must be free of subsoil, roots, vegetation, weeds listed as prohibited or noxious under the Saskatchewan *Weed Control Act, 2010*, debris, toxic materials, and stones over 25 mm diameter.
3. Soil testing shall be conducted by an accredited laboratory
4. Topsoil or growing media depth shall be a minimum of
 - i. 15 cm for lawn areas
 - ii. 30 cm for ground cover, perennials, and dwarf shrubs less than 1m tall

- iii. 45 cm for shrubs between 1 and 2.5 m tall
- iv. 60 cm for trees and shrubs over 2.5 m
- v. 90 cm for trees over 6 m tall

5. Trees must have a minimum growing medium area of 10 m².

5. Grass Seed

1. All seed shall be Canada Certified No. 1 or Canada Certified No. 2 and come complete with a Certificate of Analysis verifying that quality standards for Canada Certified No. 1 or Canada Certified No. 2 seed are met.
2. All dryland (ie non irrigated) turf areas shall be planted with the standard City of Moose Jaw Standard Grass Mix, which consists of
 - i. 30% Canada Blue Grass
 - ii. 25% Creeping Red Fescue
 - iii. 25% Crested Wheat Grass
 - iv. 20% Perennial Rye Grass
3. Irrigated turf areas may be planted with the standard City of Moose Jaw Irrigated Grass Mix, which consists of
 - i. 60% Kentucky Blue Grass
 - ii. 40% Creeping Red Fescue
4. Areas which will not be regularly mowed may be planted with a native grass mix consisting of
 - i. 30% Blue Grama (*Bouteloua gracillis*)
 - ii. 20% Plains rough fescue (*Festuca hallii*)
 - iii. 20% June grass (*Koeleria macrantha*)
 - iv. 20% Rocky Mountain Sheep's fescue (*Festuca ovina var.saximontana*)
Sheep's fescue (*Festuca ovina*) is not acceptable.
 - v. 5% Northern wheatgrass (*Agropyron dasystachyum*)
 - vi. 5% Western wheatgrass (*Agropyron smithii*)
5. The recommended seeding rate is 2.4 kg of seed per 100 m² (0.5 lbs/100 ft²). This is assuming at least 70% germination and favourable growing conditions.
6. All newly seeded areas shall be protected with warning signs and/or temporary fences to prevent damage from pedestrian and vehicular traffic, erosion and wildlife.
7. Newly seeded areas shall be watered to prevent the soil from drying out.
8. Grass may be hydro-seeded or dry seeded. Small areas may be hand broadcast.

6. Sod

1. Grass mixture in the sod shall be suitable to Moose Jaw and the specific site conditions.
2. Pests
 - i. Sod shall be absolutely free of prohibited and noxious weeds listed in the Saskatchewan *Weed Control Act*, 2010.
 - ii. Sod shall contain no more than 10 weeds per 10 m².

- iii. Sod shall be reasonably free of diseases and insect pests so that these pests will not cause the new turf to deteriorate if properly cared for.
3. Handling and Storage
 - i. Sod shall be protected from wind exposure during transport to prevent drying.
 - ii. Sod shall not be dropped or dumped from vehicles.
 - iii. When feasible, sod is to be installed, rolled and watered, within 24 hours of delivery.
 - iv. When there is a delay in installation, sod shall be kept moist, cool and protected against adverse weather such as drying winds and frost.
4. All newly sodded areas shall be protected with warning signs and/or temporary fences to prevent damage from pedestrian and vehicular traffic, erosion and wildlife.
5. Newly sodded areas shall be watered to prevent the soil from drying out.

7. Plants

1. All nursery stock should adhere to the *Canadian Nursery Stock Standard*, 9th edition.
2. All perennial plant material shall be rated hardy to Zone 3 or lower. Experimental material may be planted in small quantities, as approved by the Director of Parks and Recreation or Designate.
3. Trees and shrubs must have strong fibrous root systems, be structurally sound, and free of disease, insects, insect eggs, sunscald, frost cracks, rodent damage, defects, injuries and other damage.
4. Plant species listed under *The Weed Control Act*, 2010 are prohibited.
5. Any weeds found growing in container grown plants must be destroyed prior to planting.
6. Container grown trees will be #10 or #15 size. Large, open space plantings may use #5 size trees if the risk of vandalism and other damage is deemed low.
7. A variety of species should be interplanted to avoid insect and disease build up. A planting should consist of no more than 50% of any one tree variety.
8. All elms must be sourced from Saskatchewan and should be a cultivar that is Dutch Elm Disease resistant.

8. Planting Operations

1. Tree and shrub planting shall be according to the City of Moose Jaw Tree Maintenance Standards, "Tree Planting", including tree spacing, hole depth and planting methods.
2. All trees are to be staked according to the City of Moose Jaw Tree Maintenance Standards, "Tree Planting".
3. Plant only under conditions conducive to the health and optimum physical conditions of the trees. Planting in May, June, and September is recommended.

4. All plants shall be planted as soon as possible after delivery. If plants cannot be planted on the day of delivery they shall be protected from desiccation and other forms of damage until they can be planted.
5. Plants in storage must be watered so that the root ball is kept consistently moist.

9. Mulch

1. Mulching materials must be free from prohibited and noxious weeds listed under *The Weed Control Act, 2010* and their reproductive parts, and substantially free from other plant materials, stones, substances which may be harmful or toxic to plants and other undesirable debris.
2. All mulch must stay at least 10 cm away from the tree trunk to prevent rotting of the bark.
3. Trees planted in lawn areas should have a 1 m diameter mulched ring that is actively maintained for a minimum of 3 years.
4. Wood or Bark Mulch
 - i. Shall not contain elm wood or bark
 - ii. Shall be applied to a depth of 10 cm before settling, or 7.5 cm after settling.
 - iii. In areas where the mulch is to be a permanent part of the landscape design, mulch should be reapplied every 4 years to replace mulch lost to normal decomposition processes.
5. Rock Mulch
 - i. May be screened, washed pea gravel. Rocks larger than 10 cm are not permitted.
 - ii. Shall be applied to a depth between 5 and 10 cm. Rock mulch shall be placed so as not to create a tripping hazard.

10. Watering

1. Trees shall be watered according City of Moose Jaw Tree Maintenance Standards.
2. All plants shall be watered in on the same day they are transplanted to a depth equal to the height of the root ball.
3. All new plantings of trees, shrubs and perennials shall be watered for three years after planting.

11. Fertilizing

1. Soil tests should be ordered when redeveloping large areas or the existing plants show signs of nutrient deficiency. Fertilizer applications should be made according to the recommendations of the soil report.
2. If the area is small and no soil test is conducted the following application rates may be used
 - i. For grass areas, an application of complete, slow release fertilizer may be incorporated into the top 20 cm of soil before seeding to deliver 0.1 kg of nitrogen per 100 m².

- ii. For trees and shrubs, a fertilizer high in phosphorus may be incorporated below the roots. Use a rate of 0.05 kg phosphorus per 10 m² or a rate based on a soil test. The incorporate pre-plant fertilizer for trees and shrubs as follows.
 - a. Dig the hole approximately 40 cm deeper than the root ball.
 - b. Incorporate the fertilizer into enough soil to fill the bottom 30 cm of the hole, then place in the hole and level off.
 - c. Add 10 cm of unfertilized soil as a buffer zone.
3. High nitrogen fertilizer should not be used on newly planted trees and shrubs unless it is a slow release formula. Slow release nitrogen in the year of planting should not exceed 0.1 kg of nitrogen per 10 m².
4. Fertilizer is not to be applied from August 7th until after the first hard frost.
5. Established plantings shall be fertilized as needed in early spring or late fall.

12. Maintenance

1. Landscapes and boulevard shall be maintained so as to be visually attractive and reasonably free from pests, weeds, diseases, litter, and graffiti, in accordance with Property Maintenance and Nuisance Bylaw and The Boulevard Bylaw.
2. Lawns should be maintained at a level consistent with the amenity of the neighbourhood or area they are located in.
3. Non-horticultural landscape elements such as paving, signage, fences, etc shall be kept in good repair so as not to create a safety concern or detract from the overall appearance of the area.