

**United States Bankruptcy Court
Western District of Michigan**
One Division Ave., N.
Room 200
Grand Rapids, MI 49503

IN RE: Debtor (name used by the debtor in the last 8 years, including married, maiden, trade, and address):

Randall L. Mouw
2655 Grand Castle Blvd.
Apt. T-13-08
Grandville, MI 49418-1475
SSN: xxx-xx-6674

Debtor

Case Number 19-03894-jwb

Chapter 7

Honorable James W. Boyd

NOTICE TO PARTIES IN INTEREST OF HEARING

YOU ARE HEREBY NOTIFIED that a hearing will be held at the United States Bankruptcy Court, One Division Ave., N., 3rd Floor, Courtroom B, Grand Rapids, MI 49503 on **July 9, 2020 at 09:00 AM** to consider and act upon the following matter:

Trustees Motion to Approve Sale of Real Estate Free and Clear of Liens, Claims and Encumbrances Pursuant to 11 U.S.C. Section 363(b) (DN 62)

If you want the court to consider your views on this matter, attend the hearing on the date stated above.

Your rights may be affected. You should read these papers carefully and discuss them with your attorney. (If you do not have an attorney, you may wish to consult one.)

You or your attorney may wish to file a written response to the motion explaining your position. Any response shall be mailed to the Clerk of the United States Bankruptcy Court, One Division Ave., N., Grand Rapids, Michigan 49503, and should be received by the Clerk at least 7 (seven) days before the above hearing date. A copy of your responses should also be mailed upon the opposing party and his/her attorney.

If you or your attorney do not take these steps, the court may decide to grant the relief sought in the motion and may enter an order granting relief requested.

Michelle M. Wilson
CLERK OF BANKRUPTCY COURT

Dated: June 8, 2020

/S/ _____
J. Koerth
Deputy Clerk

A copy of this notice returned to John T. Piggins, Esq. on June 8, 2020 for service upon the mailing matrix .

NOTICE IS HEREBY GIVEN THAT THE COURT MAY, in its discretion, orally continue or adjourn the above hearing on the record in open court. If this occurs, parties in interest will not be given further written notice of the continued or adjourned hearing. If an entity is not present at the originally scheduled hearing, information regarding the time, date and place of an orally continued or adjourned hearing may be accessed through the Bankruptcy Court's web site (www.miwb.uscourts.gov) provided the person has a PACER login and password, or by visiting the clerk's office of the United States Bankruptcy Court located at One Division Ave., N., 2nd Floor, Grand Rapids MI 49503. Information about a PACER login and password may be obtained by either calling PACER service center between 8:00 a.m. and 6:00 p.m. Monday through Friday, CST at (800) 676-6856 or via its web site at <http://pacer.psc.uscourts.gov>

¹ Aliases for Debtor Randall L. Mouw : aka Randy Mouw, dba Barn Cats

**UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF MICHIGAN**

IN RE: Randall L. Mouw,

Debtor.

Case No. 19-03894-jwb

Chapter 7 Filed: 10/11/19

Honorable James W. Boyd

/ U.S. Bankruptcy Judge

**TRUSTEE’S MOTION TO APPROVE SALE OF REAL ESTATE FREE AND CLEAR
OF LIENS, CLAIMS AND ENCUMBRANCES PURSUANT TO 11 U.S.C. § 363(b)**

The Chapter 7 Trustee, Jeff A. Moyer (“Trustee”), by and through his attorneys, Miller Johnson, as his Motion to Approve Sale of Real Estate Free and Clear of Liens, Claims and Encumbrances Pursuant to 11 U.S.C. § 363(b), states as follows:

1. On October 11, 2019, Randall L. Mouw, (“Debtor”) filed a voluntary Petition for relief under Chapter 7 of the Bankruptcy Code.
2. Jeff A. Moyer was appointed and continues to serve as the Chapter 7 Trustee in this case.
3. This Court has jurisdiction to consider this Motion pursuant to 28 U.S.C. §§ 157 and 1334.
4. This matter is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(A), (N) and (O).
5. Venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409.
6. The statutory basis for the relief requested herein is 11 U.S.C. §§ 105(a), 363(b), and Federal Rules of Bankruptcy Procedure 2002(a)(2) and 6004.

THE PROPERTY

7. Included among the assets of Debtor's estate are four (4) vacant parcels of property, located on Fenwick Road, Montcalm County, Michigan. The legal description of the parcels is set forth on **Exhibit A** (hereinafter "the Property").

TERMS OF THE PROPOSED SALE

8. The Trustee has received an offer from Derick Allison to purchase the Property for the total sum of Fifty-Five Thousand Dollars (\$55,000.00), payable in cash or certified funds at closing. A copy of the proposed Purchase Agreement and applicable Addendum are attached to this Motion as **Exhibit B**.

9. The Trustee wishes to offer the Property for sale in the U.S. Bankruptcy Court, with bidding commencing at the amount of the Derek Allison offer (i.e. \$55,000). Thereafter, bidding will be in increments of no less than \$1,000.

10. The sale of the Property shall be on a cash basis, as described above, and any further offers for the Property shall be for cash upon similar terms, including a \$2,000 cash deposit and the execution of a Purchase Agreement, containing substantially the same terms as set forth on **Exhibit B**, prior to obtaining final court approval for the sale.

11. The Trustee shall have the right to refuse to recommend confirmation of any bid which does not, in his judgment, insure a monetary return to the estate.

12. The sale of the Property shall be on an "as is, where is" basis without representation or warranty, expressed or implied, of any kind, nature or description, including, without limitation, any warranty by description or of merchantability, usability or fitness for any particular purpose.

13. The Trustee shall not be required to inspect, test or report on the condition of the Property being sold or the existence of any possible defects in the same.

PAYMENT OF UNDISPUTED CLAIMS AND EXPENSES

14. All expenses of sale, including administrative and all legal expenses of the bankruptcy proceeding relating to the protection and sale of the Property, shall be charged against the sale proceeds with priority over all claims.

15. All undisputed liens against the Property shall be paid from the sale proceeds at closing. These liens are composed of:

a. All property tax obligations and utility bills that may have become a lien against the property as of closing.

b. All federal tax liens. The Internal Revenue Service has agreed to grant the estate a carve out from its lien equal to 20% of the amount it would receive from the sale after payment of all closing costs, the realtor's commission and all liens which are senior to the IRS lien.

16. As a result of the agreement reached with the United States Internal Revenue Service, the price at which the property is to be sold is greater than the aggregate value of all amounts which will be due to lienholders at the sale closing.

17. Upon payment of all undisputed liens and sale expenses, the Trustee estimates the estate will receive in excess of \$5,000.

RELIEF REQUESTED

18. By this Motion, the Trustee seeks authority to sell the Property pursuant to the terms set forth above or pursuant to a better and higher offer received at a hearing scheduled by this Court, free and clear of all liens, claims and encumbrances, with all valid liens to the extent they exist to attach to the proceeds of the sale.

19. The Trustee requests that the proposed sale of the Property be noticed to the creditors of Debtor's estate and a hearing be scheduled on this Motion at the Court's earliest convenience.

20. Prospective purchasers may obtain additional information concerning the Property by contacting the Trustee's realtor, Jason Van Assen, with Weichert Realtors Platinum Group of 3061 Macatawa Drive, Grandville, Michigan 49418, Phone: 616-293-4936; Fax: 616-301-2551; email: vanassen@gmail.com.

BASIS FOR RELIEF

21. The Trustee believes the sale of the Property to Derek Allison as described above is in the best interest of the creditors in this estate for the following reasons:

a. Absent sale of the Property as proposed, the estate will be required to abandon the property as the amount owed to the Internal Revenue Service exceeds \$600,000, which is far greater than the value of the Property;

b. Based on the Trustee's realtor's evaluation of the property, the pending offer is fair and reasonable; and

c. The Trustee has not received any other offers for the Property.

WHEREFORE, the Trustee, Jeff A. Moyer, respectfully requests that this Court:

A. Schedule a hearing on this motion upon notice to all interested parties.

B. After such notice and hearing enter an Order:

i. Approving the sale of the above-referenced Property on the terms set forth in this Motion pursuant to Federal Rule of Bankruptcy Procedure 2002, 6004, and 9014;

ii. Authorizing the Trustee to execute any and all documents necessary to consummate the sale;

iii. Waiving the stay imposed by Fed.R.Bankr.Proc. 6004(h); and

iv. Allowing the sale proceeds to be used (at closing) to pay all undisputed liens against the Property, all closing costs such as transfer taxes, recording fees, title

insurance premiums, real property taxes, sewer and water bills, title company closing fees and customary closing expenses and authorizing the Trustee to retain the balance of the proceeds.

C. Grant such other and further relief as this Court may deem just, equitable and proper.

Miller Johnson.

Attorneys for Jeff A. Moyer, Trustee

Dated: June 3, 2020

By: /s/ John T. Piggins

John T. Piggins (P34495)

pigginsj@millerjohnson.com

Business Address:

P.O. Box 306

Grand Rapids, MI 49501-0306

(616) 831-1700

EXHIBIT A

LEGAL DESCRIPTION

Property situated in the State of Michigan, County of Montcalm, Township of Fairplains, to wit:

Parcel 1:

Part of the Northeast $\frac{1}{4}$ of Section 28, Town 9 North, Range 7 West, Fairplains Township, Montcalm County, Michigan, described as: Commencing at the North $\frac{1}{4}$ corner of said Section; thence South 2 degrees 47 minutes 09 seconds West 483.42 feet along the North-South $\frac{1}{4}$ line of said Section to the Place of Beginning; thence continuing South 2 degrees 47 minutes 09 seconds West 393.03 feet along said $\frac{1}{4}$ line; thence North 66 degrees 10 minutes 19 seconds East 365.67 feet; thence Northerly 111.22 feet along a 1067.0 foot radius curve to the left, the long chord of which bears North 7 degrees 29 minutes 20 seconds West 111.17 feet; thence Northerly 138.75 feet along a 1133.09 foot radius curve to the right, the long chord of which bears North 6 degrees 58 minutes West 138.66 feet; thence South 89 degrees 59 minutes 40 seconds West 283.94 feet to the Place of Beginning.

Together with a non-exclusive easement for ingress and egress as described: Part of the North $\frac{1}{4}$ of Section 28, Town 9 North, Range 7 West, Fairplains Township, Montcalm County, Michigan, the centerline of which is described as:

Commencing at the North $\frac{1}{4}$ corner of said Section; thence North 90 degrees 00 minutes East 277.19 feet along the North line of Section to the Place of Beginning of said centerline; thence South 2 degrees 46 minutes 57 seconds West 361.50 feet; thence Southerly 260.56 feet along a 133.09 foot radius curve to the left, the long chord of which bears South 3 degrees 53 minutes 13 seconds East 259.98 feet; thence Southerly 111.22 feet along a 1067.0 foot radius curve to the right, the long chord of which bears South 7 degrees 29 minutes 20 seconds East 111.17 feet to the Place of Ending of said centerline and the center point of a 60.0 foot radius cul-de-sac.

Parcel 2:

Part of the Northeast $\frac{1}{4}$ of Section 28, Town 9 North, Range 7 West, Fairplains Township, Montcalm County, Michigan, described as: Commencing at the North $\frac{1}{4}$ corner of said Section; thence South 2 degrees 47 minutes 09 seconds West 879.45 feet along the North-South $\frac{1}{4}$ line of said Section to the Place of Beginning; thence continuing South 2 degrees 47 minutes 09 seconds West 424.26 feet along said $\frac{1}{4}$ line; thence South 89 degrees 45 minutes 58 seconds East 352.78 feet along the South line of the Northwest $\frac{1}{4}$ of said Northeast $\frac{1}{4}$; thence North 0 degrees 14 minutes 02 seconds East 572.94 feet; thence South 66 degrees 10 minutes 19 seconds West 365.67 feet to the Place of Beginning.

Together with a non-exclusive easement for ingress and egress as described: Part of the North $\frac{1}{4}$ of Section 28, Town 9 North, Range 7 West, Fairplains Township, Montcalm County, Michigan, the centerline of which is described as: Commencing at the North $\frac{1}{4}$ corner of said Section; thence North 90 degrees 00 minutes East 277.19 feet along the North line of Section to the Place of Beginning of said centerline; thence South 2 degrees 46 minutes 57 seconds West 361.50 feet; thence Southerly 260.56 feet along a 133.09 foot radius curve to the left, the long chord of which bears South 3 degrees 53 minutes 13 seconds East 259.98 feet; thence Southerly 111.22 feet along a 1067.0 foot radius curve to the right, the long chord of which bears South 7 degrees 29 minutes 20 seconds East 111.17 feet to the Place of Ending of said centerline and the center point of a 60.0 foot radius cul-de-sac.

Parcel 3:

Part of the Northeast $\frac{1}{4}$ of Section 28, Town 9 North, Range 7 West, Fairplains Township, Montcalm County, Michigan, described as: Commencing at the North $\frac{1}{4}$ corner of said Section; thence South 2 degrees 47 minutes 09 seconds West 1303.71 feet along the North-South $\frac{1}{4}$ line of said Section: thence South 89 degrees 45 minutes 58 seconds East 352.78 feet along the South line of the Northwest $\frac{1}{4}$ of said Northeast $\frac{1}{4}$ to the Place of Beginning; thence North 0 degrees 14 minutes 02 seconds East 572.94 feet; thence South 78 degrees 40 minutes 43 seconds East 348.79 feet; thence South 2 degrees 46 minutes 57 seconds West 506.36 feet along the West line of the East 640 feet of the Northwest $\frac{1}{4}$ of said Northeast $\frac{1}{4}$; thence North 89 degrees 45 minutes 58 seconds West 319.77 feet along the South line of said Northwest $\frac{1}{4}$, Northeast $\frac{1}{4}$ to the Place of Beginning.

Together with a non-exclusive easement for ingress and egress as described: Part of the North $\frac{1}{4}$ of Section 28, Town 9 North, Range 7 West, Fairplains Township, Montcalm County, Michigan, the centerline of which is described as:

Commencing at the North $\frac{1}{4}$ corner of said Section; thence North 90 degrees 00 minutes East 277.19 feet along the North line of Section to the Place of Beginning of said centerline; thence South 2 degrees 46 minutes 57 seconds West 361.50 feet; thence Southerly 260.56 feet along a 133.09 foot radius curve to the left, the long chord of which bears South 3 degrees 53 minutes 13 seconds East 259.98 feet; thence Southerly 111.22 feet along a 1067.0 foot radius curve to the right, the long chord of which bears South 7 degrees 29 minutes 20 seconds East 111.17 feet to the Place of Ending of said centerline and the center point of a 60.0 foot radius cul-de-sac.

Parcel 4:

Part of the Northeast $\frac{1}{4}$ of Section 28, Town 9 North, Range 7 West, Fairplains Township, Montcalm County, Michigan, described as: Commencing at the North $\frac{1}{4}$ corner of said Section; thence North 90 degrees 00 minutes 00 seconds East 277.19 feet along the North line of said Section; thence South 2 degrees 46 minutes 57 seconds West 361.50 feet to the Place of Beginning; thence North 90 degrees 00 minutes East 395.41 feet; thence South 2 degrees 46 minutes 57 seconds West 438.60 feet along the West line of the East 640 feet of the Northwest $\frac{1}{4}$ of the Northeast $\frac{1}{4}$; thence North 78 degrees 40 minutes 43 seconds West 348.79 feet;

thence Northerly 111.22 feet along a 1067.0 foot radius curve to the left., the long chord of which bears North 7 degrees 29 minutes 20 seconds West 111.17 feet; thence Northerly 260.56 feet along a 1133.09 foot radius curve to the right, the long chord of which bears North 3 degrees 53 minutes 13 seconds West 259.98 feet to the Place of Beginning.

Together with a non-exclusive easement for ingress and egress as described: Part of the North $\frac{1}{4}$ of Section 28, Town 9 North, Range 7 West, Fairplains Township, Montcalm County, Michigan, the centerline of which is described as:

Commencing at the North $\frac{1}{4}$ corner of said Section; thence North 90 degrees 00 minutes East 277.19 feet along the North line of Section to the Place of Beginning of said centerline; thence South 2 degrees 46 minutes 57 seconds West 361.50 feet; thence Southerly 260.56 feet along a 133.09 foot radius curve to the left, the long chord of which bears South 3 degrees 53 minutes 13 seconds East 259.98 feet; thence Southerly 111.22 feet along a 1067.0 foot radius curve to the right, the long chord of which bears South 7 degrees 29 minutes 20 seconds East 111.17 feet to the Place of Ending of said centerline and the center point of a 60.0 foot radius cul-de-sac.

Permanent Parcel Nos. 59-010-028-005-21 & 59-010-028-005-22 & 59-010-028-005-23 & 59-010-028-005-24

EXHIBIT B

WEST MICHIGAN REGIONAL VACANT LAND PURCHASE AGREEMENT AND ADDENDUM

WEST MICHIGAN REGIONAL VACANT LAND PURCHASE AGREEMENT

DATE: 04/06/2020, 8:40 a.m. (time) MLS # _____

SELLING OFFICE: Five Star Real Estate BROKER LIC.#: 6503417876 REALTOR® PHONE: 616.202.8872

LISTING OFFICE: Jason VanAssen REALTOR® PHONE: 616.293.4936

1. **Effective Date:** This Agreement is effective on the date of Seller's acceptance of Buyer's offer or Buyer's acceptance of any counteroffer, as the case may be, and this date shall hereafter be referred to as the "Effective Date". Further, any reference to "days" in this Agreement refers to calendar days. The first calendar day begins at 12:01 a.m. on the day after the Effective Date. Any reference to "time" refers to local time.

2. **Agency Disclosure:** The Undersigned Buyer and Seller each acknowledge that they have read and signed the Disclosure Regarding Real Estate Agency Relationships. The selling licensee is acting as (check one):

☐ Agent/Subagent of Seller ☒ Buyer's Agent ☐ Dual Agent (with written, informed consent of both Buyer and Seller)
☐ Transaction Coordinator

Primary Selling Agent Name: Michelle Brown Email: michellebuysellshomes@gmail.com Lic.#: 6501409581

Alternate Selling Agent Name: _____ Email: _____ Lic.#: _____

3. **Disclosure Statement:** Seller ☒ **SHALL** or ☐ **SHALL NOT** complete the attached Seller's Disclosure Statement for Vacant Land within three (3) days after the Effective Date. The parties agree that a Disclosure Statement for Vacant Land is not mandated by Michigan law. Nevertheless, if indicated above, Seller will complete the form voluntarily based on Seller's personal knowledge of the Property (as defined below). The Disclosure Statement is not a warranty of any kind by Seller or by any agent representing Seller in this transaction. Further, it is NOT a substitute for any inspections Buyer is advised to obtain under the Inspections Paragraph contained herein. If the Disclosure Statement is unacceptable to Buyer, for any reason, Buyer shall have the right to terminate this Agreement and receive any applicable Earnest Money Deposit by giving Seller written notice within four (4) days after Buyer's receipt of the Disclosure Statement, otherwise the right to terminate shall be deemed to have been waived.

4. **Property Description:** Buyer offers to buy the property located in the ☒ City ☐ Village ☐ Township of Greenville,

County of Montcalm County, Michigan, commonly known as (insert mailing address: (street/city/zip code):

West Fenwick Road Greenville 48838, with the

following legal description and parcel ID numbers: 5901002800521, 5901002800522, 5901002800523, 5901002800524

PP# 5901002800521, 5901002800522, 5901002800523, 5901002800524 (the "Property").

The following paragraph applies only if the Property includes unplatted land:

Seller agrees to grant Buyer at closing the right to make (insert number) _____ division(s) under Section 108(2), (3), and (4) of the Michigan Land Division Act. (If no number is inserted, the right to make divisions under the sections referenced above stays with any remainder of the parent parcel retained by Seller. If a number is inserted, Seller retains all available divisions in excess of the number stated; however, Seller and/or REALTOR® do not warrant that the number of divisions stated is actually available.) If this sale will create a new division, Seller's obligations under this Agreement are contingent on Seller's receipt of municipal approval on or before _____, of the proposed division to create the Property.

5. **Purchase Price:** Buyer offers to buy the property for the sum of \$ 55000
fifty-five thousand U.S. Dollars

6. **Seller Concessions**, if any: _____
None

7. **Terms:** The Terms of Purchase will be as indicated by "X" below: (Other unmarked terms of purchase do not apply.)

SOURCE OF FUNDS TO CLOSE: Buyer represents that the funds necessary to close this transaction on the terms specified below are currently available to Buyer in cash or an equally liquid equivalent.

If the Property's value stated in an appraisal obtained by Buyer or Buyer's lender is less than the Purchase Price, Buyer shall within three (3) days after receipt of the appraisal: 1) renegotiate with Seller; 2) terminate the transaction, in which case Buyer shall receive a refund of Buyer's Earnest Money Deposit; or 3) proceed to close the transaction at the agreed Purchase Price.

☒ **CASH** The full Purchase Price upon execution and delivery of Warranty Deed. Buyer Agrees to provide Buyer Agent/Dual Agent verification of funds within five (5) days after the Effective Date, and consents to the disclosure of such information to Seller and/or Seller's Agent. If verification of funds is not received within 5 days after the Effective Date, Seller may terminate this Agreement at any time before verification of funds is received by giving written notice to Buyer. Any appraisal required by Buyer shall be arranged and paid for by Buyer within ten (10) days after the Effective Date of this Agreement.

West Fenwick Road, Greenville, MI 48838

Subject Property Address/Description

04/06/2020

Date

Time

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<u>MB</u> 04/06/20	
<u>JAM</u>	

Buyer's Initials

Seller's Initials

☐ **NEW MORTGAGE** The full Purchase Price upon execution and delivery of Warranty Deed, contingent upon Buyer's ability to obtain a _____ type _____ (year) mortgage in the amount of _____ % of the sale price bearing interest at a rate not to exceed _____ % per annum (rate at time of loan application), on or before the date the sale is to be closed. Buyer agrees to apply for a mortgage loan, and pay all fees and costs customarily charged by Buyer's lender to process the application, within _____ days after the Effective Date, not to impair Buyer's credit after the date hereof, and to accept such loan if offered. Buyer ☐ agrees ☐ does not agree to authorize Buyer's Agent/Dual Agent to obtain information from Buyer's lender regarding Buyer's financing, and consents to the disclosure of this information to Seller and/or Seller's Agent.

☐ **SELLER FINANCING** (check one of the following): ☐ **LAND CONTRACT** or ☐ **PURCHASE MONEY MORTGAGE**

In the case of Seller financing, Buyer agrees to provide Seller with a credit report within 72 hours after the Effective Date. If the credit report is unacceptable to Seller, then Seller shall have the right to terminate this offer within 48 hours of Seller's receipt, or if Buyer fails to provide said credit report to Seller within the time frame allotted, then Seller shall have the right to terminate this offer within 48 hours. Seller is advised to seek professional advice regarding the credit report.

\$ _____ upon execution and delivery of a _____ form (name or type of form and revision date), a copy of which is attached, wherein the balance of \$ _____ will be payable in monthly installments of \$ _____ or more including interest at _____ % per annum, interest to start on date of closing, and first payment to become due thirty (30) days after date of closing. The entire unpaid balance will become due and payable _____ months after closing.

☐ **EQUITY** (check one of the following): ☐ **Formal Assumption** or ☐ **Informal Assumption**

Upon execution and delivery of: ☐ **Warranty Deed** subject to existing mortgage OR ☐ **Assignment of Vendee Interest in Land Contract**, Buyer to pay the difference (approximately \$ _____) between the Purchase Price above provided and the unpaid balance (approximately \$ _____) upon said mortgage or land contract, which Buyer agrees to assume and pay. Buyer agrees to reimburse Seller for accumulated funds held in escrow, if any, for payment of future taxes and insurance premiums, etc.

Exceptions: _____

☐ **OTHER:** _____

8. **Contingencies:** Buyer's obligation to consummate this transaction (check one):

☒ **IS NOT CONTINGENT** - is not contingent upon the sale or exchange of any other property by Buyer.

☐ **IS CONTINGENT UPON CLOSING** - is contingent upon closing of an existing sale or exchange of Buyer's property located at: _____ . A copy of Buyer's agreement to sell or exchange that property is being delivered to Seller along with this offer. If the existing sale or exchange terminates for any reason, Buyer will immediately notify Seller, and either party may terminate this Agreement, in writing, within three (3) days of Buyer's notice to Seller. If either party terminates, Buyer shall receive a refund of any applicable Earnest Money Deposit.

☐ **IS CONTINGENT UPON THE SALE AND CLOSING** - is contingent upon the execution of a binding agreement and the closing of a sale or exchange of Buyer's property located at _____ on or before _____. Seller will have the right to continue to market Seller's property until Buyer enters into a binding agreement to sell or exchange Buyer's property and delivers a copy thereof to Seller. During such marketing period, Seller may enter into a binding contract for sale to another purchaser on such price and terms as Seller appropriate. In such event, this Agreement will automatically terminate, Buyer will be notified promptly, and Buyer's Earnest Money Deposit will be refunded.

Exceptions: _____

9. **Fixtures and Improvements:** All improvements and appurtenances are included in the Purchase Price; and any and all items and fixtures permanently affixed to the Property.

Exceptions: _____

10. **Assessments (choose one):**

If the Property is subject to any assessments

☒ Seller to pay entire balance of any assessments related to the Property (regardless of any installment arrangements), except for any fees that are required to connect to public utilities. OR

☐ Seller shall pay all installments of such assessments that become due and payable on or before day of closing. Buyer shall assume and pay all other installments of such assessments.

11. **Property Taxes:** Seller will be responsible for any taxes billed prior to those addressed below. Buyer will be responsible for all taxes billed after those addressed below.

☐ No proration. (Choose one):

☐ Buyer ☐ Seller will pay taxes billed summer _____ (year);

☐ Buyer ☐ Seller will pay taxes billed winter _____ (year);

☒ **Calendar Year Proration** (all taxes billed or to be billed in the year of the closing). Calendar year tax levies will be estimated, if necessary, using the taxable value and the millage rate(s) in effect on the day of closing, broken down to a per diem tax payment and prorated to the date of closing with Seller paying for January 1 through the day before closing.

West Fenwick Road, Greenville, MI 48838

04/06/2020

Date

Time

Subject Property Address/Description

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DA 04/06/20	
JAM	

Buyer's Initials

Seller's Initials

☐ Fiscal Year Proration - Taxes will be prorated as though they are paid in (choose one): ☐ advance. ☐ arrears.

Fiscal Year will be assumed to cover a 12-month period from date billed, and taxes will be prorated to the date of closing. Fiscal year tax levies will be estimated, if necessary, using the taxable value and millage rate(s) in effect on the day of closing, broken down to a per diem tax payment and prorated to the date of closing with Seller paying through the day before closing.

Buyer is also advised that the state equalized value of the Property, principal residence exemption information and other real property tax information is available the appropriate local assessor's office. Buyer acknowledges and agrees that property taxes for the Property may be higher than the amount of current property taxes. Under Michigan law, real property tax obligations can change significantly when property is transferred.

12. **Sidewalk Inspection:** If Property is in a municipality that requires a sidewalk inspection, Seller shall order the inspection and pay for any repairs deemed necessary by the municipality, so that the Property will be in compliance with any applicable sidewalk ordinance as of the closing date.

13. **Inspections:** By signing this Agreement, Buyer is representing that Buyer is aware that professional services are commercially available at a fee by expert(s) selected by Buyer.

☐ NO INSPECTIONS. Buyer elects to waive any and all inspections and agrees to accept the Property in "as-is" condition.

☒ INSPECTIONS. Buyer has elected to arrange and pay for the following services/investigations, which shall include, but not be limited to: ☒ soil suitability for intended use ☒ zoning classification ☒ availability of utilities ☒ availability of building or driveway permits ☐ existence of wetlands ☒ tax classification ☒ contents of applicable restrictive covenants and building codes ☐ general suitability for Buyer's intended use ☐ any existing well/septic ☐ flood zone ☒ Other (specify): _____ perc test

Buyer shall have the right to terminate this Agreement and receive any applicable Earnest Money Deposit if the due diligence results are not acceptable to Buyer by giving Seller written notice within 14 calendar days after the Effective Date of this Agreement, otherwise the right to terminate shall be deemed to have been waived.

During this period, Buyer, Buyer's agents and representatives shall have reasonable access to the Property to conduct such investigations as Buyer deems appropriate. Buyer agrees to indemnify and hold Seller harmless from any liability or claim arising from or in any way connected with any such inspections, including all costs and reasonable attorney's fees. To the extent the Property is damaged due to any of Buyer's investigations, Buyer agrees to restore the Property to its original condition.

By closing this transaction, Buyer agrees to accept the Property in "as-is" condition and "with all faults."

Exceptions: _____

14. **Title Insurance:** Seller agrees to convey marketable title to the Property subject to conditions, limitations, reservation of oil, gas and other mineral rights, existing zoning ordinances, and building and use restrictions and easements of record. An expanded coverage ALTA Homeowner's Policy of Title Insurance in the amount of the Purchase Price shall be ordered by Seller and furnished to Buyer at Seller's expense, and a commitment to issue a policy insuring marketable title vested in Buyer, including a real estate tax status report, will be made available to Buyer within ten (10) days after the Effective Date. If Buyer so chooses, or if an expanded policy is not applicable, then a standard ALTA Owners' Policy of Title Insurance shall be provided.

If Buyer objects to any conditions, Buyer may, within three (3) days of receipt of the Title Commitment, by written notice to Seller, either terminate this Agreement and receive a refund of Buyer's Earnest Money Deposit, or make a written proposal to Seller to correct those unsatisfactory conditions. If Buyer fails to make a written proposal within the above referenced time period, then Buyer will be deemed to have accepted the Title Commitment as-is. Seller may negotiate with Buyer, or, by written notice to Buyer, accept Buyer's proposal or terminate this Agreement. If Seller fails to respond, or to arrive at a mutually agreeable resolution within three (3) days after Seller's receipt of Buyer's proposal, Buyer shall have three (3) days to provide written notice of termination of this Agreement and shall receive a refund of any applicable Earnest Money Deposit. If Buyer fails to terminate this Agreement within said three (3) day period, Buyer will be deemed to accept the Title Commitment as-is and will proceed to closing according to the terms.

Exceptions: _____

15. **Property Survey:** Broker advises that Buyer should have a survey performed to satisfy Buyer as to the boundaries of the property and the location of improvements thereon.

☐ Buyer or ☐ Seller (check one) shall within ten (10) days of the Effective Date, order, at their expense, a boundary survey certified to Buyer with iron corner stakes showing the location of the boundaries, improvements and easements in connection with the Property. Upon receipt of the survey, Buyer will have three (3) days to review the survey. If the survey shows any condition, in Buyer's sole discretion, which would interfere with Buyer's intended use of the Property, the marketability of title, or zoning non-compliance, then Buyer may, within said three (3) day period, terminate this Agreement, in writing, and Buyer will receive a full refund of Buyer's Earnest Money Deposit.

☒ No Survey. Buyer has waived all rights under this paragraph.

When closing occurs, Buyer shall be deemed to have accepted the boundaries of the property and the location of such improvements thereon.

Exceptions: _____

16. **Prorations:** Rents, leases or interest on any existing land contract, mortgage or lien assumed by Buyer and other items normally prorated in real estate transactions, shall be adjusted to the date of closing. All rental security deposits shall be paid to Buyer at closing. Crop shares or land rents shall be prorated on a calendar year basis unless otherwise agreed to above. Growing crops or land prepared for crops shall not be ruined without permission from a compensation to owner of crops.

West Fenwick Road, Greenville, MI 48838

Subject Property Address/Description

04/06/2020

Date

Time

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Revised 2/2020

DA 04/06/20	
JAM	

Buyer's Initials

Seller's Initials

17. **Loss/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 Seller's control which cannot be repaired prior to the closing date, or any part of the Property is taken pursuant to any power of eminent domain, Seller shall immediately notify Buyer of such occurrence, and either Seller or Buyer may terminate this Agreement by written notice to the other within fifteen (15) days after the date of the notice, and Buyer shall receive a refund of Buyer's Earnest Money Deposit. If neither party elects to terminate this Agreement, then the parties shall proceed to close, in which case there shall be no reduction in the Purchase Price and at closing Seller shall assign to Buyer whatever rights Seller may have with respect to any insurance proceeds or eminent domain award.
18. **Closing:** If agreeable to Buyer and Seller, the sale will be closed as soon as closing documents are ready, but not later than 6/8/20. An additional period of fifteen (15) days will be allowed for closing to accommodate the correction of title defects or survey problems which can be readily corrected. During this additional period, the closing will be held within 5 days after all parties have been notified that all necessary documents have been prepared. Buyer and Seller will each pay their share of any title company closing fee, if applicable, except in the case of VA financing where Seller will pay the entire closing fee.
Exceptions: _____
19. **Possession:** Seller shall tender to Buyer possession of the Property upon completion of the closing, subject to all existing leases and rights of tenants in possession. Seller shall deliver a written assignment by Seller of Seller's interest in all leases and a transfer to Buyer of all security deposits, accompanied by the original or a true copy of each lease, as well as a notice to any tenants advising the tenants of the sale and directing that future payments be made to Buyer and Buyer agrees to assume all obligations under any such lease.
Exceptions: _____
20. **Earnest Money Deposit:** For valuable consideration, Buyer gives Seller until 5pm (time) on 04/08/2020 (date), to deliver the written acceptance of this offer and agrees that this offer, when accepted by Seller, will constitute a binding Agreement between Buyer and Seller. An Earnest Money Deposit in the amount of \$ 1000 shall be submitted to Five Star Real Estate (insert name of broker, title company, other), within 72 hours of the Effective Date of this Agreement, and shall be applied against Purchase Price. If the Earnest Money Deposit is not received within 72 hours of the Effective Date or is returned for insufficient funds, Seller may terminate this Agreement until such time as the Earnest Money Deposit is received. If Seller terminates this Agreement under this provision, Seller waives any claim to the Earnest Money Deposit. If the sale is not closed due to a failure to satisfy a contingency for a reason other than the fault of Buyer, the Earnest Money Deposit shall be refunded to Buyer. If the sale is not closed as provided in this Agreement and Buyer and Seller do not agree to the disposition of the Earnest Money Deposit, then Buyer and Seller agree that the Broker holding the Earnest Money Deposit may notify Buyer and Seller, in writing, of Broker's intended disposition of the deposit. If Buyer and Seller do not object to such disposition in writing within fifteen (15) days after the date of Broker's notice, they will be deemed to have agreed to Broker's proposed disposition; if either Buyer or Seller objects and no mutually agreeable disposition can be negotiated, Broker may deposit the funds by interpleader with a court of proper jurisdiction or await further actions by Buyer or Seller. In the event of litigation involving the deposit, in whole or in part, the non-prevailing party, as determined by the court, will reimburse the other for reasonable attorneys' fees and expenses incurred in connection with the litigation, and will reimburse the Broker for any reasonable attorneys' fees and expenses incurred in connection with any interpleader action instituted. If the entity holding the Earnest Money Deposit is not the Broker, then to the extent that the terms of any escrow agreement conflict with this paragraph, then the terms and conditions of the escrow agreement shall control.
21. **Professional Advice:** Broker advises Buyer and Seller to seek legal, tax, environmental and other appropriate professional advice relating to this transaction. Broker does not make any representations or warranties with respect to the advisability of, or the legal effect of this transaction. Buyer further acknowledges that REALTOR® above named in the Agreement recommends to Buyer that an attorney be retained by Buyer to pass upon the marketability of the title and to ascertain that the required details of the sale are adhered to before the transaction is consummated. Buyer agrees that Buyer is not relying on any representation or statement made by Seller or any real estate salesperson (whether intentionally or negligently) regarding any aspect of the Property or this sale transaction, except as may be expressly set forth in this Agreement, a written amendment to this Agreement, or a disclosure statement separately signed by Seller.
22. **Disclosure of Information:** Buyer and Seller acknowledge and agree that the price, terms, and other details with respect to this transaction (when closed) are not confidential, will be disclosed to REALTORS® who participate in the applicable Multiple Listing Service, and may otherwise be used and/or published by Multiple Listing Service in the ordinary course of its business.
23. **Other Provisions:** _____
24. **Mergers and Integrations:** This Agreement is the final expression of the complete agreement of Buyer and Seller and there are no oral agreements existing between Buyer and Seller relating to this transaction. This Agreement may be amended only in writing signed by Buyer and Seller and attached to this Agreement.
25. **Fax/Electronic Distribution and Electronic Signatures:** Buyer and Seller agree that any signed copy of this Agreement and any amendments or addendums related to this transaction transmitted by facsimile or other electronic means shall be competent evidence of its contents to the same effect as an original signed copy. Buyer and Seller further agree that an electronic signature is the legal equivalent of a manual or handwritten signature, and consent to use of electronic signatures. Buyer and Seller agree that any notice(s) required or permitted under this Agreement may also be transmitted by facsimile or other electronic means.

West Fenwick Road, Greenville, MI 48838

04/06/2020

Time

Subject Property Address/Description

Date

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DA 04/06/20	
JAM	

Buyer's Initials

Seller's Initials

26. **Wire Fraud:** Seller and Buyer are advised that wire fraud is an increasingly common problem. If you receive any electronic communication directing you to transfer funds or provide nonpublic personal information (such as social security numbers, drivers' license numbers, wire instructions, bank account numbers, etc.), **even if that electronic communication appears to be from the Broker, Title Company, or Lender, DO NOT REPLY** until you have verified the authenticity of the email by direct communication with Broker, Title Company, or Lender. **DO NOT** use telephone numbers provided in the email. Such requests may be part of a scheme to steal funds or use your identity.

27. **Buyer's Approval and Acknowledgment:** Buyer approves the terms of this offer and acknowledges receipt of a copy of this offer.

Buyer 1 Address _____ X Derek Allison dotloop verified
04/06/20 1:10 PM EDT
PGGW-NAAU-8IKP-19HM Buyer
Buyer 1 Phone: (Res.) 616.255.5821 (Bus.) _____ Derek Allison
Print name as you want it to appear on documents.
Buyer 2 Address _____ X _____ Buyer
Buyer 2 Phone: (Res.) _____ (Bus.) _____
Print name as you want it to appear on documents.

28. **Seller's Response:** The above offer is accepted: ☐ As written. ☒ As written except:

This Agreement is subject to and amended by the attached Addendum to West Michigan Regional Vacant Land Purchase Agreement.

Counteroffer, if any, expires _____, at _____ (time). Seller has the right to withdraw this counter offer and to accept other offers until Seller or Seller's Agent has received notice of Buyer's acceptance.

29. **Notice to Seller:** Seller understands that consummation of the sale or transfer of the Property described in this Agreement will not relieve the Seller of any liability that Seller may have under the mortgages to which the Property is subject, unless otherwise agreed to by the lender or required by law or regulation. Buyer and Seller are advised that a Notice to Seller & Buyer of Underlying Mortgage form is available from the respective agents via the West Michigan REALTOR® Boards.

30. **Listing Office Address:** _____ Listing Broker License # _____
Listing Agent Name: Jason Vanassen Listing Agent License # _____

31. **Seller's Approval and Acknowledgment:** Seller approves the terms of this Agreement and acknowledges receipt of a copy. If Seller's response occurs after Buyer's offer expires, then Seller's response is considered a counteroffer and Buyer's acceptance is required below.

X (Seller's Signature, Date, Time): Jeff Moyer, CHAPTER 7 TRUSTEE 4/30/2020 11:55
Jeff A. Moyer, bankruptcy trustee in the Matter of *In re: Randall L. Moww*, Debtor, Chapter 7 Case No. 19-03894-jwb, United States Bankruptcy Court for the Western District of Michigan, and not individually
Jeff A. Moyer Chapter 7 Trustee MI 49509
Print name as you want it to appear on documents.

Seller's Address: 1547 Godfrey Ave, SW, Wyoming Seller's Phone (Res.) _____ (Bus.) (616) 532-4002
* If Seller(s) is not a U.S. Citizen, there may be tax implications and Buyer and Seller are advised to seek professional advice.

32. **Buyer's Receipt/Acceptance:** Buyer acknowledges receipt of Seller's response to Buyer's offer. In the event Seller's response constitutes a counteroffer, Buyer accepts said counteroffer and the terms of the offer remain unchanged.

X (Buyer's Signature, Date, Time): Derek Allison dotloop verified
05/06/20 6:53 PM EDT
I75M-BOG4-AL3M-TAJN
X (Buyer's Signature, Date, Time): _____

33. **Seller's Receipt:** Seller acknowledges receipt of Buyer's acceptance of counter offer.

X (Seller's Signature, Date, Time): _____
X (Seller's Signature, Date, Time): _____

**ADDENDUM TO WEST MICHIGAN REGIONAL VACANT LAND
PURCHASE AGREEMENT**

This is an addendum ("Addendum") to the West Michigan Regional Vacant Land Purchase Agreement ("Agreement") between Jeff A. Moyer, bankruptcy trustee in the Matter of *In re: Randall L. Mouw*, Debtor, Chapter 7 Case No. 19-03894-jwb, United States Bankruptcy Court for the Western District of Michigan ("Seller") and Derek Allison ("Buyer"), which was originally submitted by the Buyer on April 6, 2020.

Seller is the Chapter 7 bankruptcy trustee in the above-referenced bankruptcy case pending in the United States Bankruptcy Court for the Western District of Michigan ("Bankruptcy Court"). Seller has signed the Agreement and this Addendum in his capacity as the Chapter 7 bankruptcy trustee, and not individually. To the extent the terms of this Addendum, conflict with, or amend any term of the Agreement, the terms of this Addendum shall control.

Notwithstanding the printed provisions in the Agreement, sale of the Property or Premises referenced in the Agreement, is also subject to the following terms and conditions:

A. Entry of an order by the Bankruptcy Court under 11 U.S.C. § 363 approving the Agreement and allowing sale of the Property free and clear of liens claims and encumbrances (a "Sale Order").

B. Title to the Property¹ shall be transferred by Seller's execution of one or more trustee's deeds. Any reference to a warranty deed in the Agreement is stricken.

C. In Section 12 of the Agreement is stricken. Section 12 of the Agreement shall not be applicable to the Agreement.

D. Section 18 of the Agreement entitled "Closing" is revised by deleting "6/8/20" and replacing it with "within 30 days of entry of an order by the Bankruptcy Court under 11 U.S.C. § 363 approving the Agreement and allowing sale of the property free and clear of liens claims and encumbrances.

E. Section 20 of the Agreement entitled "Earnest Money Deposit" is revised by deleting "\$1,000" and replacing it with "\$2,000".

F. Section 23 of the Agreement entitled "Other Provisions" is revised by adding the following provisions:

(1) The Property is being sold "as is, where is" without warranty of any kind.

(2) Sale of the Property shall be on an "as is, where is" basis as of the date of closing, without representation or warranty, express or implied, of any kind, nature or description, including without limitation, any warranty of merchantability, habitability, usability or fitness for any purpose. Seller shall not be required to inspect or test or report on the condition of the Property or any personal property being sold, if any or the operability of

¹ Capitalized terms not defined in this Addendum shall have the same meanings given to them in the Agreement.

the Property or any personal property, or the existence of any defects in the Property or any personal property.

G. Conditions Precedent to Closing. The obligations of Seller and Buyer to sell and purchase the Property and otherwise carry out the terms of the Agreement are conditioned upon:

(1) Approval of the sale and entry of the Sale Order after notice and a hearing at which interested bidders, including Buyer, may appear and make competing bids for the Property.


(2) The Seller reserving the right to recommend a rejection of any offer made to the Bankruptcy Court, if the offer later proves insufficient to yield a reasonable net recovery to the bankruptcy estate or if a higher bid is received at the hearing on confirmation of the sale. The Sale Order being in form and substance reasonably acceptable to Seller and Buyer and providing that the Bankruptcy Court approve the sale of the Property under Section 363 of the Bankruptcy Code. Seller seeking approval from the Bankruptcy Court to permit the sale to close as soon as possible following entry of the Sale Order and to direct that the provisions of Bankruptcy Rule 6004(g) not apply. Seller seeking to obtain the Sale Order as soon as practicable after the Effective Date of this Agreement.

(3) One Thousand and no/100 Dollars (\$1,000.00) of Buyer's deposit shall be nonrefundable in order to defray the costs of attempting to obtain Bankruptcy Court approval of the sale. However, if the Sale Order is entered and the sale to Buyer is completed, Buyer's full Two Thousand and no/100 Dollars (\$2,000.00) deposit will be applied against the total purchase price. If Buyer fails to complete the sale for any reason after entry of the Sale Order, Buyer's full deposit of Two Thousand and no/100 Dollars (\$2,000.00) will be forfeited, provided, however, if (a) the sale to a higher bidder is approved by the Bankruptcy Court and Buyer is not an approved backup bidder, (b) the sale to a higher bidder is approved and completed, or (c) Seller defaults under the terms of the Agreement or this Addendum, the entire deposit shall be refunded to the Buyer.

This Addendum is executed as of _____, 2020, which shall be deemed the Effective Date of the Agreement.

SELLER

The Chapter 7 Estate of *In re: Randall L. Mouw*

By: 
Jeff A. Moyer, bankruptcy trustee in the Matter of
In re: Randall L. Mouw, Debtor, Chapter 7 Case
No. 19-03894-jwb, United States Bankruptcy Court
for the Western District of Michigan

BUYER



dotloop verified
05/06/20 6:53 PM EDT
ZS9W-6TEB-NFHO-ZZCO

Derek Allison