

Meeting Date: June 17, 2019
Department: Chief Administrative Officer
Prepared By: Greg McClinchey, Chief Administrative Officer
Subject: Parking Lot Behind 25 Front Street
(Part Lot 1, Plan 307, designated as Parts 1, 2, and 3 on the Reference Plan)

RECOMMENDATION:

It is recommended:

That Council receive this report for information.

BACKGROUND

In keeping with Council's direction and, in accordance with the Delegation of Authority By-Law, the CAO and the Clerk have executed the necessary documents for the Municipality to purchase a portion of the parking Lot behind 25 Front Street (Part Lot 1, Plan 307, designated as Parts 1, 2, and 3 on the Reference Plan).

This purchase will facilitate an improvement with respect to the property lines relating to Garden Lane and will ensure the ongoing existence of a public parking lot between Front Street and Garden Lane.

FINANCIAL IMPLICATIONS

Following the receipt of a market valuation for the property, the property was purchased for \$40,000 plus HST (the HST portion will be claimed back by the Municipality). The funds have been taken from the Administration Reserve.

ATTACHMENTS

- Purchase Agreement

Agreement of Purchase and Sale Commercial

Form 500
for use in the Province of Ontario

This Agreement of Purchase and Sale dated this day of April, 2019

BUYER: The Corporation of The Municipality of Strathroy-Caradoc, agrees to purchase from
(Full legal names of all Buyers)

SELLER: Douglas Walter Smith and Marion Elizabeth Smith, the following
(Full legal names of all Sellers)

REAL PROPERTY:

Address Parking Lot and Lane behind 25 Front Street West, Strathroy

fronting on the North side of Front Street

In the Municipality of Strathroy-Caradoc

and having a frontage of N/A more or less by a depth of N/A more or less

and legally described as Part Lot 1, Plan 307, designated as Parts 1, 2 and 3 on Reference Plan to be deposited,

attached as Schedule "B" (the "property")
(Legal description of land including easements not described elsewhere)

PURCHASE PRICE: Dollars (CDN\$) 40,000.00

FORTY THOUSAND Dollars

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

FIVE HUNDRED Dollars (CDN\$) 500.00

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

Buyer agrees to pay the balance as more particularly set out in Schedule A attached.

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

1. IRREVOCABILITY: This offer shall be irrevocable by Seller until 11:59pm on the 12 day of April, 2019, after which time, if not accepted, this offer shall be null and void and the deposit shall be returned to the Buyer in full without interest.

2. COMPLETION DATE: This Agreement shall be completed by no later than 6:00 p.m. on the 16 day of April, 2019. Upon completion, vacant possession of the property shall be given to the Buyer unless otherwise provided for in this Agreement.

INITIALS OF BUYER(S): [Signature]

INITIALS OF SELLERS(S): [Signature]

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

FAX No.: **519-246-5859**
 (For delivery of Documents to Seller)
 Email Address: **janetmgibbons@on.aibn.com**
 (For delivery of Documents to Seller)

FAX No.: **519-245-0108**
 (For delivery of Documents to Buyer)
 Email Address: **andrea@strathroylaw.com**
 (For delivery of Documents to Buyer)

4. CHATELS INCLUDED:
 Nil.

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

5. FIXTURES EXCLUDED:
 Nil.

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

The Buyer agrees to co-operate and execute such documentation as may be required to facilitate such assumption.

7. HST: If the sale of the property (Real Property as described above) is subject to Harmonized Sales Tax (HST), then such tax shall be in addition to the Purchase Price. The Seller will not collect HST if the Buyer provides to the Seller a warranty that the Buyer is registered under the Excise Tax Act ("ETA"), together with a copy of the Buyer's ETA registration, a warranty that the Buyer shall self-assess and remit the HST payable and file the prescribed form and shall indemnify the Seller in respect of any HST payable. The foregoing warranties shall not merge but shall survive the completion of the transaction. If the sale of the property is not subject to HST, Seller agrees to certify on or before closing, that the transaction is not subject to HST. Any HST on chattels, if applicable, is not included in the Purchase Price.

INITIALS OF BUYER(S): 

INITIALS OF SELLER(S): 

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8. **TITLE SEARCH:** Buyer shall be allowed until 6:00 p.m. on the 19 day of April, 2019, (Requisition Date) to examine the title to the property at his own expense and until the earlier of: (i) thirty days from the later of the Requisition Date or the date on which the conditions in this Agreement are fulfilled or otherwise waived or; (ii) five days prior to completion, to satisfy himself that there

are no outstanding work orders or deficiency notices affecting the property, that its present use (Commercial) may be lawfully continued and that the principal building may be insured against risk of fire. Seller hereby consents to the municipality or other governmental agencies releasing to Buyer details of all outstanding work orders and deficiency notices affecting the property, and Seller agrees to execute and deliver such further authorizations in this regard as Buyer may reasonably require.

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

10. **TITLE:** Provided that the title to the property is good and free from all registered restrictions, charges, liens, and encumbrances except as otherwise specifically provided in this Agreement and save and except for (a) any registered restrictions or covenants that run with the land providing that such are complied with; (b) any registered municipal agreements and registered agreements with publicly regulated utilities providing such have been complied with, or security has been posted to ensure compliance and completion, as evidenced by a letter from the relevant municipality or regulated utility; (c) any minor easements for the supply of domestic utility or telecommunication services to the property or adjacent properties; and (d) any easements for drainage, storm or sanitary sewers, public utility lines, telecommunication lines, cable television lines or other services which do not materially affect the use of the property. If within the specified times referred to in paragraph 8 any valid objection to title or to any outstanding work order or deficiency notice, or to the fact the said present use may not lawfully be continued, or that the principal building may not be insured against risk of fire is made in writing to Seller and which Seller is unable or unwilling to remove, remedy or satisfy or obtain insurance save and except against risk of fire (Title Insurance) in favour of the Buyer and any mortgagee, (with all related costs at the expense of the Seller), and which Buyer will not waive, this Agreement notwithstanding any intermediate acts or negotiations in respect of such objections, shall be at an end and all monies paid shall be returned without interest or deduction and Seller, Listing Brokerage and Co-operating Brokerage shall not be liable for any costs or damages. Save as to any valid objection so made by such day and except for any objection going to the root of the title, Buyer shall be conclusively deemed to have accepted Seller's title to the property.

11. **CLOSING ARRANGEMENTS:** Where each of the Seller and Buyer retain a lawyer to complete the Agreement of Purchase and Sale of the property, and where the transaction will be completed by electronic registration pursuant to Part III of the Land Registration Reform Act, R.S.O. 1990, Chapter L4 and the Electronic Registration Act, S.O. 1991, Chapter 44, and any amendments thereto, the Seller and Buyer acknowledge and agree that the exchange of closing funds, non-registrable documents and other items (the "Requisite Deliveries") and the release thereof to the Seller and Buyer will (a) not occur at the same time as the registration of the transfer/deed (and any other documents intended to be registered in connection with the completion of this transaction) and (b) be subject to conditions whereby the lawyer(s) receiving any of the Requisite Deliveries will be required to hold same in trust and not release same except in accordance with the terms of a document registration agreement between the said lawyers. The Seller and Buyer irrevocably instruct the said lawyers to be bound by the document registration agreement which is recommended from time to time by the Law Society of Ontario. Unless otherwise agreed to by the lawyers, such exchange of Requisite Deliveries shall occur by the delivery of the Requisite Deliveries of each party to the office of the lawyer for the other party or such other location agreeable to both lawyers.

12. **DOCUMENTS AND DISCHARGE:** Buyer shall not call for the production of any title deed, abstract, survey or other evidence of title to the property except such as are in the possession or control of Seller. If requested by Buyer, Seller will deliver any sketch or survey of the property within Seller's control to Buyer as soon as possible and prior to the Requisition Date. If a discharge of any Charge/Mortgage held by a corporation incorporated pursuant to the Trust And Loan Companies Act (Canada), Chartered Bank, Trust Company, Credit Union, Caisse Populaire or Insurance Company and which is not to be assumed by Buyer on completion, is not available in registrable form on completion, Buyer agrees to accept Seller's lawyer's personal undertaking to obtain, out of the closing funds, a discharge in registrable form and to register same, or cause same to be registered, on title within a reasonable period of time after completion, provided that on or before completion Seller shall provide to Buyer a mortgage statement prepared by the mortgagee setting out the balance required to obtain the discharge, and, where a real-time electronic cleared funds transfer system is not being used, a direction executed by Seller directing payment to the mortgagee of the amount required to obtain the discharge out of the balance due on completion.

13. **INSPECTION:** Buyer acknowledges having had the opportunity to inspect the property and understands that upon acceptance of this offer there shall be a binding agreement of purchase and sale between Buyer and Seller.

14. **INSURANCE:** All buildings on the property and all other things being purchased shall be and remain until completion at the risk of Seller. Pending completion, Seller shall hold all insurance policies, if any, and the proceeds thereof in trust for the parties as their interests may appear and in the event of substantial damage, Buyer may either terminate this Agreement and have all monies paid returned without interest or deduction or else take the proceeds of any insurance and complete the purchase. No insurance shall be transferred on completion. If Seller is taking back a Charge/Mortgage, or Buyer is assuming a Charge/Mortgage, Buyer shall supply Seller with reasonable evidence of adequate insurance to protect Seller's or other mortgagee's interest on completion.

INITIALS OF BUYER(S):

INITIALS OF SELLER(S):

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- 15. PLANNING ACT:** This Agreement shall be effective to create an interest in the property only if Seller complies with the subdivision control provisions of the Planning Act by completion and Seller covenants to proceed diligently at his expense to obtain any necessary consent by completion.
- 16. DOCUMENT PREPARATION:** The Transfer/Deed shall, save for the Land Transfer Tax Affidavit, be prepared in registrable form at the expense of Seller, and any Charge/Mortgage to be given back by the Buyer to Seller at the expense of the Buyer. If requested by Buyer, Seller covenants that the Transfer/Deed to be delivered on completion shall contain the statements contemplated by Section 50(22) of the Planning Act, R.S.O.1990
- 17. RESIDENCY:** (a) Subject to (b) below, the Seller represents and warrants that the Seller is not and on completion will not be a non-resident under the non-residency provisions of the Income Tax Act which representation and warranty shall survive and not merge upon the completion of this transaction and the Seller shall deliver to the Buyer a statutory declaration that Seller is not then a non-resident of Canada;
(b) provided that if the Seller is a non-resident under the non-residency provisions of the Income Tax Act, the Buyer shall be credited towards the Purchase Price with the amount, if any, necessary for Buyer to pay to the Minister of National Revenue to satisfy Buyer's liability in respect of tax payable by Seller under the non-residency provisions of the Income Tax Act by reason of this sale. Buyer shall not claim such credit if Seller delivers on completion the prescribed certificate.
- 18. ADJUSTMENTS:** Any rents, mortgage interest, realty taxes including local improvement rates and unmetered public or private utility charges and unmetered cost of fuel, as applicable, shall be apportioned and allowed to the day of completion, the day of completion itself to be apportioned to Buyer.
- 19. TIME LIMITS:** Time shall in all respects be of the essence hereof provided that the time for doing or completing of any matter provided for herein may be extended or abridged by an agreement in writing signed by Seller and Buyer or by their respective lawyers who may be specifically authorized in that regard.
- 20. PROPERTY ASSESSMENT:** The Buyer and Seller hereby acknowledge that the Province of Ontario has implemented current value assessment and properties may be re-assessed on an annual basis. The Buyer and Seller agree that no claim will be made against the Buyer or Seller, or any Brokerage, Broker or Salesperson, for any changes in property tax as a result of a re-assessment of the property, save and except any property taxes that accrued prior to the completion of this transaction.
- 21. TENDER:** Any tender of documents or money hereunder may be made upon Seller or Buyer or their respective lawyers on the day set for completion. Money shall be tendered with funds drawn on a lawyer's trust account in the form of a bank draft, certified cheque or wire transfer using the Large Value Transfer System.
- 22. FAMILY LAW ACT:** Seller warrants that spousal consent is not necessary to this transaction under the provisions of the Family Law Act, R.S.O. 1990 unless the spouse of the Seller has executed the consent hereinafter provided.
- 23. UFFI:** Seller represents and warrants to Buyer that during the time Seller has owned the property, Seller has not caused any building on the property to be insulated with insulation containing ureaformaldehyde, and that to the best of Seller's knowledge no building on the property contains or has ever contained insulation that contains ureaformaldehyde. This warranty shall survive and not merge on the completion of this transaction, and if the building is part of a multiple unit building, this warranty shall only apply to that part of the building which is the subject of this transaction.
- 24. LEGAL, ACCOUNTING AND ENVIRONMENTAL ADVICE:** The parties acknowledge that any information provided by the brokerage is not legal, tax or environmental advice, and that it has been recommended that the parties obtain independent professional advice prior to signing this document.
- 25. CONSUMER REPORTS:** The Buyer is hereby notified that a consumer report containing credit and/or personal information may be referred to in connection with this transaction.
- 26. AGREEMENT IN WRITING:** If there is conflict or discrepancy between any provision added to this Agreement (including any Schedule attached hereto) and any provision in the standard pre-set portion hereof, the added provision shall supersede the standard pre-set provision to the extent of such conflict or discrepancy. This Agreement including any Schedule attached hereto, shall constitute the entire Agreement between Buyer and Seller. There is no representation, warranty, collateral agreement or condition, which affects this Agreement other than as expressed herein. For the purposes of this Agreement, Seller means vendor and Buyer means purchaser. This Agreement shall be read with all changes of gender or number required by the context.
- 27. TIME AND DATE:** Any reference to a time and date in this Agreement shall mean the time and date where the property is located.

INITIALS OF BUYER(S):

INITIALS OF SELLER(S):

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28. SUCCESSORS AND ASSIGNS: The heirs, executors, administrators, successors and assigns of the undersigned are bound by the terms herein SIGNED, SEALED AND DELIVERED in the presence of: IN WITNESS whereof I have hereunto set my hand and seal:

Leah Placencia
 (Witness)

 (Witness)

[Signature]
 (Buyer/Authorized Signing Officer) (Seal) **MAY 10/19** (Date)
 _____ (Seal) (Date)
 (Buyer/Authorized Signing Officer)

I, the Undersigned Seller, agree to the above offer. I hereby irrevocably instruct my lawyer to pay directly to the brokerage(s) with whom I have agreed to pay commission, the unpaid balance of the commission together with applicable Harmonized Sales Tax (and any other taxes as may hereafter be applicable), from the proceeds of the sale prior to any payment to the undersigned on completion, as advised by the brokerage(s) to my lawyer.
 SIGNED, SEALED AND DELIVERED in the presence of: IN WITNESS whereof I have hereunto set my hand and seal:

[Signature]
 (Witness)

 (Witness)

Douglas W Smith
 (Seller/Authorized Signing Officer) (Seal) **MAY 13/19** (Date)
[Signature]
 (Seller/Authorized Signing Officer) (Seal) **MAY 13/19** (Date)

SPOUSAL CONSENT: The undersigned spouse of the Seller hereby consents to the disposition evidenced herein pursuant to the provisions of the Family Law Act, R.S.O. 1990, and hereby agrees to execute all necessary or incidental documents to give full force and effect to the sale evidenced herein.

 (Witness) (Spouse) (Seal) (Date)

CONFIRMATION OF ACCEPTANCE: Notwithstanding anything contained herein to the contrary, I confirm this Agreement with all changes both typed and written was finally accepted by all parties at _____ this _____ day of **April**, 20 **19**
 (a.m./p.m.)

(Signature of Seller or Buyer)

INFORMATION ON BROKERAGE(S)	
Listing Brokerage	(Tel. No.)
(Salesperson/Broker/Broker of Record Name)	
Co-op/Buyer Brokerage	(Tel. No.)
(Salesperson/Broker/Broker of Record Name)	

ACKNOWLEDGEMENT	
I acknowledge receipt of my signed copy of this accepted Agreement of Purchase and Sale and I authorize the Brokerage to forward a copy to my lawyer. (Seller) _____ (Date) _____ (Seller) _____ (Date) _____ Address for Service _____ Seller's Lawyer Janet M. Gibbons (Tel. No.) _____ Address 39 Front Street West, Strathroy ON N7G 1X5 Email janetmgibbons@on.aibn.com 519 245-0110 (Tel. No.) 519 245-5859 (Fax. No.)	I acknowledge receipt of my signed copy of this accepted Agreement of Purchase and Sale and I authorize the Brokerage to forward a copy to my lawyer. (Buyer) _____ (Date) _____ (Buyer) _____ (Date) _____ Address for Service _____ Buyer's Lawyer Andrea C. Bezaire (Tel. No.) _____ Address 18 Front Street East, Strathroy ON N7G 1Y4 Email andrea@strathroylaw.com 519 245-0342 (Tel. No.) 519 245-0108 (Fax. No.)

FOR OFFICE USE ONLY COMMISSION TRUST AGREEMENT	
To: Co-operating Brokerage shown on the foregoing Agreement of Purchase and Sale: In consideration for the Co-operating Brokerage procuring the foregoing Agreement of Purchase and Sale, I hereby declare that all moneys received or receivable by me in connection with the Transaction as contemplated in the MLS® Rules and Regulations of my Real Estate Board shall be receivable and held in trust. This agreement shall constitute a Commission Trust Agreement as defined in the MLS® Rules and shall be subject to and governed by the MLS® Rules pertaining to Commission Trust DATED as of the date and time of the acceptance of the foregoing Agreement of Purchase and Sale Acknowledged by _____ [Authorized to bind the Listing Brokerage] _____ [Authorized to bind the Co-operating Brokerage]	

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

BUYER: The Corporation of The Municipality of Strathroy-Caradoc, and

SELLER: Douglas Walter Smith and Marion Elizabeth Smith

for the purchase and sale of Parking Lot and Lane behind 25 Front Street West, Strathroy

dated the day of **April**, 20. **19**

Buyer agrees to pay the balance as follows:

By cash or by certified cheque, subject to the usual adjustments, on closing.

The Vendors and Purchaser acknowledge and agree that the preliminary plan attached as Schedule "B" shows the lands which are to be purchased.

(ms) This Offer is conditional until **MAY 8, 2019** upon the confirmation that the Vendor retained parking spaces are not included in Part 3. No conditions

(ms) The Purchaser agrees to register a right of way in favour of the Vendor over Pt 2+3 or dedicate same as a public lane. No conditions

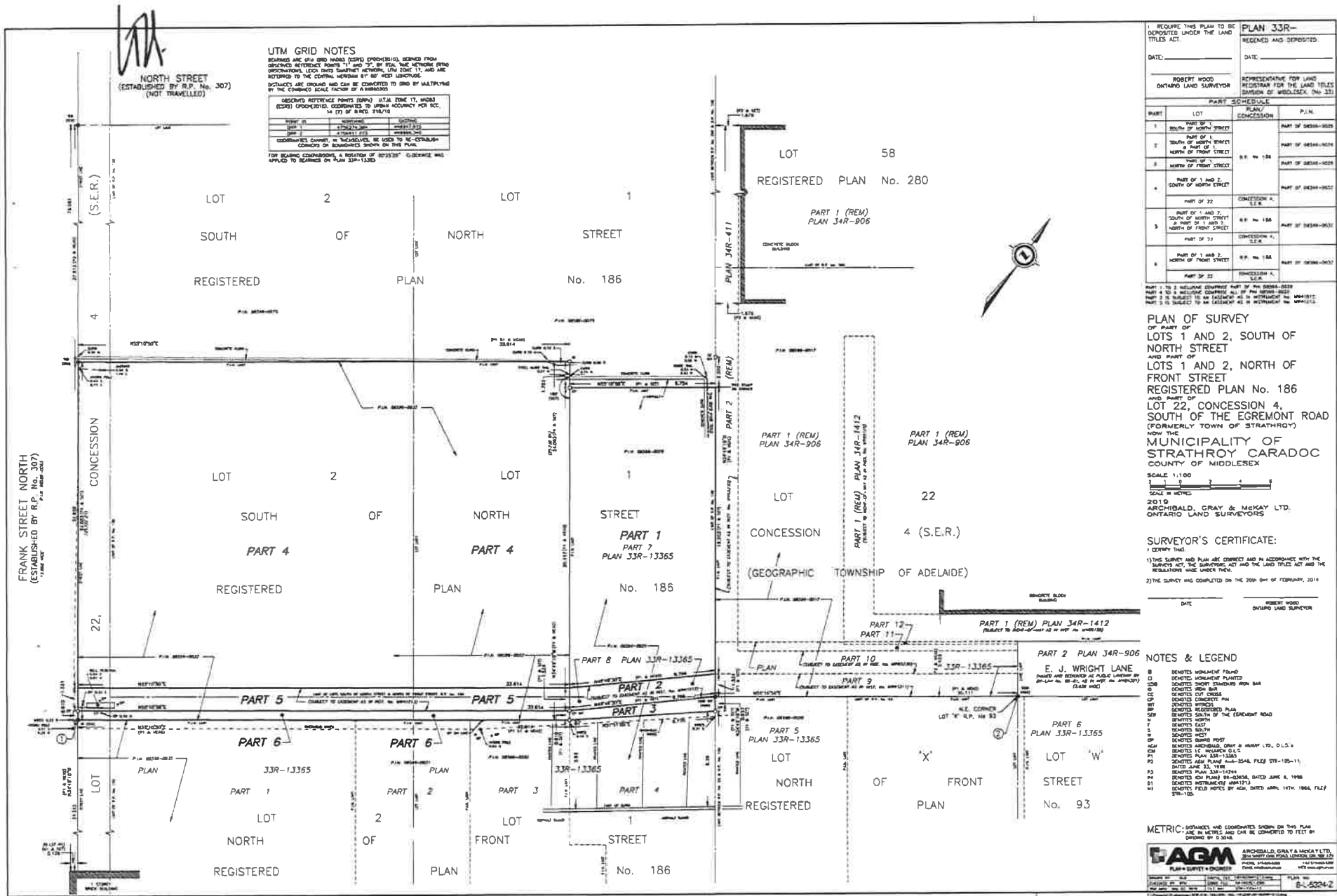
This form must be initialed by all parties to the Agreement of Purchase and Sale.

INITIALS OF BUYER(S):

INITIALS OF SELLER(S):

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1. REQUIRE THIS PLAN TO BE DEPOSITED UNDER THE LAND TITLES ACT.		PLAN 33R-
DATE: _____		REPRESENTATIVE FOR LAND REGISTRATION FOR THE LAND TITLES DIVISION OF MIDDLESEX (No. 33)
ROBERT WOOD ONTARIO LAND SURVEYOR		DATE: _____

PART	LOT	PART SCHEDULE	
		PLAN	P.L.N.
1	PART OF 1 SOUTH OF NORTH STREET	CONFESSION	PART OF 06364-0628
2	PART OF 1 SOUTH OF NORTH STREET	R.P. No. 186	PART OF 06344-0624
3	PART OF 1 NORTH OF FRONT STREET	R.P. No. 186	PART OF 06364-0628
4	PART OF 1 AND 2 NORTH OF FRONT STREET	R.P. No. 186	PART OF 06364-0628
5	PART OF 1 AND 2 NORTH OF FRONT STREET	R.P. No. 186	PART OF 06364-0628
6	PART OF 1 AND 2 NORTH OF FRONT STREET	R.P. No. 186	PART OF 06364-0628

PLAN OF SURVEY
OF PART OF
LOTS 1 AND 2, SOUTH OF NORTH STREET
AND PART OF
LOTS 1 AND 2, NORTH OF FRONT STREET
REGISTERED PLAN No. 186
AND PART OF
LOT 22, CONGRESSION 4, SOUTH OF THE EGREMONT ROAD (FORMERLY TOWN OF STRATHROY)
NOW THE **MUNICIPALITY OF STRATHROY**
COUNTY OF MIDDLESEX

SCALE 1:100

SCALE IN METERS

2019
ARCHIBALD, GRAY & MACAY LTD.
ONTARIO LAND SURVEYORS

SURVEYOR'S CERTIFICATE:

- 1) THE SURVEY AND PLAN ARE CORRECT AND IN ACCORDANCE WITH THE SURVEY ACT, THE SURVEYORS ACT AND THE LAND TITLES ACT AND THE REGULATIONS MADE UNDER THEM.
- 2) THE SURVEY WAS COMPLETED ON THE 20th DAY OF FEBRUARY, 2014

DATE: _____ ROBERT WOOD
ONTARIO LAND SURVEYOR

- NOTES & LEGEND**
- B DENOTES BOUNDARY FOUND
 - CD DENOTES CONCRETE DRIVE
 - CM DENOTES CONCRETE MASONRY CURB
 - CP DENOTES CONCRETE PAVEMENT
 - CS DENOTES CONCRETE SIDEWALK
 - CP DENOTES CONCRETE PAVEMENT
 - CS DENOTES CONCRETE SIDEWALK
 - F DENOTES FENCED AREA
 - G DENOTES GROUND
 - GP DENOTES GROUND POINT
 - H DENOTES HARDWARE PLANTING
 - IC DENOTES I.C. INCLUSIVE GULCH
 - P1 DENOTES PLAN 33R-13365
 - P2 DENOTES PLAN 33R-13365, FILED 175-105-11, DATED JUNE 21, 1998
 - P3 DENOTES PLAN 33R-13365
 - P4 DENOTES OLD PLAN 94-00456, DATED JUNE 4, 1968
 - P5 DENOTES INSTRUMENT DATED JUNE 1974
 - P6 DENOTES FIELD NOTES BY AGA, DATED APRIL 14TH, 1964, FILED 175-105

METRIC: DISTANCES AND COORDINATES SHOWN ON THIS PLAN ARE IN METERS AND CAN BE CONVERTED TO FEET BY DIVIDING BY 0.3048.

AGM ARCHIBALD, GRAY & MACAY LTD.
REGISTERED SURVEYORS & ENGINEERS
150 WESTERN AVE. TORONTO, ONT. M6P 2E4
PLAN 4 SURVEY & ENGINEERING

PLAN No. 33R-13365
DATE: FEBRUARY 20, 2014