



**NOTICE OF SALE OF LAND  
BY KENT COUNTY ROAD COMMISSION**

Notice is hereby given that the Board of County Road Commissioners of the County of Kent (“the Board”) will accept sealed bids at the Kent County Road Commission offices, 1500 Scribner Avenue NW, Grand Rapids, Michigan, 49504 until **Thursday, February 28, 2019, 10:30 AM deadline**, for the purpose of selling the following described parcels of land:

- 1500 Scribner Avenue NW, Grand Rapids, Michigan, 49504  
Tax parcel 41-13-13-402-001
- 1600 Turner Avenue NW, Grand Rapids, Michigan, 49504  
Tax parcel 41-13-13-254-001
- 1632 Turner Avenue NW, Grand Rapids, Michigan, 49504  
Tax parcel 41-13-13-254-002
- 1660 Turner Avenue NW, Grand Rapids, Michigan, 49504  
Tax parcel 41-13-13-254-003

All bids are to be in sealed envelopes and plainly marked as the request for proposal sale of land and the name of the Bidder.

The Board reserves the right to reject any and all proposals or to waive irregularities therein, and to accept the proposal which, in the opinion of the Board, may be most advantageous and in the best interest of the County.

**BOARD OF COUNTY ROAD COMMISSIONERS  
OF THE COUNTY OF KENT**

By: Mark E. Rambo, Chair

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**Please acknowledge receipt of this invitation to Mary Wiegerink at [mwiegerink@kentcountyroads.net](mailto:mwiegerink@kentcountyroads.net).**

Company \_\_\_\_\_

Authorized Signature \_\_\_\_\_

Date \_\_\_\_\_



## **INSTRUCTION TO BIDDERS**

Sealed bids will be publicly opened and read at the offices of the Board of County Road Commissioners of the County of Kent, State of Michigan, located at 1500 Scribner Avenue NW, Grand Rapids, MI 49504.

Refer to the **INVITATION TO BID** for the exact timing and for the identification of the bids as related to furnishing materials, services, equipment, work and/or supplies with the terms, conditions, specifications, drawings, plans, and special provisions as stated herein and hereto attached.

After the public opening, staff will tabulate and analyze the results for presentation to the Board. During this period, the files are closed until this action is complete. Generally, this involves three or four days depending upon the nature of the bid. Copies of the bid tabulations are made available only after this time and upon request to the Purchasing Department, by mail or phone (616) 242-6928.

### **GENERAL CONDITIONS**

1. All bids must be submitted on the Board's bid blank form. The bid shall be legibly prepared in ink or typewriter. Erasures or alterations must be initialed by the bidder.
2. **Specifications and plans should not** be returned with bid unless otherwise stated herein.
3. All bids shall be mailed or delivered. The bid shall be in a sealed envelope and identified on the outside as to the bid concerned.
4. Bids will not be accepted after the deadline for the opening of the bids. The bidder shall assume full responsibility for delivery of bids prior to the appointed hour for opening same and shall assume the risk of late delivery or non-delivery regardless of the manner he/she employs for the transmission thereof. **Bids will be accepted at the Purchasing Department** on behalf of the Board at any time during normal business hours only, said hours being 7:30 AM to 4:00 PM Mondays through Fridays, legal holidays excepted.

5. It is understood that the Board of County Road Commissioners is a Governmental unit and as such, is exempt from the payment of all State and Federal taxes, except as allowed by the regulatory agencies to be included in the cost of materials and services.
6. The bidder, by execution of the bid proposal, thereby declares that the bid is made without collusion with any other person, firm, or corporation, and agrees to furnish all bid items in strict adherence with all Federal regulatory measures.
7. The Board reserves the right to accept or reject any and all bids, to waive any irregularities therein, and to accept any bid which, in the opinion of the Board, may be most advantageous to and in the best interest of the Kent County Road Commission. In case of error in the extension of prices in the bid or other arithmetical error, the unit prices will govern.

### **INSTRUCTION TO BROKERS**

The Board has not entered into a listing agreement for the sale of the property with a real estate broker and does not intend to do so. The Board requests that real estate brokers not solicit the Board to list the property or to serve as a seller's agent.

The Board has engaged in preliminary discussions with some potential buyers of the property and is aware of other potential buyers (collectively referred to herein as the "Known Potential Buyers"). The Board intends to directly send a copy of this Notice of Sale of Land to the Known Potential Buyers. The Board does, however, recognize that there may be potential buyers other than the Known Potential Buyers of which the Board is not aware (collectively referred to herein as the "Unknown Potential Buyers"). The Board also recognizes that there is value in receiving bids from Unknown Potential Buyers. Therefore, if an Unknown Potential Buyer has entered into an agency agreement or other similar agreement with a licensed real estate broker, and if such Unknown Potential Buyer's bid is selected by the Board and closes on the purchase of the property, the Board will pay the Unknown Potential Buyer's licensed real estate broker or buyer's agent a commission equal to three percent (3%) of the purchase price.

As the Board is aware of the Known Potential Buyers, it will NOT pay a commission or other fee to any licensed real estate broker or buyer's agent if one of the Known Potential Buyers (or its affiliate) is awarded the sale and closes on the purchase of the property.

The following are the known potential buyers:

City of Grand Rapids  
 Orion Construction Inc.  
 Pioneer Construction  
 Rockford Construction Company  
 Rose Medical  
 Wolverine Building Group

All bids submitted by buyer's brokers or agents must be submitted by the same time and in the same manner as all other bids.

## **INTRODUCTION**

The Kent County Road Commission ("KCRC") is a public agency responsible for the construction and maintenance of over 1,960 miles of county roads in Kent County, Michigan. The KCRC also provides routine maintenance services for over 430 miles of interstate freeways and state highways in Kent County under contract with the Michigan Department of Transportation. The property for which bids are being requested is located in the City of Grand Rapids along the western bank of the Grand River and is in close proximity to the Grand Rapids Central Business District and the freeway network. The facilities located on the property serve as KCRC's Central Complex and house the majority of KCRC's administrative offices.

## **PROPERTY**

The property is comprised of the following four parcels in the City of Grand Rapids: 1500 Scribner Ave NW [41-13-13-403-001], 1600 Turner Ave NW [41-13-13-254-003], 1632 Turner Ave NW [41-13-13-254-001], and 1660 Turner Ave NW [41-13-13-254-002] (collectively, the "Property") (**Attachment A**) which totals approximately 14.2 acres and includes approximately 1,090 feet of frontage along the western bank of the Grand River. The Property is accessible from two intersections: the intersection of Front Avenue and Webster Street and the intersection of Scribner Avenue and Richmond Street. The Property has high visibility from the US 131 freeway and is in close proximity to the interchanges at Leonard Street and Ann Street.

## **PLANNING AND ZONING**

The City of Grand Rapids Master Plan envisions the future land use of the Property as Mixed Use – Riverfront development (**Attachment B**). The GR Forward Downtown & River Action Plan considers this location as one of fifteen "Opportunity Sites" along the Grand River (**Attachment C**). KCRC has exclusive title, occupancy and use of the Property, including the portion along the Grand River, and has not sold, leased or otherwise granted any access rights along its river frontage to another.

The Property is currently zoned TN-TCC (Traditional Neighborhood – Transitional City Center). The zoning district includes the following use categories: household living, group living and residential ancillary use, government and institutional, auto-oriented, entertainment, hospitality and recreation, office and personal services, retail sales, industrial, transportation, and utilities.

## **BUILDINGS**

There are a variety of buildings, totaling 134,840 square feet, situated on the Property. The main building houses the administrative offices, parking garage, wash bay, mechanic bays and stockroom. Original construction on the Property as KCRC dates backs to 1924 with expansions and renovations occurring in the mid 50's and 80's (**Attachment D**).

	Administrative Office Building (two story)	Parking Garage and Wash Bay	Mechanic Bays and Stockroom	Heated Storage Building	Cold Storage Building	Salt Storage Dome
Square Feet	54,600	45,000	12,000	8,400	14,840	8,000 ton capacity

## **UTILITIES**

The property is serviced by utilities including municipal water, sanitary and storm sewer, electric, natural gas, internet, and telephone.

## **PURCHASE TERMS AND CONDITIONS**

KCRC intends to sell the Property pursuant to the terms and conditions set forth in the purchase agreement included as **Attachment E** (the "Purchase Agreement"). In addition to submitting the total bid amount, Respondents must include any proposed modifications, amendments, addendums, or supplements to the Purchase Agreement which it desires be included in its bid. KCRC reserves the right to further negotiate the terms of the Purchase Agreement following the award.

If the Respondent intends to lease back the Property to KCRC, the Respondent should include a proposed lease with its bid. KCRC would expect that such lease would:

- Be for a term extending through December 31, 2020, with KCRC having the right thereafter to extend the term on a month-to-month basis through June 30, 2021.
- Require KCRC to insure all improvements to the Property and provide general liability insurance.
- Require KCRC to maintain the Property in its current condition, but not require KCRC to make any repairs or replacements that are capital in nature and the cost of which exceed \$10,000.
- Provide that buyer will pay any real estate taxes and assessments applicable during the term of the lease.

**PROCESS**

Before submitting a sealed bid, Respondents shall carefully examine the Property by visiting the Property and fully inform themselves as to all existing conditions and limitations.

**SITE VISITS**

To schedule an appointment, contact Steve Roose at [sroose@kentcountyroads.net](mailto:sroose@kentcountyroads.net). Appointments will be available from 9 AM to 2 PM on January 7, 9, 11, 15, 17, 21, 23, 25, 29, 31 with a minimum of 48-hour notice.

**QUESTIONS & ANSWERS**

Questions will **not** be accepted during site visits. Respondents shall submit their questions in writing to Maura Lamoreaux at [mlamoreaux@kentcountyroads.net](mailto:mlamoreaux@kentcountyroads.net). Questions will be answered as they are received, answered as quickly as feasible, and both questions and answers will be available on our website at <http://www.kentcountyroads.net/doing-business/notice-of-sale-of-land>.

**ACCEPTANCE**

The Board reserves the right to request additional information it may deem necessary after submissions are received.

The Board, at its sole discretion, reserves the right to award to the Respondent whose proposal is deemed most advantageous to KCRC.

A submission shall constitute an irrevocable offer for a period of sixty (60) days from the opening date or until the date of the award, whichever is earlier.

**SCHEDULE**

RFP	December 20, 2018
Site visits	January 7, 9, 11, 15, 17, 21, 23, 25, 29, 31
Bid Deadline	February 28, 2019 10:30 AM
Review Period	March 1 – March 22, 2019
Anticipated Staff Recommendation	March 26, 2019

The schedule is provided as an overview and is subject to change.

**FORMAT**

Respondents must use the bid form supplied and it must be signed by a person authorized to sign on behalf of the Respondent.

**BID FORM  
NOTICE OF SALE OF LAND  
BY KENT COUNTY ROAD COMMISSION**

Total Bid \_\_\_\_\_

Respondent Name \_\_\_\_\_

Respondent Address \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Telephone Number \_\_\_\_\_

Fax Number \_\_\_\_\_

Email Address \_\_\_\_\_

Federal Employer ID or Taxpayer ID \_\_\_\_\_

Authorized Signature \_\_\_\_\_

Name and Title \_\_\_\_\_

Date \_\_\_\_\_

### Attachment A Aerial View of KCRC Central Complex



Source: REGIS

\*property boundary lines estimated

# Attachment B City of Grand Rapids Master Plan Future Land Use Map

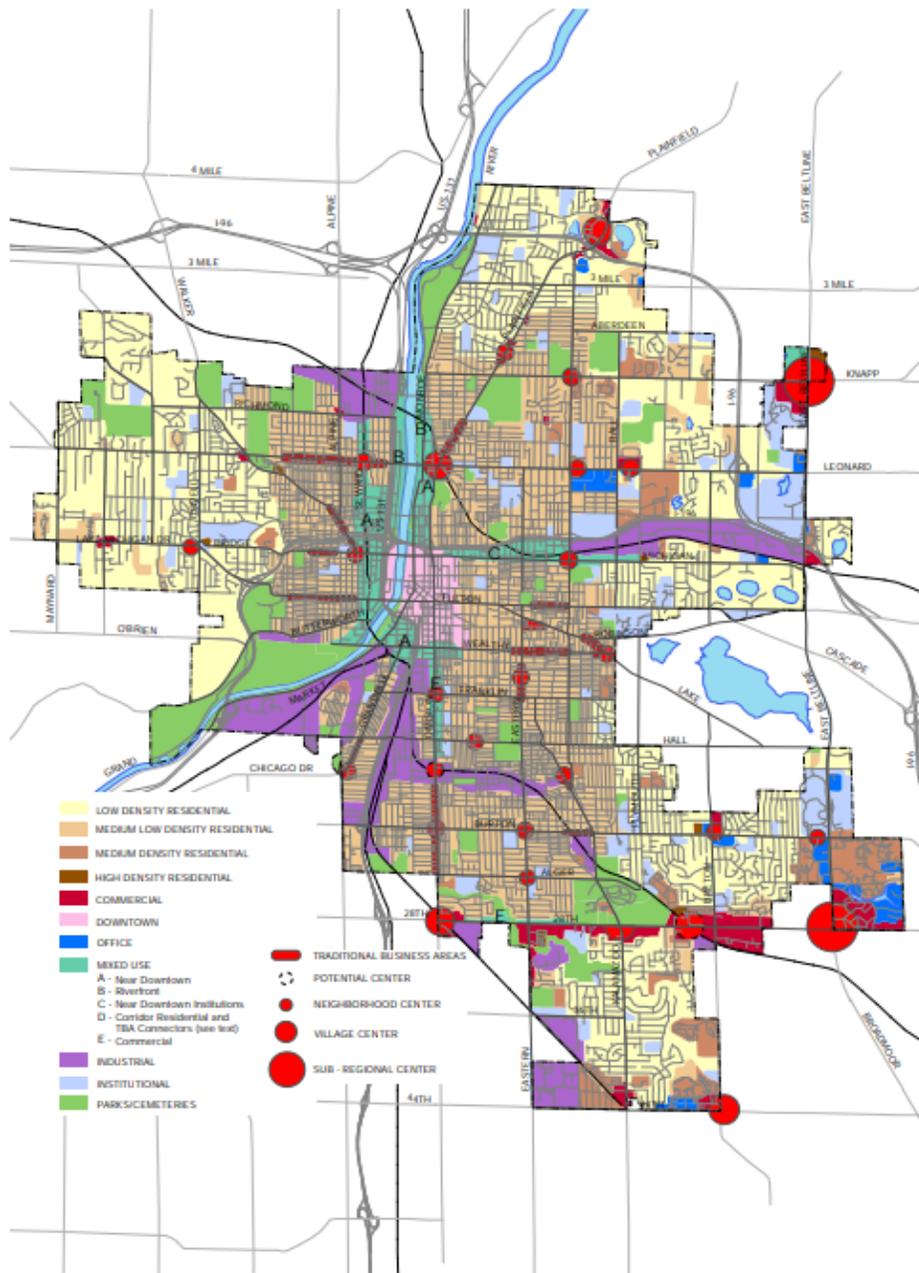


Figure 2.a -  
City of Grand Rapids  
Future Land Use Map



PREPARED BY THE CITY OF GRAND RAPIDS  
PLANNING DEPARTMENT NOVEMBER 8, 2010



Source: Master Plan  
City of Grand Rapids

### Attachment C KCRC River Edge - Opportunity Site

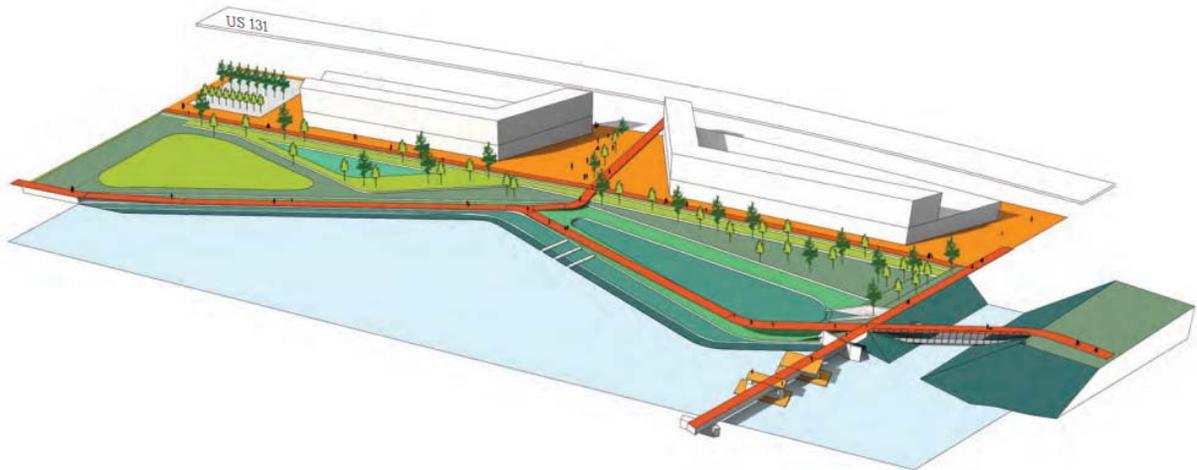
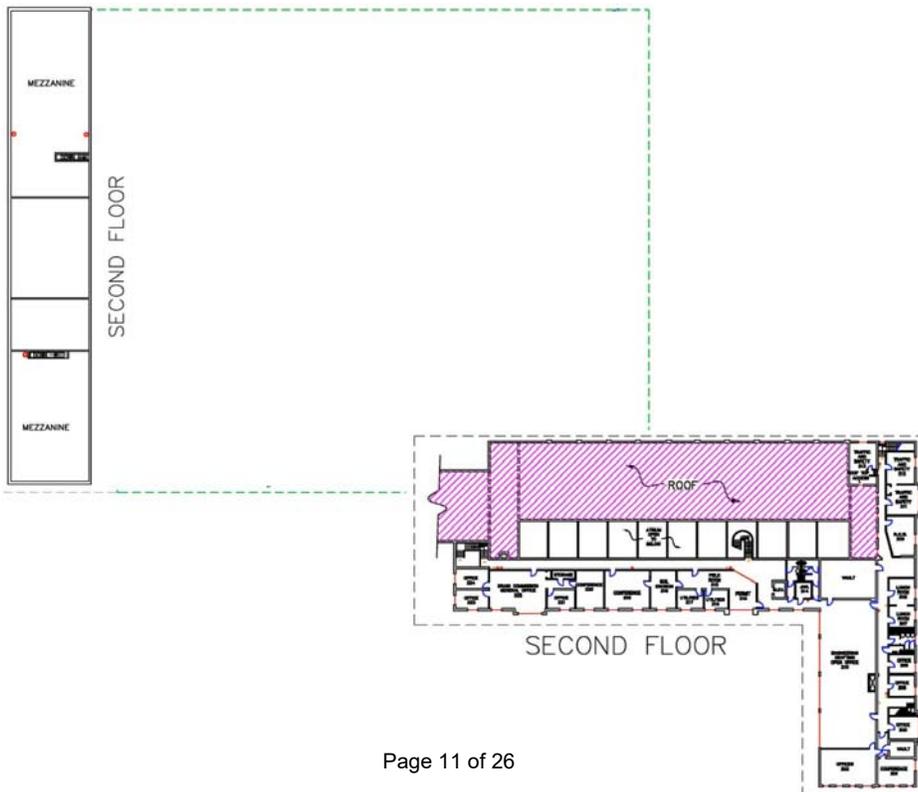


FIG A1.105: Proposed KCRC River Edge aerial view

Source: GR Forward Downtown & River Action Plan  
Appendix 1 - River Corridor Plan Supplemental Materials

# Attachment D Main Building Floor Plan



## Attachment E REAL ESTATE PURCHASE AGREEMENT

This Real Estate Purchase Agreement (“**Agreement**”) is made and entered into on the Effective Date by and between **The Board of County Road Commissioners of the County of Kent**, a municipal corporation organized and existing under and by virtue of the laws of the State of Michigan (“**Seller**”), and [Name of Purchaser] (“**Purchaser**”).

### Recitals

A. Seller owns that certain parcels of land depicted on attached **Exhibit A** (the “**Land**”), on which a building and certain related improvements, fixtures and structures are located (collectively, the “**Improvements**”), which are located at 1500 Scribner Avenue NW and 1600, 1632 and 1660 Turner Avenue NW, all in Grand Rapids, Michigan, and also identified as tax parcel numbers 41-13-13-403-001, 41-13-13-254-001, 41-13-13-254-002, 41-13-13-254-002, and 41-13-13-254-003 (the Land and Improvements may be referred to collectively in this Agreement as the “**Premises**”, which is further defined below).

B. Seller desires to sell the Premises to Purchaser and Purchaser desires to purchase the Premises from Seller, subject to and in accordance with the terms and conditions of this Agreement.

### Agreement

Now, therefore, in consideration of the mutual undertakings hereinafter set forth and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto hereby agree as follows:

#### 1. **Purchase and Sale.**

1.1 **Purchase and Sale.** Seller shall sell to Purchaser, and Purchaser shall purchase from Seller, the Premises strictly in accordance with and subject to the terms, conditions, and provisions hereinafter set forth.

1.2 **Deposit.** Within five days of the Effective Date, Purchaser shall deposit with [Name of Title Insurance Company] (the “**Title Company**”) the sum of One Hundred Thousand Dollars (\$100,000.00) (the “**Deposit**”). In the event the sale is consummated as contemplated hereunder, the Deposit shall be paid by the Title Company to Seller at the Closing and credited against the Purchase Price. In the event the sale is not consummated for any reason, disposition of the Deposit shall be governed by the provisions of this Agreement applicable thereto.

1.3 **The Premises.** The Land and the Improvements, together with the items hereinafter set forth in this Section 1.3, are herein referred to collectively as the Premises:

(a) All permits, licenses and rights (whether or not of record), tenements, hereditaments, privileges, and appurtenances in any way belonging or appertaining to the Land or the Improvements, including, without limitation, any and all development, air, water and riparian rights relating to the Land, all to the extent owned by Seller and to the extent transferable;

(b) All land, if any, lying in the bed of any street, road, or avenue, open or proposed, at the foot of, adjoining or below the Land to the center line of such street, road or avenue, and in and to any strips and gores adjoining the Land;

(c) All easements and all rights, whether or not of record, appurtenant to the Land and the use of all strips and rights-of-way (including public and private vehicular and pedestrian rights-of-way), if any, abutting, adjacent, contiguous to or adjoining the Land, all to the extent transferable; and

(d) All licenses, permits, certificates of occupancy, and franchises issued by any federal, state, county or municipal authority relating to the use, maintenance or operation of the Premises, all to the extent transferable.

2. **Purchase Price.** The purchase price for the Premises shall be [Insert the Purchase Price (\$\_\_\_\_\_)] (the "**Purchase Price**"). The Purchase Price, plus or minus prorations and adjustments provided for in this Agreement, shall be paid in full to Seller at Closing by certified, cashier's or Title Company check or by wire transfer to an account designated by Seller.

3. **Title and Deed.** Seller shall deliver to Purchaser, at the Closing, a covenant deed conveying title to the Premises to Purchaser in fee simple, free and clear of all liens and encumbrances, except (a) the Permitted Exceptions (as hereinafter defined), (b) any real property taxes that are not yet due and payable, and (c) public roads, streets and highways.

4. **Title Insurance and Survey.**

4.1 **Title Commitment.** Within 21 days of the Effective Date, Seller, at its expense, shall furnish to Purchaser a commitment for an ALTA Owner's Title Insurance Policy (the "**Commitment**") issued by the Title Company covering the Premises and showing title in fee simple to be vested in Seller, together with a true, correct and complete copies of all documents described or referenced as exceptions in Schedule B of the Commitment. The Commitment shall: (a) be in an amount equal to the Purchase Price; (b) name Purchaser as the proposed insured; and (c) include such affirmative endorsements as Purchaser may reasonably request in writing to Seller within five days of the Effective Date and which are available in Michigan, provided that any additional premium or charge for such endorsement shall be paid by Purchaser. In addition, it shall be Purchaser's obligation, at Purchaser's expense, to obtain any survey

or other documents (other than the covenant deed and documents required to be provided by Seller under this Agreement) required by the Title Company for any such requested endorsements.

4.2 **Survey.** Prior to the Contingency Termination Date, Purchaser may, at its expense, obtain a new ALTA/ASCM survey of the Premises ("**Survey**"). The Survey shall be performed by a licensed surveyor and certified to Purchaser, Seller, and the Title Company, and shall contain the legal description of the Premises.

4.3 **Title Review and Title Policy.** Not later than 45 days from the Effective Date (the "**Contingency Termination Date**"), Purchaser shall notify Seller (the "**Objection Notice**") which of the matters described in the Commitment and/or the Survey, if any, that Purchaser finds unacceptable (the "**Unpermitted Matters**"), and Seller shall then have until the date that is 30 days after Seller's receipt of the Objection Notice to elect to remove such Unpermitted Matters or remedy same in a manner satisfactory to Purchaser. The Closing may be delayed upon written agreement of the parties to accommodate the removal of the Unpermitted Matters. All matters disclosed on the Commitment or in the Survey, if any, and not objected to by Purchaser in an Objection Notice shall be deemed "**Permitted Exceptions**". If Seller is unable or unwilling to remove any such Unpermitted Matters or remedy same in a manner satisfactory to Purchaser, in Purchaser's sole and absolute discretion, and within the time period described above, Purchaser shall have the options of (a) proceeding with this Agreement, in which event Purchaser shall accept title subject to such other unremoved Unpermitted Matters without reduction in the Purchase Price, or (b) terminate this Agreement. Purchaser shall exercise one of its options set forth in clause (a) or (b) above by providing written notice thereof to Seller on or before the Closing Date (as hereinafter defined), and, if Purchaser fails to provide such notice within such time, then Purchaser shall be deemed to have elected to proceed in accordance with clause (a). If Purchaser proceeds under clause (a), all uncured Unpermitted Matters shall become Permitted Exceptions. At the Closing, and as a further condition of Purchaser's performance of its obligations hereunder, Seller, at its cost, shall cause the Title Company to deliver to Purchaser an ALTA owner's title insurance policy (the "**Title Policy**") issued in accordance with the provisions of the Commitment as specified above (except the Title Policy shall name Purchaser as the owner of the Premises), dated as of the time of recording of the covenant deed to the Premises from Seller to Purchaser and subject only to the Permitted Exceptions.

## 5. **Purchaser's Contingencies.**

### 5.1 Due Diligence Investigation.

(a) Commencing on the Effective Date, Purchaser, its agents, engineers, employees, attorneys, accountants, contractors and surveyors shall have the right to conduct all tests, inspections, and other studies and investigations concerning the Premises that Purchaser requires (including, without limitation, environmental tests and assessments, inspection of the physical condition of the Premises, investigation of zoning and other legal requirements) to determine whether the Premises is satisfactory

to Purchaser. Purchaser may enter upon the Premises provided (i) Purchaser notifies Seller in writing of its intent to inspect, test, survey or study a reasonable period of time prior to Purchaser's entry and (ii) if requested by Seller, Purchaser is accompanied by a representative of Seller. Notwithstanding the foregoing, Purchaser will conduct any such physical inspections, tests, examinations, studies and appraisals only on business days and will use commercially reasonable efforts to minimize interference with any Seller operations at the Premises and will not perform drilling or sampling on the Premises without the prior written consent of Seller, which consent shall not be unreasonably withheld or delayed.

(b) If not previously delivered by Seller to Purchaser, within 21 days after the Effective Date, Seller shall deliver to Purchaser the following document, to the extent they exist and are in Seller's possession or control:

- (i) Any existing survey of the Premises;
- (ii) All plans and specifications, building permits, certificates of occupancy and other governmental licenses, permits, and approvals relating to the Premises;
- (iii) Copies of all asbestos, radon, mold, soil and other environmental assessments and reports, and all roof, structural and other physical inspection reports, assessments, audits or evaluations of the Premises; and
- (iv) All other written information and documentation reasonably requested by Purchaser concerning the ownership, operation, leasing, use or maintenance of the Premises.

Seller makes no representation or warranty regarding the truth, accuracy or completeness of any information or documents delivered to Purchaser pursuant to this Section 5.1(b).

(c) If Purchaser, in its sole and absolute discretion, is dissatisfied with the Premises based on the tests, inspections, studies, investigations and review of documents described in subsections (a) and (b) above, then Purchaser may terminate this Agreement by giving written notice to Seller of such termination on or before the Contingency Termination Date and the Deposit shall be returned to Purchaser, so long as Purchaser has fully complied with Section 5.1(d). In the event Purchaser does not terminate this Agreement as provided above on or before the Contingency Termination Date, the Deposit shall become non-refundable to Purchaser, but shall be applicable to the Purchase Price at Closing.

(d) Purchaser shall promptly repair any physical damage to the Premises caused by the testing and inspections conducted by Purchaser pursuant to this Section 5.1 (collectively, the "**Tests**") and shall promptly remove any mechanics' liens arising from the work performed to complete the Tests. Purchaser further agrees to keep the results of the Tests confidential, except to the extent that disclosure may be

required by law or other governmental requirement or may be reasonably required to be made to Purchaser's attorneys, lenders, consultants, accountants or other advisors or agents in connection with the purchase, ownership or operation of the Premises by Purchaser. Purchaser shall indemnify, defend and hold Seller harmless from and against any claim, loss, cost or damage (including reasonable attorneys' fees, but excluding incidental or consequential damages) resulting from or related to the presence of or entry by Purchaser or its agents, engineers, employees, attorneys, accountants, contractors or surveyors onto the Premises or Purchaser's failure to comply with its obligations set forth in this subsection (d), which obligations shall survive any termination of this Agreement. If the purchase does not close, Purchaser must promptly provide Seller, without demand by Seller, but as a condition precedent to the return of the Deposit (if Purchaser is entitled to have the Deposit returned), legible copies of all due diligence materials generated by or for it, such as surveys, studies, reports, assessments and the like, in respect of the Premises.

(e) Prior to entry upon the Land and at all times thereafter during the term of this Agreement, Purchaser shall cause Purchaser's agents to name, for the period during which they are conducting an inspection of the Premises, Seller and its agents as additional insureds to Purchaser's and/or Purchaser's agents' occurrence-based comprehensive general liability insurance policies, which shall have aggregate coverage limits of not less than Two Million Dollars (\$2,000,000) single-limit coverage with contractual liability endorsement, and which insure Purchaser's obligations under this subparagraph. If any invasive work is conducted by or on behalf of Purchaser with respect to its due diligence, Purchaser shall also cause Purchaser's agents to name, for the period during which they are conducting an inspection of the Land and Improvements, Seller and its agents as additional insureds to Purchaser's and/or Purchaser's agents' Professional Liability Insurance (including Environmental Impairment Insurance) which shall have aggregate coverage limits of not less than Two Million Dollars (\$2,000,000) single-limit coverage and which insure Purchaser's obligations under this subparagraph. No insurance required by this subparagraph may be cancelled or amended except upon 30 days' prior written notice to Seller. The minimum levels of insurance coverage to be maintained by Purchaser hereunder shall not limit Purchaser's liability under this subparagraph. All such policies shall be written by underwriters acceptable to Seller in its reasonable discretion. Purchaser shall promptly provide proof of insurance to Seller for Seller's approval. Seller shall not have any obligation to cure, correct, investigate or remediate any environmental matter(s) identified and/or objected to by Purchaser and Purchaser shall have no obligation to accept, cure, correct, investigate or remediate any such environmental matters unless caused or exacerbated by Purchaser. The provisions of this subparagraph shall survive the Closing or the termination of this Agreement.

**5.2 Additional Conditions.** In addition to the other conditions set forth herein, Purchaser's obligation to acquire the Premises and consummate the other transactions contemplated hereunder shall be conditioned on: (a) all representations and warranties of Seller being true and correct in all respects as of the Closing; and (b) there being no breach or default by Seller of any of its other covenants, agreements, duties or obligations hereunder.

## 6. Closing.

6.1 **Closing Date.** Subject to the provisions of Sections 4 and 5 of this Agreement and any other applicable provisions hereof, the sale of the Premises to Purchaser and the other transactions described herein shall be consummated (the "**Closing**") on a date and time mutually agreed upon by the parties following the Contingency Termination Date, but in no event later than 2:00 pm on the last business day that is within 15 day after the Contingency Termination Date (the "**Closing Date**"). The Closing shall take place at the office of the Title Company in Grand Rapids, Michigan.

### 6.2 Closing Documents.

(a) In addition to the Title Policy, Seller shall deliver to Purchaser, at the Closing, the following:

(i) A covenant deed conveying to Purchaser fee simple title to the Premises subject to the Permitted Exceptions;

(ii) Title affidavits and other documents reasonably required by the Title Company in connection with its issuance of the Title Policy; and

(iii) A FIRPTA Statement from Seller certifying that Seller is not a "foreign person," "foreign estate," "foreign corporation" or "foreign partnership" or any other foreign entity as such terms are defined in Section 1445 of the Internal Revenue Code and the income tax regulations promulgated thereunder.

(b) Purchaser shall deliver to Seller at Closing the Purchase Price, together with such documents reasonably required of Purchaser by the Title Company to issue the Title Policy and close the purchase by Purchaser of the Premises.

(c) At the Closing, Seller and Purchaser shall jointly execute and deliver (i) a closing statement, and (ii) the Lease (as defined below).

6.3 **Closing Costs.** Purchaser shall pay the following expenses incurred in connection with the transactions described herein: (a) one-half of all closing fees charged by the Title Company, (b) the fee for the recording of the covenant deed, (c) all premiums and charges for any endorsements to the Title Policy requested by Purchaser, (d) the cost of the Survey obtained by Purchaser (if any), and (d) Purchaser's legal fees and expenses. Seller shall pay the following closing costs and expenses incurred in connection with the transactions described herein: (i) the costs of the Commitment and Title Policy, and the cost of removing all Unpermitted Matters from title which Seller agreed to remove pursuant to Section 4.3, (ii) one-half of all closing fees charged by the Title Company, and (iii) Seller's legal fees and expenses.

7. **Real Property Taxes and Assessments.** Seller is a tax-exempt governmental entity; and therefore, the Premises is not currently subject to real property taxes. Purchaser shall pay any and all real property taxes and assessments that first become due after the Closing Date.

8. **Possession.** At the Closing, Seller and Purchaser shall enter into a lease agreement for the Premises in the form and containing the terms attached hereto as **Exhibit B** (the "**Lease**") under which Seller shall retain possession of the Premises until December 31, 2020.

9. **Real Estate Commissions.** Each party represents and warrants to the other that, except no person or entity acting as real estate broker, finder or real estate agent brought about this Agreement. Each party agrees to and does hereby indemnify the other from all loss, damage, cost, or expense (including attorneys' fees) that the other may suffer as a result of any claim or action brought by any person or entity acting or allegedly acting on behalf of a party in connection with this transaction.

10. **Seller's Representations and Warranties.** Seller represents and warrants to Purchaser that:

10.1 Seller has full power and authority to enter into this Agreement, bind Seller and the Premises to the commitments made hereunder, and convey or cause the conveyance of the Premises to Purchaser.

10.2 The execution, delivery and performance by Seller of this Agreement shall not constitute or cause a default or breach of any agreement or undertaking of Seller or concerning the Premises.

10.3 Seller has no knowledge and has received no notice of any claim, demand, damage, action, or cause of action of any person, entity or governmental agency or instrumentality affecting the Premises.

10.4 No person or entity, except Purchaser, has an option, right of first refusal or other purchase rights with respect to the Premises.

11. **Purchaser's Representations and Warranties.** Purchaser represents and warrants to Seller that:

11.1 Purchaser has the power and authority to execute and deliver this Agreement and to perform its obligations hereunder.

11.2 The execution of this Agreement by Purchaser is the duly authorized and legally binding action of Purchaser, and upon execution hereof, Purchaser shall be bound by and subject to the terms and provisions of this Agreement.

12. **Survival of Representations and Warranties.** The representations and warranties of the parties contained in this Agreement or in any document executed in connection herewith, including, without limitation, the provisions of Sections 10 and 11 hereof, shall be continuing representations and warranties, shall be deemed to be remade at Closing, shall not merge with or into any deed of conveyance or other document or instrument delivered at or in connection with the Closing and shall survive the Closing for a period of one year after the Closing; provided, however, that such one-year limitation shall not apply to: (a) any fraud; or (b) any claim or cause of action initiated prior to the end of such one-year period but not settled prior to the end of such period. Each party hereby agrees to indemnify, defend and hold harmless the other party and their respective successors and assigns, from and against all claims, liabilities, damages, losses, costs and expenses, including reasonable attorneys' fees and court costs, resulting from or in connection with any misrepresentation or breach of warranty made by the indemnifying party in this Agreement or in any document, certificate or other instrument given or delivered to the other party pursuant to this Agreement. Notwithstanding the foregoing, neither party shall have liability resulting from any misrepresentation or breach of any representation or warranty set forth in this Agreement if the other party had actual knowledge of such misrepresentation or breach of warranty before Closing.

13. **As-Is Condition.** Purchaser agrees, except as otherwise provided in this Agreement, that Purchaser is purchasing the Premises "AS IS", "WHERE IS" and "WITH ALL FAULTS," with no right of set-off or reduction in the Purchase Price, and specifically and expressly without reliance on any warranties, representations or guarantees, whether express, implied or statutory, of any kind, nature, or type whatsoever, including without limitation, warranties, representations or guarantees with respect to the quality, character, or condition of the Premises, including the presence of any toxic or hazardous materials, substances, or wastes regulated under any applicable law located on, at, under or emanating from or about the Premises, whether latent or patent, merchantability, habitability, utility, tenantability, workmanship, operations, state of maintenance or repair, compliance with statutory or other governmental, regulatory or industry standards or fitness for a particular use, or with respect to the value, profitability or marketability of any part of the Premises, or with respect to any other matter relating to or affecting the Premises. Except as otherwise provided in this Agreement, Seller disclaims and renounces, and Purchaser acknowledges and agrees that it is not relying on, any such representations or warranties. Purchaser represents to Seller that, as of the Contingency Termination Date, Purchaser will have had ample opportunity to make a proper inspection, examination and investigation of the Premises to familiarize itself with its condition and that Purchaser will do so to its satisfaction. Upon the Closing, except as otherwise provided in this Agreement, Purchaser shall have no claim in law or in equity and releases and forever discharges Seller (and its officers, directors, managers, agents, brokers, employees, representatives, successor and assigns) from any claims, actions, liabilities, losses or obligations, based upon the condition of the Premises or the failure of the Premises to meet any standards, including without limitation, the presence of any toxic or hazardous materials, substances or wastes regulated under any applicable law located on, at, under or emanating from or about the Premises or any violation or alleged violation of any applicable law. Further, anything in

this Agreement to the contrary notwithstanding, in no event shall Seller be liable for incidental, special exemplary or consequential damages, including, without limitation, loss of profits or revenue, interference with business operations, loss of tenants, lenders, investors, buyers, diminution in value of the Premises, or inability to use the Premises, due to the condition of the Premises.

**14. Operation of Premises Prior to Closing.** Seller covenants that, from the Effective Date through the Closing, Seller shall conduct its business involving the Premises as follows:

14.1 Seller will refrain from transferring any part of the Premises or creating on the Premises any new easements, liens, encumbrances, or other interests or initiating any change to the zoning classification of the Land;

14.2 Seller will refrain from entering into or amending any lease, contract, or other agreement regarding the Premises which cannot be terminated as of the Closing Date, without Purchaser's prior written consent in each instance;

14.3 Seller will promptly furnish Purchaser with copies of all notices received by Seller of any violation by Seller or the Premises of federal, state or local laws, ordinances, regulations, or orders having jurisdiction against or affecting the Premises or the use or operation thereof;

14.4 Seller will continue to operate, maintain and repair the Premises consistent with past practices and in a manner that maintains the Premises in their current condition.

**15. Casualty or Condemnation.**

15.1 In the event, prior to the Closing, of a condemnation or other taking of the Premises, or any part of the Premises, or any rights of access or other rights benefiting the Premises as a result of the exercise of the power of eminent domain, or in the event that any type of proceeding for such a condemnation or taking is commenced prior to the Closing by any governmental body, then Seller shall immediately notify Purchaser in writing and Purchaser shall have the option to either: (i) terminate this Agreement and neither party shall have any further obligations or liabilities hereunder, except for those obligations hereunder that expressly survive the termination of this Agreement; or (ii) proceed with the Closing, in which event (A) if the taking is consummated prior to the Closing, the Purchase Price shall be reduced by the amount of the award received by Seller as a result of the taking, or (B) if the taking is not consummated prior to the Closing, Seller shall assign to Purchaser all right, title and interest in and to the condemnation proceeds and awards, and Purchaser shall have the sole and exclusive right to negotiate, contest and settle all such eminent domain proceedings. Purchaser shall exercise its option under clause (i) or (ii) of this Section 15.1 by providing Seller with a written notice of its decision within 30 days after Purchaser receives from Seller written notice of the proposed condemnation or taking,

together with such additional information concerning the proposed condemnation or taking as Purchaser may reasonably request.

15.2 In the event of a material damage or casualty to the Premises occurring prior to the Closing, Seller shall immediately notify Purchaser in writing, and if the cost to repair the damage exceeds \$250,000 (as determined by an independent insurance adjuster selected by Purchaser and approved by Seller), Purchaser shall have the option to either (i) terminate this Agreement and neither party shall have any further obligations or liabilities hereunder, except for those obligations hereunder that expressly survive the termination of this Agreement; or (ii) proceed with the Closing. If Purchaser is not entitled to terminate or elects not to terminate this Agreement pursuant to clause (i) above, then Seller shall pay over and assign to Purchaser all insurance proceeds payable as a result of the damage to the Premises.

## 16. **Default/Remedy.**

16.1 **Seller Default.** In the event of a default by Seller of which Purchaser is aware prior to Closing in the performance or observance of any of Seller's duties or obligations herein contained, and upon the failure of Seller to cure such default within 10 days following written notice thereof from Purchaser, Purchaser, at its option and as its sole remedies, may either: (a) terminate this Agreement in which event the Deposit shall be returned to Purchaser and Seller shall reimburse Purchaser for all costs and expenses incurred by Purchaser in negotiating and undertaking the transactions contemplated hereby and investigating the Premises, including, without limitation, all costs associated with the investigations and other activities described or contemplated under Section 5.1 above, up to the sum of \$25,000; or (b) specifically enforce this Agreement, by legal action or otherwise. In the event of a default by Seller of which Purchaser is not aware prior to Closing, including, without limitation, a breach of any representation or warranty not discovered until after Closing, and upon the failure of Seller to cure such default within 10 days following written notice thereof from Purchaser, Purchaser shall be entitled to exercise any and all rights and remedies at law or in equity.

16.2 **Purchaser Default.** In the event of a default by Purchaser of which Seller is aware prior to Closing in the performance or observance of any of Purchaser's duties or obligations herein contained, and upon the failure of Purchaser to cure such default within 10 days following written notice thereof from Seller, Seller may terminate this Agreement and Purchaser shall pay Seller the Deposit as liquidated damages and as Seller's sole and exclusive remedy against Purchaser. In the event of a default of Purchaser of which Seller is not aware prior to Closing, including, without limitation, a breach of any representation or warranty not discovered until after Closing, and upon the failure of Purchaser to cure such default within 10 days following written notice thereof from Seller, Seller shall be entitled to exercise any and all rights and remedies at law or in equity.

16.3 **Costs.** All reasonable attorneys' fees and court costs incurred by a non-defaulting party to enforce this Agreement against a defaulting party shall be paid by the defaulting party.

17. **Miscellaneous.**

17.1 **Notices.** Any notice required or permitted to be given under this Agreement shall be in writing and shall be deemed to have been given (a) on the same date as the date on which such notice is delivered personally, (b) on the date that is three business days after the date on which such notice is deposited in the United States mail, registered or certified mail, postage prepaid, return receipt requested or (c) on the date that is one business days after the date on which such notice is sent by overnight courier services (such as Federal Express or any other nationally-recognized courier service), and, in each case, addressed as follows:

If to Seller: Kent County Road Commission  
Attn: Steve Warren  
1500 Scribner Ave NW  
Grand Rapids, Michigan 49504

If to Purchaser: \_\_\_\_\_  
Attn: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

or to such other address as either party may from time to time specify in a written notice to the other in accordance with the terms hereof.

17.2 **Survival.** The provisions of this Agreement shall not be merged into any deed or other document, and shall survive Closing.

17.3 **Assignment.** Neither party hereto shall have the right to assign this Agreement or any right or interest hereunder to any person or entity without the other party's prior written consent, except Purchaser may assign this Agreement, in whole or in part, without Seller's consent, to any Affiliate of Purchaser. For purposes of the prior sentence, the term "**Affiliate**" shall mean and include any person or entity that owns or controls, is owned or controlled by or is under common ownership or control with Purchaser, in whole or in part. Upon such assignment to an Affiliate, the assignor shall not be released or discharged from its duties, obligations and liabilities hereunder.

17.4 **Successors and Assigns.** This Agreement shall be binding upon, and inure to the benefit of, the parties hereto and their respective grantees, successors and assigns.

17.5 **Amendments.** This Agreement may be amended or modified only by a written instrument duly authorized and executed by the party or parties intended to be bound thereby.

17.6 **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of Michigan.

17.7 **Section Headings.** The section headings inserted in this Agreement are for convenience only and are not intended and shall not be construed to limit, enlarge or otherwise affect the scope or intent of this Agreement or the meaning of any provision hereof.

17.8 **Counterparts.** This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same document.

17.9 **Merger of Prior Agreements.** This Agreement supersedes all prior agreements, understandings, representations and inducements, written and oral, between the parties hereto relating to the subject matter hereof, including, without limitation, any so-called letters of intent executed by one or both of the parties.

17.10 **Time of Essence.** Time is of the essence of this Agreement.

17.11 **Severability.** In the event that any provision of this Agreement is held to be invalid or unenforceable by a court of competent jurisdiction, such invalidity or unenforceability shall not affect any of the other provisions hereof so that this Agreement is valid and enforceable to the fullest extent permitted by law.

17.12 **Independent Counsel; Interpretation.** Purchaser and Seller each acknowledge that: (a) they have been represented by independent counsel, or have had the opportunity to be represented by independent counsel, in connection with this Agreement; and (b) this Agreement is the result of arms-length negotiations between the parties. Accordingly, notwithstanding any rule of law to the contrary: (i) the fact that this Agreement was prepared by Seller's counsel as a matter of convenience shall have no import or significance, and any uncertainty or ambiguity in this Agreement shall not be construed against Seller because Seller prepared this Agreement; and (ii) no deletions from prior drafts of this Agreement shall be construed to create the opposite intent of the deleted provisions.

17.13 **Tax-Deferred Exchange.** Seller acknowledges that the Purchaser may be entering into this transaction in connection with a tax-deferred exchange (the "**Exchange**"). If requested by Purchaser, Seller shall cooperate with the requesting party in effectuating such Exchange, including executing any documents, instruments or agreements reasonably requested by the Purchaser, provided Seller shall not be obligated to (i) expend any costs in connection with such Exchange (excluding legal fees of Seller's counsel in reviewing any such documents, instruments or agreements) or (ii) accept or assume any additional obligations or liabilities.

In Witness Whereof, this Agreement has been executed by the parties and is effective as of the date on which a party last signs below (the “**Effective Date**”).

**Seller:**

The Board of County Road Commissioners of the County of Kent, a municipal corporation organized and existing under and by virtue of the laws of the State of Michigan

By: \_\_\_\_\_

Its: \_\_\_\_\_

Dated: \_\_\_\_\_,  
2019

**Purchaser:**

[Name of Purchaser]

By: \_\_\_\_\_

Its: \_\_\_\_\_

Dated: \_\_\_\_\_,  
2019

**EXHIBIT A**  
**Depiction of Premises**

**EXHIBIT B**  
**The Lease**