



CASCADE CHARTER TOWNSHIP

2865 Thornhills SE Grand Rapids, Michigan 49546-7140

Date: October 23, 2019
To: Supervisor Beahan and Township Board Members
From: Ben Swayze, Township Manager
Subject: Purchase Agreement for 5920 Tahoe Drive

FACTS:

Earlier this year the Township Board accepted the first phase of the Township Facility study. The first priority in the study was identified as the renovation or replacement of Fire Station #1. Last Board meeting the Township Board approved an agreement with Progressive AE to lead the second phase of the Station #1 study, which will culminate in a site selection, schematic design and engineer's estimate of costs for a new Station #1. As part of the process the Township will explore not only the current location for Station #1, but a minimum of two alternative sites as well.

The second priority identified in the Township facilities study was the replacement of Township Hall. As part of the presentation at the conclusion of the study, staff identified three alternatives that the Township should look at for the replacement of Township Hall:

- If Station #1 was to relocate, renovation and expansion of Township Hall at its current location
- If Station #1 was to remain on the current site, and expansion of the Cascade Library/Wisner Center to accommodate Township Hall
- If Station #1 was to remain on the current site, purchasing an existing property in the Township and renovating it for the Township Hall

Over the past several months Township staff have been investigating several properties in the Township for potential acquisition and renovation for Township Hall. After touring several properties, Township staff has identified 5920 Tahoe as a potential suitable property for the Township. The property, currently occupied as the headquarters for ADAC, is approximately 13,000 square feet and was listed at \$1.495 million. Based on the feedback received at the 10/9/2019 closed session, the Township has negotiated a proposed purchase agreement with Tahoe Associates for the building. Highlights include:

- \$1.4 million purchase price
- Standard due diligence contingencies
- Due diligence period where the Township can affirm the operational and financial fit for the Township.
- Deadline of December 12th for the Township to notify seller if they intend to terminate the agreement due to any of the contingency clauses
- December 20 closing date

Assessing
949-6176

Building
949-3765

Building & Grounds
682-4836

Clerk
949-1508

Fire
949-1320

Manager
949-1500

Planning
949-0224

Treasurer
949-6944

Attached for your review are:

- Proposed purchase agreement for 5920 Tahoe Drive

ANALYSIS & CONCLUSIONS:

The Township has now toured the 5920 Tahoe property several times with architects, engineer's staff and elected officials. It is clear from all perspectives that the building has the potential to fit the operational needs of the Township. However, it is important for the Township to conduct true due diligence on the property, which we can begin immediately as soon as the property is under contract with the Township. As part of the due diligence, the Township will be able to:

- Develop a proposed renovation schematic (with assistance from Progressive AE) as well as a proposed cost of those renovations to give the Township Board a true sense of the acquisition and renovations costs.
- Develop high level estimates for the "Wisner Center Expansion" to allow for comparison between the two options.
- Better understand the likelihood the Station #1 will be developed on the current site or another site.
- Share the proposed plans with the residents of Cascade to get feedback.

Staff are currently developing a schedule for the due diligence period. There will be one meeting open to the residents where they will be presented the various options and provided an opportunity to give feedback. Right now that is anticipated to take place either as part of the November 20 regularly scheduled Township Board meeting, or a separately scheduled meeting the first week of December. The Township Board will need to make a decision to terminate the agreement based on the stated contingencies at the regularly schedule December 11 meeting.

FINANCIAL CONSIDERATIONS:

The agreement calls for a \$25,000 earnest money deposit. If the Township acquires the property, the deposit will be applied toward the purchase price. If the Township does not acquire the property based on the listed contingency clauses, it will receive a refund of the deposit. If the Township decides to terminate the agreement due to an issue not covered in the contingency clauses, it will forfeit the deposit.

Progressive AE estimates \$5,000 to conduct due diligence related to operational and financial fit. Fishbeck estimates \$5,000 to conduct traditional due diligence items such as Phase 1 Environmental study and physical inspections.

RECOMMENDED ACTION:

Approve the Purchase Agreement for 5920 Tahoe Drive.

AGREEMENT TO PURCHASE REAL ESTATE

THIS AGREEMENT TO PURCHASE REAL ESTATE (this "Agreement") is executed October ____, 2019 (the "Effective Date"), between CASCADE CHARTER TOWNSHIP, a Michigan charter township, of 2865 Thornhills Avenue SE, Grand Rapids, Michigan 49546-7192 ("Buyer"), and TAHOE ASSOCIATES, LLC, a Michigan limited liability company of 5920 Tahoe Drive SE, Grand Rapids, Michigan 49546 ("Seller").

RECITALS

A. Seller owns real property located in the Township of Cascade, County of Kent, State of Michigan, commonly known as 5920 Tahoe Drive SE, Grand Rapids, Michigan 49546, and identified with Permanent Parcel No. 41-19-17-127-004 (the "Real Estate").

B. Seller desires to sell the Real Estate to Buyer and Buyer desires to purchase the Real Estate from Seller according to the terms and subject to the conditions in this Agreement.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing and the mutual promises and agreements set forth herein, the parties hereto, intending to be legally bound, hereby agree as follows:

1. Sale and Purchase. Seller agrees to sell the Real Estate to Buyer, and Buyer agrees to purchase the Real Estate from Seller, for the Purchase Price (defined below) and according to the terms and conditions set forth in this Agreement. Buyer will pay to Seller the Purchase Price in cash or other immediately available funds at the Closing. The Real Estate shall also include all of the right, title and interest of Seller in and to the following:

- (a) All buildings, improvements and structures located on the Real Estate;
- (b) All strips and gores of land adjoining or abutting the Real Estate, if any;
- (c) All land lying in the bed of any street, road, avenue or alley, opened or proposed, in front of, running through or adjoining the Real Estate;
- (d) All easements, privileges or rights-of-way over, contiguous or adjoining the Real Estate, and all other rights belonging to and accruing to the benefit of the Real Estate, including, without limitation, any rights acquired by prescription, acquiescence or adverse possession;
- (e) All appurtenances and hereditaments belonging or in any way appertaining to the Real Estate; and
- (f) All awards made or to be made in lieu of any interest referred to in the foregoing subsections.

2. Purchase Price. The purchase price for the Real Estate shall be One Million Four Hundred Thousand and 00/100 Dollars (\$1,400,000.00), subject to pro-rations, debits and credits at Closing (the "Purchase Price").

3. Title and Survey.

(a) Warranty Deed. Seller will transfer the Real Estate to Buyer by warranty deed, subject only to the Permitted Encumbrances. The form of the Warranty Deed shall be subject to Buyer's approval in its reasonable discretion.

(b) Title Insurance. Buyer will order from the Title Insurance Company (defined below) a commitment for an ALTA Owner's title insurance policy, without standard exceptions, in the amount of the Purchase Price covering title to the Real Estate on or after this date, showing Seller as owner of the Real Estate in fee simple, subject only to those exceptions acceptable to Buyer. The commitment will provide for full extended coverage over all general title exceptions commonly contained in such policies, except such title exceptions that require a survey for coverage or removal unless a survey satisfactory to the Title Insurance Company is provided by Buyer at Buyer's sole expense. If such commitment contains exceptions which, in Buyer's opinion, are not Permitted Encumbrances, then Seller must, after receiving notice from Buyer of the same, promptly remove such exceptions. If Seller fails to clear the title as herein provided, then Buyer may either terminate this Agreement on or before December 12, 2019 and receive a refund of the Deposit, or proceed to Closing taking title subject to such exceptions; provided, however, that if the exception is a monetary encumbrance capable of being cured by the application of the Purchase Price at Closing (e.g., a mortgage or construction lien), then the Buyer may proceed to Closing and utilize such portion of the Purchase Price as is necessary to discharge the exception at Closing. At Closing, Seller agrees to execute such affidavits and other documents as may be required by the Title Insurance Company in order to issue the required policy. Seller will pay the premium due for the issuance of a title insurance policy pursuant to the aforesaid commitment at Closing.

(c) Survey. Within three (3) days after the Effective Date, Seller will provide Buyer with any existing survey of the Real Estate in Seller's possession or reasonably available to Seller. Buyer may order from an engineer or surveyor satisfactory to Buyer, at Buyer's cost and expense, a new or recertified survey of the Real Estate. The survey may not show any encroachments onto the Real Estate from any adjacent property, any encroachments by or from the Real Estate onto any adjacent property or any violation of any recorded building lines, restrictions or easements affecting the Real Estate. If the survey discloses any such encroachment or violation or any exceptions to title or matters indicating possible rights of third parties other than as accepted by Buyer then, upon notice from Buyer, Seller must have all such encroachments, violations, and unpermitted exceptions corrected and removed from the survey and provide evidence thereof to Buyer, and if Seller fails to have the same removed then Buyer may elect, on or before December 12, 2019, to either terminate this Agreement and receive a refund of the Deposit or to accept the Real Estate subject only to those uncured encroachments shown on the survey.

4. Environmental Matters.

(a) Definitions. As used in this Agreement, “Environmental Laws” means: the Comprehensive Environmental Response, Compensation and Liability Act of 1980; the Solid Waste Disposal Act; the Federal Water Pollution Control Act of 1972; the Emergency Planning and Community Right-To-Know Act of 1986; the Clean Air Act of 1966; the Occupational Safety and Health Act of 1970; the Safe Drinking Water Act of 1974; all amendments to any of the foregoing; any similar laws enacted by any state including, without limitation, Public Act 451 of the Michigan Public Acts of 1994, entitled the Natural Resources and Environmental Protection Act, including the amendments contained in Part 201, as amended, or implementing laws enacted by any state, as amended, applicable to the Real Estate and the rules or regulations pursuant to any of the foregoing. As used in this Agreement, “Hazardous Material” or “Hazardous Materials” include any materials, substances, chemicals, or wastes, including, without limitation, petroleum (including crude oil or any fraction thereof), polychlorinated biphenyls, and asbestos-containing materials, which are regulated by or designated under or pursuant to Environmental Laws, and “Release” or “Releases” means any discharge, spill, disposing, dumping, escaping, leaching or migrating of a Hazardous Material.

(b) Representations and Warranties. Seller represents and warrants to Buyer that:

(i) Seller has, during its ownership of the Real Estate, operated the Real Estate at all times in compliance with Environmental Laws.

(ii) No underground or above-ground storage tanks are or have been used in connection with, or located on, the Real Estate at any time.

(iii) No Hazardous Materials have been or are currently used, manufactured, stored, processed, treated, disposed of, or Released on the Real Estate except in compliance with Environmental Laws.

(iv) Seller has not received any notice, claim, demand, summons, complaint, request for information, or other communication, written or oral, alleging or asserting that the Real Estate is or may be (a) in violation of any Environmental Laws; the subject of any investigatory, remedial or cleanup action, order or directive in connection with a Release or threatened Release of Hazardous Materials; or (b) subject to a lien in favor of any governmental body or agency or other third party for any liability, cost, damage, or other relief under Environmental Laws. Seller has provided true and complete copies of any of the foregoing communications to Buyer prior to the execution of this Agreement.

(v) Seller has filed all reports, documents, and notices in connection with the Real Estate as required under Environmental Laws.

(vi) Prior to the execution of this Agreement, Seller has provided Buyer with copies of or an opportunity to review all environmental reports, wastewater discharge

reports, waste profiles, waste manifests, or other information generated, prepared or compiled in connection with the Real Estate.

(vii) No restriction has been placed or proposed on the use of the Real Estate that is due in whole or part to the Release or presence of a Hazardous Material.

(viii) No person is currently under any obligation to investigate, respond to, monitor, or make any report to the government relating to a Release of a Hazardous Material at the Real Estate, and the creation of such an obligation is not pending or contemplated.

(ix) Nothing in this Agreement relieves Seller from any duty to make any disclosure under any Environmental Law or pursuant to the requirements of any government or judicial order or settlement.

(c) Environmental Site Assessments. Should Buyer elect to obtain one, this Agreement is contingent upon Buyer's receipt of a Phase I Environmental Site Assessment meeting the requirements of ASTM Standard E 1527-13 ("Phase I") that concludes that there are no "recognized environmental conditions" at the Real Estate or, if Buyer elects to obtain one, completion of a Baseline Environmental Assessment (as defined in Part 201, as amended, of Public Act 451 of the Michigan Public Acts) ("BEA"), that is satisfactory to Buyer, in its sole discretion. Environmental sampling and chemical analysis, and other investigation of environmental conditions (collectively, "Phase II") may be performed, at the Buyer's discretion. Any Phase I, Phase II, and BEA must be performed by an environmental consulting and/or environmental engineering company or companies ("Consultant") acceptable to Buyer, at Buyer's sole expense. Buyer may contract with the Consultant for the Phase I, Phase II and BEA and will have the right to direct their scope of work. Seller acknowledges that the purpose of Buyer's obtaining a Phase I, Phase II and BEA is to qualify for an exemption from liability for new owners and operators and to determine compliance with obligations imposed on new owners and operators of properties, all as set forth in Part 201, as amended, of Public Act 451 of the Michigan Public Acts. In that regard, Buyer may: (i) determine the scope of the investigation and the types of activities which are necessary, in Buyer's sole discretion and (ii) take any other actions and follow any other procedures which are available to Buyer under Part 201, as amended, of Public Act 451 of the Michigan Public Acts to qualify for an exemption from liability for new owners and operators and to determine compliance with obligations imposed on new owners and operators in Part 201, as amended, of Public Act 451 of the Michigan Public Acts. Any such activities will be paid for by Buyer. In connection with the performance of the Phase I, Phase II and BEA, Seller must cooperate with the Consultant and provide the Consultant with access to the Real Estate, access to all environmental reports, notices, waste profiles, waste manifests and other documents relating to the environmental condition of the Real Estate and related environmental matters, and access to employees (including employees of tenants) with knowledge about such matters (which employees shall complete questionnaires as to their knowledge regarding the use and condition of the Real Estate if requested by the Consultant).

5. Pre-Closing and Closing.

(a) Pre-Closing. Buyer will have full access to the Real Estate during normal business hours of operation for purposes of fully inspecting the same. During Pre-closing Buyer and its employees, agents or contractors may go upon the Real Estate for the purpose of making any investigations or inspections which Buyer deems necessary, including, without limitation, soils studies (including borings), wetland studies and surveys of existing improvements for lead and asbestos containing materials. During Pre-closing, Seller agrees to cooperate with Buyer in connection with the aforementioned inspections and Buyer's attempt to obtain the Governmental Approvals (defined below). Further Seller agrees to execute such applications in connection with the Governmental Approvals as may be requested by Buyer, where such applications may only be made in the name of, or with the consent of, title holders.

(b) Closing.

(i) Closing Documents. At the Closing, the following documents will be executed and delivered by and between the parties:

(A) Seller will execute and deliver to Buyer a warranty deed in recordable form conveying good and marketable title to the Real Estate subject only to the Permitted Encumbrances.

(B) Seller and Buyer will execute and deliver to each other a Closing Statement reflecting the manner in which the Purchase Price is allocated and paid.

(C) Seller will deliver to Buyer an owner's policy of title insurance in the form contemplated by Section 3(b).

(D) Seller and Buyer will execute and deliver to each other and the Title Insurance Company such further documentation as is reasonably necessary to evidence the transaction or to allow the Title Insurance Company to issue its title insurance policy, including any necessary corporate resolutions.

(ii) Closing Costs. At the Closing, the following expenses will be paid and the Purchase Price will be adjusted in accordance with the following provisions:

(A) Seller will pay in full at Closing all special assessments on the Real Estate which have become a lien or due and payable (or both) upon the Real Estate, including, without limitation, any deferred special assessments. Seller will also pay all ad valorem real estate taxes, together with interest and penalties to the date of Closing, which have become a lien or due and payable (or both) upon the Real Estate in the years prior to Closing. All ad valorem real estate taxes on the Real Estate which are first billed July 1 and December 1 of the year of Closing will be prorated between Buyer and Seller as of the Closing Date, on a calendar year basis, with the Buyer paying only for the portion attributable to period after the Closing Date. If the July 1 and December 1 bills are not then available, the current year's millage rates and taxable values shall be used for such calculation.

(B) Seller will fully pay the Michigan real estate transfer tax applicable to this transaction.

(C) Seller will receive from the Escrowee cash in the amount of the Deposit. Buyer will receive a credit for the Deposit against the Purchase Price. Any interest earned on the Deposit will be delivered by Escrowee to Buyer.

(D) Seller will pay the cost for the owner's title insurance policy to be issued by the Title Insurance Company.

(c) Possession. Seller will tender possession of the Real Estate to Buyer at Closing, free and clear of all leases, third party possessory rights, options, rights of first refusal and offers to purchase.

6. Warranties and Representations; Covenants.

(a) Seller's Warranties and Representations. Seller represents and warrants to Buyer as follows:

(i) Title. On the Closing Date, Seller will own, outright and absolutely, the Real Estate, free and clear of any and all claims, liens or encumbrances, and free and clear of all leases, third party possessory rights, options, rights of first refusal and offers of purchase.

(ii) Authority. Seller has full capacity, right, power and authority to execute, deliver and perform this Agreement and all documents to be executed by Seller pursuant hereto, and all required action and approvals therefor have been duly taken and obtained. The individuals signing this Agreement and all other documents executed or to be executed pursuant hereto on behalf of Seller are and will be duly authorized to sign the same on Seller's behalf and to bind Seller thereto. This Agreement and all documents to be executed pursuant hereto by Seller are and will be binding upon and enforceable against Seller in accordance with their respective terms, and the transaction contemplated hereby will not result in a breach of, or constitute a default or permit acceleration of maturity under, any indenture, mortgage, deed of trust, loan agreement or other agreement to which Seller or the Real Estate is subject or by which Seller or the Real Estate is bound. Seller has the right and power to transfer and convey the Real Estate without violating any contract, lease, mortgage, law, code or regulation, including, but not limited to, any fraudulent conveyances law.

(iii) No Default. Seller is not in default in any material respects in the payment of its obligations or under any agreement to which it is a party which will or could adversely affect the Real Estate.

(iv) Litigation and Other Proceedings. There are no claims, actions, suits or proceedings pending or, to Seller's knowledge, threatened against or affecting Seller before any court or administrative agency which will or could involve or affect the Real Estate.

(v) Conformity with Local Law. To the best of Seller's knowledge, Seller is not in violation of any federal, state or local statute, regulation, order or ruling materially affecting the Real Estate.

(vi) Utilities. All water, sewer, electric, telephone and drainage facilities and all other utilities and public or quasi-public improvements upon or adjacent to the Real Estate required by law are installed, are connected under valid permits, are in good working order, are adequate and unconditionally available to service the Real Estate and are fully paid for.

(vii) Construction Liens. Seller has not contracted for any improvements on the Real Estate within the last one hundred twenty (120) days which could give rise to a construction lien against the Real Estate.

(viii) Condemnation. There is no existing, pending or, to the best of Seller's knowledge, contemplated, threatened or anticipated (a) condemnation of any part of the Real Estate, (b) widening, change of grade or limitation on use of streets, roads or highways abutting the Real Estate, (c) special tax or assessment to be levied against the Real Estate, (d) change in the zoning classification of the Real Estate, or (e) change in the tax assessment of the Real Estate.

(ix) Boundary Disputes. Seller is not aware of any boundary disputes regarding the Real Estate.

(x) Material Changes. There are no facts or circumstances not disclosed to Buyer of which Seller has knowledge and which have or could have a material adverse effect upon the Real Estate. Seller agrees to notify Buyer immediately of such facts or circumstances if it becomes aware of the same.

(xi) Flood Plain. To the best of Seller's knowledge, the Real Estate does not lie in an area identified by the Secretary of Housing and Urban Development as an area having special flood hazard and in which flood insurance has been made available under the National Flood Insurance Act of 1968.

(b) Survival of Representations and Warranties. Any and all covenants, representations, warranties and agreements made by Seller in this Agreement or in any instrument to be furnished pursuant to this Agreement will be true through and will survive the Closing. Seller agrees to notify Buyer promptly if Seller becomes aware of any transaction or occurrence prior to the Closing Date which would make any of the representations or warranties of Seller contained in this Agreement untrue in any material respect.

(c) Indemnification by Seller. Seller agrees to indemnify, defend, reimburse and hold harmless Buyer, its employees and agents from and against all costs, loss, penalty, liability, damage and expense, including without limitation, all costs associated with administrative and judicial proceedings and attorneys' and consultants' fees and cleanup and remediation costs, suffered or incurred by Buyer on account of Seller's breach of any of

representation or warranty by Seller contained in this Agreement. This provision shall survive the closing until fully performed.

(d) Condition of Property. By executing this Agreement, Seller states to Buyer that it has received no notice that the Real Estate has been cited for violating any laws, ordinances and regulations, or that it fails to comply with all applicable building codes and zoning ordinances. If Seller receives any such notice prior to Closing, it will immediately notify Buyer and Buyer may, at its option, within fifteen (15) days of receipt of such notice, terminate this Agreement and be returned the Deposit.

7. Contingencies. Buyer may terminate this Agreement and receive a refund of the Deposit if any one or more of the following contingencies is not satisfied or waived by Buyer, each in Buyer's sole discretion, on or before December 12, 2019:

(a) Title and Survey Approval. Buyer must be satisfied with the status of title and survey, as more particularly described in Section 3(b) and 3(c).

(b) Environmental Approval. Buyer must be satisfied as to the environmental condition of the Real Estate, including those matters described in Section 4.

(c) Approval of Physical Inspections. Buyer must be satisfied with the physical condition of the Real Estate and its suitability for Buyer's intended use as determined from its inspections, including, without limitation, the availability, size, quality and quantity of any utility service or connection; access to and from the Real Estate; surrounding land uses; suitability and fitness of the Real Estate for the Buyer's proposed use; and such other investigations, approvals, and matters of fact and law as Buyer deems necessary or appropriate.

(d) Financing. Buyer must be satisfied with its ability to obtain any necessary financing for the acquisition of the Real Estate and for the Buyer's intended use thereof, in an amount, and on terms satisfactory to Buyer.

(e) Governmental Approvals. Buyer must have obtained, or be satisfied with its ability to obtain, all necessary governmental approvals for its intended use of the Real Estate ("Governmental Approvals"). Governmental Approvals may include, without limitation, any necessary rezoning, special land use approval, site plan approval, approval of curb cuts, stoplight(s), acceleration and deceleration lanes and other traffic-related permits and approvals, and approval of engineering plans for necessary infrastructure.

(f) Financial and Operational Feasibility Studies. Buyer must be satisfied with such financial and operational feasibility studies confirming the viability of the Real Estate for redevelopment and renovation for Buyer's intended use, in relation to other competing alternatives, as it may elect to conduct in its sole discretion.

(g) Soil. Buyer must be satisfied with the results of all soil borings and other soil tests conducted on the Real Estate during Pre-Closing.

8. Default.

(a) By Seller. Upon occurrence of any event of default by Seller, Buyer may either seek specific performance of this Agreement or exercise any of the rights accorded to it by the laws of the state of Michigan.

(b) By Buyer. If, after the satisfaction of all contingencies stated herein, Buyer refuses to close this transaction, then Seller may retain the Deposit as liquidated damages as its sole and exclusive remedy, actual damages being difficult or impossible to determine.

9. Miscellaneous.

(a) Maintenance of the Real Estate. Prior to the Closing, Seller will, at Seller's sole cost and expense, continue to operate and maintain the Real Estate in the ordinary course of business for its own account in the same manner and scope as at present, and will maintain the Real Estate free from waste and neglect and keep and perform or cause to be performed all obligations applicable to the Real Estate under applicable federal, state, county and municipal laws, ordinances, regulations, orders and directives. The Real Estate must be delivered to Buyer at Closing in at least as good a condition as it was in on the date of this Agreement, reasonable wear and tear excepted.

(b) Assignment. This Agreement may be assigned by Buyer. Buyer's assignee will enjoy the full rights and benefits of the terms and conditions of this Agreement as if it were Buyer.

(c) Casualty. If, prior to Closing, any improvement located upon the Real Estate is damaged or destroyed by fire or other casualty, Buyer will, at its option, be entitled to (i) terminate this Agreement and be returned its Deposit, or (ii) proceed to Closing and receive whatever insurance proceeds may be available to Seller.

(d) Eminent Domain. If, after the execution of this Agreement, but prior to Closing, all or any portion of the Real Estate is taken by exercise of the power of eminent domain or any proceedings are threatened or instituted to effect such a taking, Seller will immediately give Buyer notice of such occurrence, and Buyer may, within fifteen (15) days after receipt of such notice, elect either (i) to terminate this Agreement, in which event the Deposit and all interest earned thereon will be returned to Buyer and all obligations of the parties will cease and this Agreement will have no further force and effect, or (ii) to close the transaction contemplated hereby as scheduled (except that if the Closing Date is sooner than fifteen (15) days following Buyer's receipt of such notice, Closing will be delayed until Buyer makes such election), in which event Seller will assign and/or pay to Buyer at Closing all condemnation awards or other damages collected or claimed with respect to such taking.

(e) Notices. All notices, requests and demands to or upon any party to this Agreement must be in writing and delivered or mailed first class, postage prepaid. Notice will be deemed effective on the date postmarked, if by mail, or on the date of delivery, if personally delivered.

(f) No Assumption. Buyer does not assume any responsibility or liability of any other person relating to compliance with Environmental Laws, including any responsibility to investigate or monitor any environmental condition, make any report or disclosure to the government or any person, respond in any way to the presence or Release of any Hazardous Material, or limit any activity at or use of the Real Estate as a result of the Release of a Hazardous Material.

(g) Waiver. No term, condition, covenant or provision contained in this Agreement may be waived except in a writing signed by the waiving party. No oral statements, course of conduct or course of dealing will be deemed a waiver. No waiver by any party hereto of any violation or breach of this Agreement will be deemed or construed to constitute a waiver of any other violation or breach, or as a continuing waiver of any violation or breach.

(h) Binding Effect. This Agreement will be binding upon and inure to the benefit of the parties hereto as well as their respective heirs, devisees, executors, administrators, personal representatives, successors and assigns.

(i) Merger and Modification. This constitutes the entire Agreement between the parties and any prior discussions, negotiations and Agreements between the parties are merged herein. No amendment or modification of this Agreement will be enforceable except if in writing and signed by the party against whom enforcement is sought.

(j) Governing Law. This Agreement is being executed and delivered and is intended to be performed in the state of Michigan and will be construed and enforced in accordance with, and the rights of the parties will be governed by, the laws thereof.

(k) Headings. The headings to the various paragraphs contained in this Agreement have been inserted for convenient reference only and do not affect the meaning or interpretation hereof.

(l) Realtor Commission. The parties represent and warrant to each other that there are no brokers, finders, or similar fees due or payable in connection with this transaction, except for NAI Wisinski of West Michigan representing Seller ("NAI"). Seller will pay any commission in connection with this transaction due to NAI. If either party is responsible to pay any other commission, broker's fee, finder's fee, or similar fee on the purchase and sale of this Property, then such fee is the sole responsibility of that party. Each party agrees to hold the other harmless from and indemnify it against any damage or liability, including reasonable legal costs, resulting from a breach of this provision.

(m) Contingent on Formal Approvals. The parties acknowledge that, while this Agreement may be executed in advance of formal approval of this Agreement by the Township Board of Cascade Charter Township (the "Township Board"), this Agreement shall not be effective until it has been ratified and approved by the Township Board in its sole discretion. If such approval is not granted, then Buyer may terminate this Agreement on or before December 12, 2019 and receive a refund of the Deposit. If Buyer has not terminated this

Agreement on or before December 12, 2019, then Buyer shall be deemed to have satisfied or waived this contingency.

(n) Execution in Counterparts. This Agreement may be executed in counterparts which, when combined, shall constitute on in the same binding and legal document. Counterparts executed and/or delivered by facsimile or electronic mail shall have the same effect as originals.

10. Definitions.

(a) Agreement: This Agreement to Purchase Real Estate.

(b) Closing: Consummation of the transaction described in this Agreement. The Closing will take place on the day determined by the Buyer, but not later than December 20, 2019 (referred to herein as the "Closing Date") at the offices of the Title Insurance Company. No funds will be disbursed at the Closing until a title policy insuring Buyer's interest has actually been issued by the Title Insurance Company. "Pre-closing" means that period from the date of this Agreement to the Closing Date during which time the parties will work to satisfy all requirements of this Agreement necessary prior to a transfer of the Real Estate.

(c) Conditions Precedent: Those requirements set forth in Section 7 which, if not satisfied in the manner specifically provided therein or waived in writing by the Buyer, will relieve the Buyer of its obligation to buy the Real Estate.

(d) Deposit: \$25,000.00, which Buyer must deliver to Escrowee within ten (10) days after the date of this Agreement. If the Conditions Precedent are satisfied or waived by Buyer, then the Deposit will become nonrefundable to Buyer, but will, if the transaction contemplated by this Agreement closes, be applied against the Purchase Price.

(e) Encumbrances: Any matters affecting title to the Real Estate.

(f) Escrowee: First American Title Insurance Company; 4362 Cascade Road SE, Suite 109, Grand Rapids, Michigan 49546; Attention: Gary Wadsworth.

(g) Permitted Encumbrances: Those Encumbrances which do not, in Buyer's sole judgment, interfere with Buyer's intended use of the Real Estate.


(h) Title Insurance Company: First American Title Insurance Company; 4362 Cascade Road SE, Suite 109, Grand Rapids, Michigan 49546; Attention: Gary Wadsworth.

[signatures on following page]

By signing this Agreement to Purchase Real Estate, the parties acknowledge that they have read this document, they know its contents and they are voluntarily signing it.

BUYER:

CASCADE CHARTER TOWNSHIP, a
Michigan charter township

By: 
Name: BENJAMIN SWARTZ
Its: TOWNSHIP MANAGER

SELLER:

TAHOE ASSOCIATES, LLC,
a Michigan limited liability company

By: _____
Name: _____
Its: _____