

SWARTZ CREEK DDA

Special Meeting Agenda

**Downtown Development Authority, Wednesday, September 18, 2024, 2023, 5:00 P.M.
City Hall 8083 Civic Drive, Swartz Creek Michigan, 48473
Virtual (Zoom) Meeting Available for General Public**

1. CALL TO ORDER:

2. PLEDGE OF ALLEGIANCE:

3. ROLL CALL:

4. APPROVE AGENDA:

4A. Proposed or Amended Agenda, September 18, 2024

5. MOTION TO APPROVE MINUTES:

5A. No Minutes to Approve

6. REPORTS & COMMUNICATIONS:

6A. Resolutions

6B. September 18, 2024 Meeting Letter

6C. Draft Purchase Agreement and Map

Page No:

02

09

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7. MEETING OPENED TO THE PUBLIC:

7A. General Public Comments

8. BUSINESS:

8A. Property Purchase

9. MEETING OPENED TO THE PUBLIC:

9A. General Public Comments

10. REMARKS BY MEMBERS:

11. ADJOURNMENT:

CITY OF SWARTZ CREEK
**DOWNTOWN DEVELOPMENT AUTHORITY
RESOLUTIONS
WEDNESDAY, SEPTEMBER 12, 2024**

Resolution No. 240918-01

Agenda – September 18, 2024

Motion by Board Member: _____

I Move the Swartz Creek Downtown Development Authority approves the agenda for the September 18, 2024 Downtown Development Authority special meeting.

Second by Board Member: _____

Voting For: _____

Voting Against: _____

Resolution No. 240918-02

**RESOLUTION TO PURCHASE REAL PROPERTY
LOCATED AT 4484 MORRISH ROAD**

Motion by Board Commission Member: _____

WHEREAS, the City of Swartz Creek Downtown Development Authority desires to preserve an historical structure in the downtown, as well as to create economic options that will add to the community’s recreation, hospitality, and culture amenities within the downtown, and;

WHEREAS, 4484 Morrish, an historic church, and a portion of 4494 Morrish is available for sale, and;

WHEREAS, this property has remarkable historic features, a visible location, is within the walkable downtown, has superior regional accessibility, and is eligible for MEDC and local incentives; and

WHEREAS, the DDA finds that ownership will provide potential investors with superior due diligence time and resources that will maximize the potential for a positive outcome for the vacant building.

NOW THEREFORE, BE IT RESOLVED the City of Swartz Creek Downtown Development Authority approves the purchase agreement, as included in the September 18, 2024 DDA packet and further authorize and direct the DDA Chair to sign and execute any and all documentation necessary to effect the sale.

BE IT FURTHER RESOLVED the City of Swartz Creek Downtown Development Authority amend the fiscal year 2025 budget to include \$145,000 to purchase the property, including closing costs, and a survey.

Second by Board Member: _____

Voting For: _____
Voting Against: _____

Resolution No. 240918-03

Adjourn

Motion by Board Commission Member: _____

I Move the Swartz Creek Downtown Development Authority adjourns the September 18, 2024 Downtown Development Authority special meeting.

Second by Board Member: _____

Voting For: _____
Voting Against: _____

CITY OF SWARTZ CREEK
VIRTUAL DOWNTOWN DEVELOPMENT AUTHORITY MEETING ACCESS INSTRUCTIONS
WEDNESDAY, SEPTEMBER 18, 2024, 5:00 P.M.

The regular virtual meeting of the City of Swartz Creek park board is scheduled for **September 18, 2024** starting at 5:00 p.m. and will be conducted virtually (online and/or by phone), due to health concerns surrounding Coronavirus/COVID-19 and rules promulgated by the Michigan Department of Health and Human Services.

To comply with the **Americans with Disabilities Act (ADA)**, any citizen requesting accommodation to attend this meeting, and/or to obtain the notice in alternate formats, please contact Connie Olger, 810-429-2766 48 hours prior to meeting,

Zoom Instructions for Participants

To join the conference by phone:

1. On your phone, dial the teleconferencing number provided below.
2. Enter the **Meeting ID** number (also provided below) when prompted using your touch-tone (DTMF) keypad.

Before a videoconference:

1. You will need a computer, tablet, or smartphone with speaker or headphones. You will have the opportunity to check your audio immediately upon joining a meeting.
2. Details, phone numbers, and links to videoconference or conference call is provide below. The details include a link to **“Join via computer”** as well as phone numbers for a conference call option. It will also include the 9-digit Meeting ID.

To join the videoconference:

1. At the start time of your meeting, enter the link to join via computer. You may be instructed to download the Zoom application.
2. You have an opportunity to test your audio at this point by clicking on “Test Computer Audio.” Once you are satisfied that your audio works, click on “Join audio by computer.”

You may also join a meeting without the link by going to join.zoom.us on any browser and entering the Meeting ID provided below.

If you are having trouble hearing the meeting, you can join via telephone while remaining on the video conference:

1. On your phone, dial the teleconferencing number provided below.
2. Enter the **Meeting ID number** (also provided below) when prompted using your touchtone (DMTF) keypad.
3. If you have already joined the meeting via computer, you will have the option to enter your participant ID to be associated with your computer.

Participant controls in the lower left corner of the Zoom screen:



Using the icons in the lower left corner of the Zoom screen you can:

- Mute/Unmute your microphone (far left)
- Turn on/off camera (“Start/Stop Video”)
- Invite other participants
- View participant list-opens a pop-out screen that includes a “Raise Hand” icon that you may use to raise a virtual hand during Call to the Public
- Change your screen name that is seen in the participant list and video window
- Share your screen

Somewhere (usually upper right corner on your computer screen) on your Zoom screen you will also see a choice to toggle between “speaker” and “gallery” view. “Speaker view” show the active speaker.

Connie Olger is inviting you to a scheduled Zoom meeting.

Topic: DDA- Downtown Development Authority Meeting

Time: September 18, 2024 05:00 PM Eastern Time (US and Canada)

Join Zoom Meeting

<https://us02web.zoom.us/j/83096401128>

Meeting ID: 830 9640 1128

One tap mobile

+13017158592,,83096401128# US (Washington DC)

+13126266799,,83096401128# US (Chicago)

Dial by your location

+1 301 715 8592 US (Washington DC)

+1 312 626 6799 US (Chicago)

+1 929 205 6099 US (New York)

+1 253 215 8782 US (Tacoma)

+1 346 248 7799 US (Houston)

+1 669 900 6833 US (San Jose)

Meeting ID: 830 9640 1128

Find your local number: <https://us02web.zoom.us/j/kz4Jb4etg>

If you have any further questions or concern, please contact 810-429-2766 or email rkraft@cityofswartzcreek.org.

A copy of this notice will be posted at City Hall, 8083 Civic Drive, Swartz Creek, Michigan.

CITY OF SWARTZ CREEK VIRTUAL (ELECTRONIC) MEETING RULES AND PROCEDURES

In order to conduct an effective, open, accessible, and professional meeting, the following protocols shall apply. These protocols are derived from the standard practices of Swartz Creek public meetings, Roberts Rules of Order, and city board & commission procedures. These procedures are adopted to govern participation by staff, councilpersons and members of the public in all City meetings held electronically pursuant to PA 228 of 2020. Note that these protocols do not replace or eliminate established procedures or practices. Their purpose is to augment standing expectations so that practices can be adapted to a virtual meeting format.

The following shall apply to virtual meetings of the city's public bodies that are held in accordance with the Open Meetings Act.

1. Meetings of the City Council, Planning Commission, Zoning Board of Appeals, Downtown Development Authority, Park Board, or committees thereunder may meet electronically or permit electronic participation in such meetings insofar as (1) the Michigan Department of Health and Human Services restricts the number of persons who can gather indoors due to the COVID-19 pandemic; (2) persons have an illness, injury, disability or other health-related condition that poses a risk to the personal health or safety of members of the public or the public body if they were to participate in person; or (3) there is in place a statewide or local state of emergency or state of disaster declared pursuant to law or charter by the governor or other person authorized to declare a state of emergency or disaster.
2. All meetings held hereunder must provide for two-way communication so that members of the public body can hear and respond to members of the general public, and vice versa.
3. Members of the public body who participate remotely must announce at the outset of the meeting that he/she is in fact attending the meeting remotely and by further identifying the specific physical location (by county, township, village and state) where he/she is located. The meeting minutes must include this information.
4. Notice of any meeting held electronically must be posted at the City Offices at least 18 hours before the meeting begins and must clearly explain the following:
 - (a) why the public body is meeting electronically;
 - (b) how members of the public may participate in the meeting electronically, including the specific telephone number, internet address or similar log-in information needed to participate in the meeting;
 - (c) how members of the public may contact members of the public body to provide input or ask questions on any business that will come before the public body at the meeting;
 - (d) how persons with disabilities may participate in the meeting.
5. The notice identified above must also be posted on the City's website homepage or on a separate webpage dedicated to public notices for non-regularly scheduled or electronic public meetings that is accessible through a prominent and conspicuous link on the website's homepage that clearly describes the meeting's purpose.

6. The City must also post on the City website an agenda of the meeting at least 2 hours before the meeting begins.
7. Members of the public may offer comment only when the Chair recognizes them and under rules established by the City.
8. Members of the public who participate in a meeting held electronically may be excluded from participation in a closed session that is convened and held in compliance with the Open Meetings Act.

MAINTAINING ORDER

Public body members and all individuals participating shall preserve order and shall do nothing to interrupt or delay the proceedings of public body.

All speakers shall identify themselves prior to each comment that follows another speaker, and they shall also indicate termination of their comment. For example, "Adam Zettel speaking. There were no new water main breaks to report last month. That is all."

Any participants found to disrupt a meeting shall be promptly removed by the city clerk or by order of the Mayor. Profanity in visual or auditory form is prohibited.

The public body members, participating staff, and recognized staff/consultants/presenters shall be the only participants not muted by default. All other members must request to speak by raising their digital hand on the meeting application or by dialing *9 on their phone.

MOTIONS & RESOLUTIONS

All Motions and Resolutions, whenever possible, shall be pre-written and in the positive, meaning yes is approved and no is defeated. All motions shall require support. A public body member whom reads/moves for a motion may oppose, argue against or vote no on the motion.

PUBLIC ADDRESS OF BOARD OR COMMISSION

The public shall be allowed to address a public body under the following conditions:

1. Each person who wishes to address the public body will be first recognized by the Mayor or Chair and requested to state his / her name and address. This applies to staff, petitioners, consultants, and similar participants.
2. Individuals shall seek to be recognized by raising their digital hand as appropriate on the digital application.
3. Petitioners are encouraged to appropriately identify their digital presence so they can be easily recognized during business. If you intend to call in only, please notify the clerk in advance of your phone number.
4. The city clerk shall unmute participants and the members of the public based upon the direction of the mayor or chair. Participants not recognized for this purpose shall be muted by default, including staff, petitioners, and consultants.
5. Individuals shall be allowed five (5) minutes to address the public body, unless special permission is otherwise requested and granted by the Mayor or Chair.
6. There shall be no questioning of speakers by the audience; however, the public body, upon recognition of the Mayor or Chair, may question the speaker.

7. No one shall be allowed to address the public body more than once unless special permission is requested, and granted by the Mayor or Chair.
8. One spokesperson for a group attending together will be allowed five (5) minutes to address the public body unless special permission has been requested, and granted by the Mayor or Chair.
9. Those addressing the public body shall refrain from being repetitive of information already presented.
10. All comments and / or questions shall be directed to and through the Mayor or Chair.
11. Public comments (those not on the agenda as speakers, petitioners, staff, and consultants) are reserved for the two "Public Comment" sections of the agenda and public hearings.

VOTING RECORD OF PUBLIC BODIES

All motions, ordinances, and resolutions shall be taken by "YES" and "NO" voice vote and the vote of each member entered upon the journal.



SWARTZ CREEK DDA
SWARTZ CREEK CITY OFFICES
8083 CIVIC DR.
SWARTZ CREEK, MI 48473

PHONE: 810-635-4464
FAX: 810-635-2887

Date: September 18, 2024

To: DDA Board Members
From: Adam Zettel
RE: July 18, 2024 Special DDA Meeting

Hello everyone,

There will be a meeting of the DDA at 5:00 p.m. on Wednesday, September 18, 2024. All board members must attend in person to participate. This will also be broadcast virtually via Zoom for the general public. Instructions and guidelines for the virtual meeting are in the packet.

We are meeting for the exclusive purpose of considering a purchase agreement for 4484 Morrish Road (and part of 4494 Morrish Road). The PA has been put together as discussed, with one minor change to the boundary line. The city attorney has reviewed the agreement and has no issues with it. His office will be sending Kent to our meeting to answer any questions or address any legal concerns that may arise.

The general terms and conditions include:

1. Sale price of \$125,000 cash
2. 15 days due diligence, conditioned upon inspection and acceptance of physical condition
3. Buyer to pay closing costs, with the exception of the brokerage fee (I am requesting \$20,000 for such costs AND a survey, but I expect this amount to be considerably less)
4. The split from 4494 Morrish will consist of property located north of the existing east-west fence and ramp for 4494 Morrish, NOT all property immediately behind 4484 Morrish. This is about 15 feet less than discussed but makes more practical sense for all parties.

I am including the draft PA and an illustration of the resulting lot lines. Please take a look. The intention is to approve the purchase agreement and acquisition of the property.

Contact me directly with any questions, comments, or agenda items. **Please let us know if you can attend or not.**

Sincerely,

A handwritten signature in blue ink that reads "Adam Zettel". The signature is fluid and cursive, with the first name "Adam" and the last name "Zettel" clearly distinguishable.

Adam Zettel, AICP

City Manager

azettel@cityofswartzcreek.org



DISCLAIMER

These forms are not intended to be a substitute for the legal advice of competent counsel. The user has the responsibility to determine whether the forms are appropriate or effective in a particular situation. The user should make certain that the form complies with current law, both state and federal. The authors and CBOR and its employees disclaim any liability arising from the use of the forms. Any user of the form waives and releases all possible claims against the authors and CBOR and its employees. The authors and CBOR wish to acknowledge the prior contribution of H. William Freeman in creating this form.



Gregg A. Nathanson

Couzens, Lansky, Fealk, Ellis, Roeder & Lazar, P.C.

39395 W. Twelve Mile, Suite 200

Farmington Hills, MI 48331

Ph. 248-489-8600

Fax 248-489-4156

gregg.nathanson@couzens.com

COMMERCIAL PURCHASE AGREEMENT

THIS COMMERCIAL PURCHASE AGREEMENT is made and entered into this 18 day of SEPTEMBER, 2024, ("Effective Date") by and between PUBLIC SOLUTIONS CONSULTING, a LLC *[entity type and state organized]* ("Seller"), whose address is 1418 North Lewis Rd, Clio *[municipality]*, Michigan, 48420 *[zip]*, and CITY OF SWARTZ CREEK DOWNTOWN DEVELOPMENT AUTHORITY, a Public Body Corporate *[entity type and state organized]*, ("Purchaser"), whose address is 8083 Civic Drive, Swartz Creek *[municipality]*, Michigan *[State]*, 48473 *[zip code]*, in the manner following:

1. **PROPERTY DESCRIPTION.** Purchaser offers and agrees to purchase the real property located in the City of Swartz Creek, County of Genesee, Michigan, commonly known as 4484 Morrish Road tax parcel identification number(s) 58-35-576-053, including a portion 4494 Morrish Road tax parcel 58-35-576-054, which Seller approves for Purchaser to combine into once parcel, and further described in the legal description attached as Exhibit A, together with Seller's interest in all applicable easements, appurtenances, land division rights, timber, air, oil, gas and mineral, subsurface, riparian, and all other rights and interests pertaining to such property, and together with all buildings, structures and other physical improvements situated on such property (collectively, the "Real Property").

Place an "X" in the appropriate box(es) below:

Check here if sale includes any equipment or personal property and attach list as **Exhibit B**. A bill of sale will be executed at closing.

The Real Property, together with any of the foregoing are collectively the "Property."

2. **PURCHASE PRICE.** The purchase price ("Purchase Price") for the Property shall be One Hundred Twenty-five Thousand(\$125,000.00) Dollars.

3. **PAYMENT OF PURCHASE PRICE.** The Purchase Price shall be paid as indicated by an "X" placed in the appropriate box below, with initials of Seller and Purchaser acknowledging Purchaser's method of payment, while the other unmarked terms of purchase shall not apply.

✱ **Cash.** Purchaser shall pay the full Purchase Price, including any adjustments and/or prorations contained herein, to Seller at closing by certified check or wire transfer of immediately available funds or another method acceptable to Seller and title company.

4. **EARNEST MONEY DEPOSIT.** Within three (3) calendar days following the Effective Date of this Agreement, Purchaser shall deposit with TransNation Title/Mason Burgess Title Insurance Company (the "Title Company" or "Escrow Agent"), Purchaser's earnest money deposit in the amount of Five Thousand Dollars(\$5,000.00) Dollars (the "Deposit"). If Purchaser fails to deliver the Deposit timely, Purchaser shall be in default and Seller may terminate this Agreement upon notice to Purchaser. The Deposit shall be refunded to Purchaser in the event this Agreement is properly terminated by Purchaser under the terms and conditions provided for herein; retained by Seller; or applied to the Purchase Price at Closing.

5. **DUE DILIGENCE CONTINGENCY.** Purchaser shall have 15 days after receipt of fully accepted copy of this Agreement executed by Seller ("Inspection Period") to inspect and obtain the following items (place an "X" next to all that apply):

Purchaser's ability to obtain acceptable financing from a financial institution of its choice.

X Purchaser's physical inspection of all aspects of the Property which shall include but not be limited to: plumbing, electrical and HVAC systems, roof, and any other portions of the Property.

Purchaser's satisfaction with the results of an environmental site assessment.

Purchaser making soil tests, borings and any other engineer and architectural tests Purchaser desires.

Purchaser's satisfaction that the Property is properly zoned or can be rezoned to permit Purchaser's proposed development and use.

Purchaser receiving preliminary site plan approval.

Purchaser obtaining a survey of the Property ("Survey").

Purchaser receiving and approving all leases and obtaining a satisfactory estoppel certificate from each tenant.

Purchasing conducting any other due diligence desired by Purchaser.

Purchaser obtaining any federal, state or other governmental approval or quasi-governmental environmental or tax incentives, inducements, allowances or similar benefits (by way of example, and not in limitation of the foregoing, any Brownfield classification or any Brownfield tax and/or grant reimbursements) with respect to the Property.

All due diligence shall be performed by Purchaser at Purchaser's sole expense. Prior to expiration of the Inspection Period, if Purchaser notifies Seller that, in Purchaser's sole discretion, the Property is unsuitable for Purchaser's intended purposes, then Seller and the Escrow Agent shall return the Deposit to Purchaser, and neither party shall have any further rights or obligations under this Agreement, except for any obligations which, by the terms of this Agreement are intended to survive termination. In the event Purchaser does not provide Seller with written notice of termination prior to the expiration of the Inspection Period, then the Deposit shall be non-refundable (unless Seller defaults), Purchaser shall be deemed to be satisfied with its inspections of the Property and this contingency shall be deemed fulfilled. Seller, at no expense to Seller, shall cooperate with Purchaser in providing reasonable access to the Property for Purchaser to perform its due diligence, and in obtaining all approvals desired or required from any federal, state or local government ("Governmental Approvals"), provided that no Governmental Approvals shall be binding upon Seller or the Property if Purchaser fails to close. Said Governmental Approvals shall be obtained during the Inspection Period unless the parties hereafter agree in writing that additional time is required to obtain them. Purchaser shall repair any damage to the Property caused by Purchaser or its agents, and Purchaser shall defend and indemnify and hold Seller harmless against any liability, loss, damage, cost or expense arising from any of Purchaser's due diligence activities; and these obligations of Purchaser shall survive termination of this Agreement. Within 5 business days after execution of this Agreement, Seller will provide Purchaser with copies of all title policies, surveys, leases, environmental reports, studies, site plans, certificates of occupancy and other documentation in the possession or control of Seller, which is material to Purchaser's decision whether to purchase the Property.

6. TITLE INSURANCE.

- (a) **Title Insurance:** Owner Policy of Title Insurance to be furnished hereunder, to be paid for by Purchaser. Within 10 days of the Effective Date of this Agreement, Purchaser shall order a commitment for an ALTA Owner's Policy of Title Insurance, with Standard Exceptions; or without Standard Exceptions (the "Title Commitment"), from the Title Company, and shall provide a copy of the same to Purchaser upon receipt. Purchaser in its sole and absolute discretion shall determine whether all matters of title and survey are satisfactory. The Title Commitment shall be accompanied by copies of all recorded exceptions to title referred to therein. At Closing, the Title Company shall deliver to Purchaser a satisfactorily "marked up" Title Commitment. The Title Insurance Policy to be issued pursuant to the marked-up Title Commitment shall contain such endorsements as Purchaser may reasonably require, provided, however Purchaser shall be responsible for the cost of such endorsements.
- (b) **Objections to Title and Survey.** If Purchaser objects to any matters of title or survey and Purchaser so notifies Seller in writing of such objection(s) ("Objection Notice") before expiration of the Inspection Period, then Seller shall have 30 days from the date Seller receives the Objection Notice to either: (i) remedy the title and survey defects described in Purchaser's Objection Notice and obtain and deliver to Purchaser a revised Title Commitment and/or survey which reflects that all such defects have been remedied; or (ii) notify Purchaser and Escrow Agent that Seller is unable or unwilling to remedy the defects, in which event Purchaser shall, at its option, within five (5) business days after receipt of such notice from Seller, either terminate this Agreement and receive a full refund of the Deposit (subject to those obligations which by their terms survive termination) or waive Purchaser's title and survey objections, and proceed to Closing, subject to satisfaction or waiver of Purchaser's other pre-Closing contingencies. If Purchaser proceeds to Closing, all exceptions set forth in the Title Commitment, and all objectionable matters set forth in the Survey, shall be deemed "Permitted Exceptions."

7. ENVIRONMENTAL.

- (a) **Environmental.** To the best of Seller's knowledge, there are no areas of the Property where hazardous substances or hazardous wastes, as such terms are defined by applicable Federal, State and local statutes and regulations, are present in quantities in violation of applicable law. No claim has been made against Seller with regard to hazardous substances or wastes with respect to the Property.
- (b) **Due Diligence.** Purchaser shall have the right at Purchaser's expense to conduct a Phase I environmental site assessment during the Inspection Period. If any Phase II subsurface investigation is required or recommended, Purchaser and Seller shall attempt to agree upon the nature and extent of any Phase II activities and which party shall bear the cost. If Purchaser and Seller are unable to agree within 10 days, then either party may, upon notice to the other, terminate the Agreement, in which event the Deposit shall be refunded to Purchaser and neither party shall have any further liability thereunder (except for those obligations which, by their terms, survive termination). Purchaser agrees to repair and restore any damage to the Property caused by Purchaser's investigations or testing, at Purchaser's sole expense. Purchaser shall defend, indemnify and hold Seller harmless from all costs, expenses and liabilities arising out of Purchaser's inspection of the Property, including that of Purchaser's employees, agents, consultants, or contractors performing said inspection.

8. CLOSING AND CLOSING ADJUSTMENTS. Closing shall take place at the offices of the Title Company or another mutually acceptable location at the earlier of: (i) 10 days following the expiration of the Inspection Period ; or (ii) upon Purchaser's written notification to Seller that all of the Purchaser's conditions precedent and contingencies have been satisfied or waived; provided, however, in no event shall Closing occur later than October 30, 2024 (such date for Closing and performance being hereinafter sometimes referred to as the "Closing" or "Closing Date").

At Closing, Seller shall deliver to Purchaser a Warranty Deed conveying good and marketable fee simple title to the Property, subject to the Permitted Exceptions, and the lien of real estate taxes not yet due and payable, along with Seller's right to make any land divisions of the Property permitted to Seller, under the Michigan Land Division Act, MCL 560.101 *et seq* . Should any financial liens or encumbrances of a definite or ascertainable amount (such as a mortgage) be recorded against the Property, Seller shall pay and/or satisfy any such encumbrance prior to or simultaneously with the Closing. In addition, at Closing, Seller shall pay the base owner's title insurance policy premium, all state or county real estate transfer taxes, all outstanding water and sewer bills, and any other outstanding obligations which, if unpaid, may become a lien against the Property. The parties shall share equally all Title Company fees and expenses. Current real estate taxes (i.e. the most recent summer and winter tax bills issued) shall be prorated as of the date of the Closing on a "due date" basis as if paid in advance, with Seller receiving a credit for any prepaid taxes. All assessments, including, but not limited to any special assessments which have become a lien upon the land shall be paid in full by Seller. Each party shall pay their own attorney fees. At Closing, the Title Company may establish a water escrow, pending receipt of a final paid water bill for water and sewer charges incurred through Closing.

9. SELLER'S WARRANTIES, REPRESENTATIONS AND COVENANTS. Seller warrants, represents and covenants to Purchaser, as follows:

- (a) **Authority.** Seller: (i) if an entity, is a lawfully constituted entity, duly organized, validly existing, and in good standing under the laws of the State of Michigan or another state; (ii) has the authority and power to enter into this Agreement and to consummate the transactions contemplated herein; and (iii) upon execution hereof will be legally obligated to Purchaser in accordance with the terms and provisions of this Agreement. Before Closing, Seller shall provide the Title Company and Purchaser with satisfactory written evidence that all necessary and appropriate action has been taken by Seller authorizing and approving the execution, delivery and performance by Seller of this Agreement and all closing documents, and the performance by Seller of all other acts necessary or appropriate for the consummation of the purchase and sale of the Property as contemplated herein.
- (b) **Title.** Seller owns the Property in fee simple and has marketable and good title to the Property. Seller will not further encumber title to the Property before Closing without Purchaser's prior written consent, which consent shall not be unreasonably withheld.
- (c) **Conflicts.** The execution and entry into this Agreement by Seller, the execution and delivery of the documents and instruments to be executed and delivered by Seller on the Closing Date, and the performance by Seller of Seller's duties and obligations under this Agreement and of all other acts necessary and appropriate for the full consummation of the purchase and sale of the Property as contemplated herein, will not violate any contract, agreement or other instrument to which Seller is a party, or any judicial order or judgment of any nature by which Seller or the Property is bound.

- (d) **Litigation.** There is no action, suit or proceeding pending or, to the best of Seller's knowledge, threatened by or against or affecting Seller or the Property which does or will involve or affect the Property or title thereto. Seller will, promptly upon receiving any such notice or learning of any such contemplated or threatened action, give Purchaser written notice thereof.
- (e) **No Violations.** To the best of Seller's knowledge, Seller has not received notice of any existing violations of state or federal laws, **municipal**, or county ordinances, or other legal requirements with respect to the Property. In the event Seller receives notice of any such violation affecting the Property prior to the Closing, Seller shall promptly notify Purchaser thereof.
- (f) **Foreign Ownership.** Seller is not a "foreign person" as that term is defined in the U. S. Internal Revenue Code of 1986, as amended, and the regulations **promulgated** pursuant thereto, and Purchaser has no obligation under Section 1445 of the U. S. Internal Revenue Code of 1986, as amended, to withhold and pay over to the U. S. Internal Revenue Service any part of the "amount realized" by Seller in the transaction contemplated hereby (as such term is defined in the regulations issued under said Section 1445). Seller shall furnish Purchaser with a non-foreign person affidavit at Closing.
- (g) **Construction Liens.** On the Closing Date, Seller will not be indebted to any contractor, laborer, materialmen, architect, or engineer for work, labor or services performed or rendered, or for materials supplied or furnished, in connection with the **Property** for which any person could claim a lien against the Property and shall execute a standard title company affidavit to this effect at Closing.

10. **PURCHASER'S WARRANTIES, REPRESENTATIONS AND COVENANTS.**

- (a) **Authority.** Purchaser: (i) if an entity, is a lawfully constituted entity, duly organized, validly existing, and in good standing under the laws of the State of Michigan or another state; (ii) has the authority and power to enter into this Agreement and to consummate the transactions contemplated herein; and (iii) upon execution hereof will be legally obligated to Seller in accordance with the terms and provisions of this Agreement. Before Closing, Purchaser shall provide the Title Company and Seller with satisfactory written evidence that all necessary and appropriate action has been taken by Purchaser authorizing and approving the execution, delivery and performance by Purchaser of this Agreement, and all closing documents and the performance by Purchaser of all other acts necessary or as appropriate for the consummation of the purchase and sale of the Property as contemplated herein.
- (b) **Conflicts.** The execution and entry into this Agreement by Purchaser, the execution and delivery of the documents and instruments to be executed and delivered by Purchaser on the Closing Date, and the performance by Purchaser of Purchaser's duties and obligations under this Agreement and of all other acts necessary and appropriate for the full consummation of the purchase and sale of the Property as contemplated herein, will not violate any contract, agreement or other instrument to which Purchaser is a party, or any judicial order or judgment of any nature by which Purchaser is bound.

11. **DAMAGE TO PROPERTY.** If between the Effective Date of this Agreement and the Closing Date, all or any part of the Property is damaged by fire or natural elements or other causes beyond the Seller's control, which Seller does not repair or agree to repair prior to the Closing Date, or any part of the Property is taken pursuant to any power of eminent

domain, Seller shall immediately notify Purchaser of such occurrence, and Purchaser may terminate this Agreement with written notice to Seller within 15 days after the date Purchaser learns of such damage or taking, and receive a refund of the Deposit without further liability, except for those obligations of Purchaser which are intended to survive termination. If Purchaser does not elect to terminate this Agreement, there shall be no reduction of the purchase price and Seller shall assign to Purchaser whatever rights Seller may have with respect to any insurance proceeds or eminent domain award at Closing.

12. **AS IS.** Neither Seller nor any broker, nor any of their officers, directors, managers, members, employees or agents have made any representation, warranty or disclosure with respect to the Property, upon which Purchaser may rely, except as may be set forth in writing in this Agreement. By Closing, Purchaser agrees to accept the Property in "As Is" condition to the fullest extent permitted by law.
13. **SELLER'S CLOSING OBLIGATIONS.** At Closing, Seller shall execute and deliver the Warranty Deed, closing statement, standard title company owner's affidavit and all other usual and customary Title Company and other closing documents necessary or appropriate to consummate the sale.
14. **PURCHASER'S CLOSING OBLIGATIONS.** At closing, Purchaser shall pay to Seller the Purchase Price in the manner specified in Section 3 above, subject to agreed pro rations and adjustments, and execute and deliver a closing statement and all other usual and customary Title Company and other closing documents necessary or appropriate to consummate the sale.
15. **SECTION 1031 TAX-DEFERRED EXCHANGES.** Upon either party's request, the other party shall cooperate and reasonably assist the requesting party in structuring the purchase and sale contemplated by this Agreement as part of a tax deferred, like-kind exchange under Section 1031 of the Internal Revenue Code of 1986, as amended; provided, however, that in connection therewith, the non-requesting party shall not be required to: (a) incur any additional costs or expenses; (b) take legal title to additional real property (i.e., the requesting parties' "replacement property" or "relinquished property"); or (c) agree to delay the Closing. However, should both parties wish to complete a tax-deferred exchange, the parties will each incur their own additional expenses related to their exchange and shall split any common costs which will benefit both parties by such a division.
16. **NOTICES.** Unless otherwise stated in this Agreement, a notice required or permitted by this Agreement shall be sufficient if in writing and either delivered personally or sent via Federal Express, UPS or a similar nationally recognized overnight delivery service, or by certified mail, return receipt requested, addressed to the parties at their addresses specified below or by email. Any notices given by personal service shall be below or by e-mail effective upon delivery. Any notice given by Federal Express or UPS shall be deemed effective one business day after sending. Any notice given by certified mail, return receipt requested, shall be deemed given three business days after mailing, and any notice given by email shall be deemed effective upon receipt. Copies of all notices shall be made as follows:

If to Purchaser:

Name:	City of Swartz Creek DDA
Address:	8083 Civic Drive
Address:	Swartz Creek, MI 48473
Telephone:	810-635-4464
Facsimile:	810-6352887
Email:	

With copy to:

Name:	Lucia Properties LLC
Address:	6130 Foxtail Path
Address:	Swartz Creek, MI 48473
Telephone:	810-234-1000
Facsimile:	
Email:	

If to Seller :

Name:	
Address:	
Address:	

Telephone:	
Facsimile:	
Email:	

With copy to:

Name:	Public Solutions Consulting, LLC. InCare of Paul Seaton
Address:	14189 North Lewis
Address:	Clio, MI 48420
Telephone:	810-908-9150
Facsimile:	
Email:	pulseaton11@gmail.com

17. **ADDITIONAL ACTS.** Purchaser and Seller agree to execute and deliver such additional documents and perform such additional acts as may become necessary or appropriate to effectuate the transfers contemplated by this Agreement.
18. **ENTIRE AGREEMENT.** This Agreement contains the entire agreement of the parties with respect to the sale of the Property. All contemporaneous or prior oral and written negotiations and agreements have been merged into this Agreement.
19. **MICHIGAN LAW.** This Agreement shall be governed by and construed in accordance with the laws of the State of Michigan, without regard to its conflict of laws principles.
20. **AMENDMENTS.** This Agreement may be modified or amended only by written instrument signed by the Purchaser and Seller.

21. **EFFECTIVE DATE.** For purposes of this Agreement, the phrase “Effective Date” shall be the last date upon which this Agreement becomes fully executed, and delivered by both parties including any counter proposals or amendments counter-signed by the opposing party.

22. **BROKER.** Purchaser and Seller each acknowledge that: (i) Purchaser’s real estate agent is Lucia Properties LLC. and is acting as: an agent of the Purchaser; or an agent of the Seller; or X as a disclosed transaction coordinator, with written, informed consent of both Purchaser and Seller; and (ii) Seller’s real estate agent is Lucia Properties LLC. and is acting as: an agent of the Seller; or an agent of the Purchaser; or X as a disclosed transaction coordinator, with written, informed consent of both Purchaser and Seller. Seller agrees to pay the real estate broker(s) involved in this transaction a combined brokerage fee of \$8,750.00. The parties acknowledge that other than the parties’ real estate agents disclosed herein, no other real estate brokers, salespersons, or agents are involved in this transaction and the parties hereby indemnify and hold each other harmless from any and all such claims for brokerage fees. All brokers and their agents specifically disclaim responsibility for the condition of the Property and performance of this Agreement. The parties each hereby, and by closing shall be deemed to, waive and release any and all claims and causes of action against all named brokers, their officers, directors, managers, members, employees and agents. The parties each hereby grant all named brokers the right to record a lien against the Property to secure payment of their commission including, without limitation, the right to record a lien under Michigan’s Commercial Real Estate Broker Lien Act. All named brokers are third party beneficiaries of this Agreement.

23. **BROKER ENVIRONMENTAL DISCLAIMER.** The Purchaser and Seller agree that each broker and real estate agent has fully disclosed any knowledge that such broker and/or real estate agent has concerning possible toxic or hazardous material or substances or other adverse environmental conditions on or about the Property and the Purchaser acknowledges that Purchaser shall be given the opportunity to make a competent environmental inspection, and the Purchaser and Seller each do hereby release each broker and real estate agent from any liability concerning toxic and hazardous material or substance or other adverse environmental conditions on or about the Property. The Purchaser and Seller each hereby expressly waive any claim whatsoever against each broker and real estate agent before or after the closing of this transaction arising out of or in connection with any of the foregoing.

24. **DEFAULT.**

(a) **Seller’s Default.** If the sale and purchase of the Property contemplated by this Agreement is not consummated on account of Seller’s default or failure to perform hereunder, Purchaser shall as its sole remedy, elect to either: (i) specifically enforce the terms hereof; or (ii) demand and be entitled to an immediate refund of the Deposit, in which case this Agreement shall terminate in full, except for any provisions which by their terms, are intended to survive termination.

(b) **Purchaser’s Default.** If the sale and purchase of the Property contemplated by this Agreement is not consummated on account of Purchaser’s default hereunder, Seller shall as its sole and exclusive remedy retain the Deposit amount as full and complete liquidated damages for such default of Purchaser. The parties hereby acknowledge that it is impossible to estimate more precisely the damages which might be suffered by Seller upon Purchaser’s default of this Agreement or any duty arising in connection or relating herewith. Seller’s entitlement to and receipt of the Deposit is intended not as a penalty, but as full and complete liquidated damages. The right to retain such sums as full liquidated damages as Seller’s sole and exclusive remedy in

the event of default or failure to perform hereunder by Purchaser, is in addition to any liability of Purchaser with respect to its repair and indemnity obligations set forth above, which are intended to survive termination of this Agreement

25. **WAIVER.** The failure to enforce any particular provision of this Agreement on any particular occasion shall not be deemed a waiver by either party of any of its rights hereunder, nor shall it be deemed to be a waiver of subsequent or continuing breaches of that provision, unless such waiver be expressed in a writing signed by the party to be bound.
26. **DATE FOR PERFORMANCE.** If the time period by which any right, option or election provided under this Agreement must be exercised, or by which any act required hereunder must be performed, or by which the Closing must be held, expires on a Saturday, Sunday or legal or bank holiday, then such time period will be automatically extended through the close of business on the next following business day.
27. **FURTHER ASSURANCES.** The parties agree that they will each take such steps and execute such documents as may be reasonably required by the other party or parties to carry out the intent and purposes of this Agreement.
28. **SEVERABILITY.** In the event any provision or portion of this Agreement is held by any court of competent jurisdiction to be invalid or unenforceable, such holding will not affect the remainder hereof, and the remaining provisions shall continue in full force and effect to the same extent as would have been the case had such invalid or unenforceable provision or portion never been a part hereof.
29. **SUCCESSORS AND ASSIGNS.** The designation Seller and Purchaser as used herein shall include said parties, their heirs, successors, and assigns; provided, however, Purchaser may not assign its interest in this Agreement without the prior written consent of Seller, which consent shall not be unreasonably withheld..
30. **CONTACT WITH THIRD PARTIES.** During the pendency of this Agreement, Seller may discuss with, or receive the submission of written back up offers or letters of intent from any third party or entity relating to the purchase of the Property. Seller shall promptly notify Purchaser in the event Seller should receive a written offer or letter of intent, and Seller shall advise any such third party or entity of the existence and priority of this Agreement.
31. **ENTIRE AGREEMENT.** This Agreement constitutes the entire Agreement between the parties and shall become a binding and enforceable Agreement among the parties upon full and complete execution and delivery of this Agreement. No prior verbal or written Agreement shall survive the execution of this Agreement.
32. **AMENDMENT.** Any amendment to this Agreement shall be in writing and signed by all the parties in order to be binding and enforceable against the parties.
33. **RELATIONSHIP OF THE PARTIES.** Nothing contained herein shall be construed or interpreted as creating a partnership or joint venture between the parties. It is understood that the relationship is of arm's length and shall at all times be and remain that of Purchaser and Seller.
34. **NO RECORDING.** Neither this Agreement nor a memorandum hereof shall be recorded by either party or any of their representatives.

35. **CONFIDENTIALITY.** Subject to all other terms of this Agreement, each party agrees to maintain this Agreement, the information in this Agreement and all information delivered pursuant to this Agreement, as confidential, and each will not disclose any such information to any other person without the prior written consent of the other party. However, a party may disclose such confidential information to its legal counsel, to such party's lender, accountant, real estate broker, salesperson, or agent, to other professional advisors or agents of the party, provided the recipients of such information agree to keep such information confidential, and as required by law or legal process.

36. **35. COUNTERPARTS; ELECTRONIC TRANSMISSIONS.** This Agreement may be executed in counterpart originals, each of which when duly executed and delivered shall be deemed an original and all of which when taken together shall constitute one instrument. This Agreement may be executed and delivered by facsimile or electronic PDF signatures.

37. **OFFER.** This Agreement constitutes an offer by Purchaser to purchase the Property. The offer shall remain valid until ____ 6:00 pm. on September 20, 2024 and shall be deemed revoked if not accepted by Seller before such time and date.

38. **OTHER PROVISIONS.** In addition to the provisions outlined above, the following additional provisions shall apply to the transaction as contemplated herein.

-The Buyer agrees to pay all closing cost/fees.

-The Buyer agrees to pay all the Rezoning cost/fees

39. **ADVICE OF COUNSEL.** All parties are encouraged to seek the advice of independent legal counsel before executing this Agreement. Such independent counsel may help to determine the marketability of title; understand possible tax consequences; ascertain that the terms of the sale are adhered to before the transaction is closed; and provide advice with respect to all notices and other important matters related to this Agreement. Purchaser and Seller acknowledge the importance of obtaining advice from independent counsel and acknowledge that no broker and/or real estate agent is acting as an attorney or providing legal advice and no broker and/or real estate agent shall be responsible for any loss or damage resulting from the preparation of this Agreement or any addenda thereto.

Purchaser's Acknowledgement of Offer:

By signing below, Purchaser acknowledges having read and received a copy of this Purchase Agreement.

For Purchaser:

Witnesses:

By: _____

Its: _____

By: _____

Its: _____

Seller's Acceptance:

Seller accepts this Agreement on this _____ day of _____, 20____, at _____(AM/PM) with the following conditions: _____

_____ ; or without qualification.

By signing below, Seller acknowledges having read and received a copy of this Agreement. If this Agreement is signed by Seller without any modification, the acceptance date stated herein shall be the Effective Date of the Agreement.

If additional conditions are stipulated herein, Seller gives Purchaser until the _____ of _____, 20____, at _____ (AM/PM) to provide its written acceptance of the counter conditions stated herein.

For Seller:

Witnesses:

By: _____

Its: _____

By: _____

Its: _____

By: _____

Its: _____

Purchaser's Acknowledgment of Seller's Acceptance:

Purchaser acknowledges receipt of Seller's acceptance of Purchaser's offer. If the acceptance was subject to changes from Purchaser's offer, Purchaser agrees to accept those changes, with all other terms and conditions remaining unchanged. If this Agreement is signed by Purchaser without any modification, then the date stated as Purchase's Receipt of Acceptance shall then become the Effective Date of this Agreement.

Seller has accepted this Agreement on this _____ day of _____, 20____, at _____(AM/PM)

For Purchaser:

Witnesses:

By: _____

Its: _____

By: _____

Its: _____

Exhibits:

The following exhibits are attached hereto and shall become part of this Agreement by reference

Exhibit Name	Exhibit Description	Provided By (Purchaser or Seller)	Attached By (Date)
Exhibit A	Property Survey and/or Legal Description	Seller	
Exhibit B			
Exhibit C			
Exhibit D			
Exhibit E			
Exhibit F			
Exhibit G			

APPENDIX A

LEGAL DESCRIPTION

LOT 62 SUPERVISORS PLAT OF SWARTZ CREEK (84)

*AND ALL REAL PROPERTY LOCATED NORTH OF THE EXISTING ACCESS RAMP AND FENCE LOCATED ON

LOT 61 EXCEPT W 80.5 FT & PART OF LOT 45 BEG N 88 DEG 45 MIN E 268.13 FT FROM NW COR OF LOT 46 TH N 3 DEG 09 MIN W 201.47 FT, TH N 89 DEG 09' 30 SEC E 128.95 FT TH S 0 DEG 09 MIN W 200.50 FT TH S 88 DEG 45 MIN W 117.37 FT TO PL OF BEG

SUPERVISORS PLAT OF SWARTZ CREEK (84)

(Legal Description to include all of 4484 Morrish and a split from 4494 Morrish Road, said split to consist of property north of the existing ramp and east-west fence located on 4494 Morrish Road. The split will be combined with all of 4484 Morrish Road. Flint Surveying & Engineering shall create new legal descriptions for each resulting parcel prior to closing).

4484 & 4494 Morrish



4484 & 4494 Morrish

