

Miller
Smith
Klinefelt

MACOMB INTERCEPTOR DRAIN
SPECIAL MEETING
MARCH 27, 2017
1:00 P.M.
AGENDA

1. Call of meeting to order and roll call
2. Approval of Agenda for March 27, 2017
3. Public participation
4. Engagement of Foster, Swift, Collins & Smith, P.C. as Counsel for Special Assessments and Drain Issues
5. Resolution No. 2017-03, "Resolution Setting Proposed Apportionments; Approving Plans, Specifications and Estimate of Costs; and Scheduling Public Hearing
6. Old Business
7. New Business
8. Adjourn

Next Regular Meeting:
April 10, 2017 at the Office of the Macomb County Public Works Commissioner, 21777 Dunham Road, Clinton Township, Michigan 48036 at 10:00 a.m., Eastern Standard Time. The April 10, 2017 meeting Board members will be Candice Miller, Bryan Santo and Robert Mijac.

Lansing
313 S. Washington Square
Lansing MI 48933

Detroit
333 W. Fort Street – Suite 1400
Detroit MI 48226

Walter S. Foster
1878-1961
Richard B. Foster
1908-1996
Theodore W. Swift
1928-2000
John L. Collins
1926-2001

Webb A. Smith
Allan J. Claypool
Gary J. McRay
Stephen I. Jurnu
Scott A. Storey
Charles A. Janssen
Charles E. Barbieri
James B. Jensen, Jr.
Scott L. Mandel

Michael D. Sanders
Brent A. Titus
Stephen J. Lowney
Jean G. Shtokal
Brian G. Goodenough
Matt G. Hrebec
Melissa J. Jackson
Nancy L. Kahn
Deanna Swisher
Thomas R. Meagher
Doug A. Mielock
Scott A. Chernich
Paul J. Millenbach
Dirk H. Beckwith
Brian J. Renaud
Bruce A. Vande Vusse
Lynwood P. VandenBosch
Lawrence Korolewicz

James B. Doezema
Anne M. Seurynek
Richard L. Hillman
Steven L. Owen
John P. Nicolucci
Michael D. Homier
David M. Lick
Scott H. Hogan
Richard C. Kraus
Benjamin J. Price
Frank T. Manat
Michael R. Blum
Norman E. Richards
Jonathan J. David
Frank H. Reynolds
Pamela C. Dausman
Andrew C. Vredenburgh
John M. Kamins

Farmington Hills
32300 Northwestern Highway – Suite 230
Farmington Hills MI 48334

Holland
151 Central Avenue – Suite 260
Holland MI 49423

Jack A. Siebers
Julie I. Fershtman
Todd W. Hoppe
Jennifer B. Van Regenmorter
Thomas R. TerMaat
Frederick D. Dilley
Alexander A. Ayar
David R. Russell
Zachary W. Behler
Joshua K. Richardson
Joel C. Farrar
Seth A. Drucker
Laura J. Genovich
Liza C. Moore
Karl W. Butterer, Jr.
Lisa J. Hamaneh
Mindi M. Johnson
Ray H. Littleton, II

Frank J. DeFrancesco
Scott A. Dienes
Jack L. Van Coevering
Glen A. Schmiede
Gilbert M. Frimet
Mark J. Colon
Paul D. Yared
Ryan E. Lamb
Barbra E. Homier
Stephen W. Smith
Anna K. Gibson
Patricia J. Scott
Lindsey E. Bosch
Nicholas M. Oertel
Lauren B. Dunn
Alicia W. Birach
Joseph J. Viviano
John W. Mashni

Grand Rapids
1700 E. Beltline NE – Suite 200
Grand Rapids MI 49525

St. Joseph
728 Pleasant Street – Suite 204
St. Joseph MI 49085

Adam A. Fadly
Allison M. Collins
Leslie A. Dickinson
Julie L. Hamlet
Michael C. Zahrt
Taylor A. Gast
Rachel N. Gizicki
Tyler J. Olney
Mark J. DeLuca
Stefania Gismondia

Writer's Direct Phone: 616.726.2240

Fax: 517.367.7196

Reply To: Grand Rapids

E-Mail: ASeurynek@fosterswift.com

March 23, 2017

Via E-mail

Mr. Brian Baker
Chief Deputy Public Works Commissioner
21777 Dunham Road
Clinton Township, MI 48036

Re: Engagement to Provide Services

Dear Mr. Baker:

We are pleased the Macomb Interceptor Drain Drainage District (“MIDDD”) has decided to engage Foster Swift (the “Firm”) to provide legal services relating to drain issues and special assessments, other than bond work (bond work has been addressed through a separate engagement letter). It is customary in the legal profession to initiate a relationship between an attorney and client through an engagement letter. This engagement letter will serve as an agreement about the nature and scope of our relationship with the MIDDD.

Our representation of MIDDD relating to drain issues and special assessments (other than bond work) commenced on March 13, 2017. This signed letter acknowledges MIDDD’s understanding of the details of our representation of MIDDD and confirms the scope of the work.

Our services to MIDDD will be billed on the basis of hourly rates for the time incurred. My standard hourly rate is \$360 per hour. However, we offer our municipal clients a substantial reduction for work similar to these issues. The hourly rate for services provided to MIDDD will be capped at \$250 per hour. The hourly rate for legal services we provide to MIDDD will

Mr. Brian Baker
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remain in effect until December 31, 2017, after which the Firm and MIDD D may meet and discuss any proposed rate changes to be approved by MIDD D. MIDD D will also be billed for photocopies and other out-of-pocket expenses by the Firm on MIDD D's behalf. The costs and attorney fees will be billed monthly. Our invoices will be sent by e-mail, unless you direct us to send them in some other fashion. If an invoice is not timely paid, a late charge may be added to any portion not paid within thirty (30) days. The late charge will be computed at the rate of .58% per month (7% annual) starting thirty (30) days after the date of the invoice.

Based on the information you have provided, the Firm believes that its representation of MIDD D complies with the Michigan Rules of Professional Conduct. However, if we determine that a conflict of interest arises during this engagement, the Firm may take appropriate steps to remedy the conflict, including withdrawal.

Our responsibility in representing MIDD D is, of course, to do so in a manner that is consistent with the customary professional practices and requirements for handling MIDD D's legal matters. In turn, we will need MIDD D's full and timely cooperation. This will likely include providing us with various materials relating to the matters for which MIDD D is utilizing our services.

The Firm will pursue MIDD D's legal matters conscientiously and without delay, but with regard for the Firm's workload and the nature of the legal system. The Firm will keep MIDD D reasonably informed about the status of this matter and welcomes requests for information.

We intend to establish a mutually rewarding and enduring relationship with MIDD D as its legal counsel. Nevertheless, MIDD D is free to terminate our services at any time by written notice to us to that effect. We may also terminate our services to MIDD D, by written notice to MIDD D to that effect, if MIDD D unreasonably fails to cooperate with us, if our monthly statements are not paid in a timely manner, or if we determine that our continued representation of MIDD D would violate the rules of professional responsibility applicable to lawyers or would otherwise be impractical.

If MIDD D terminates our representation, the Firm will return to MIDD D any original materials in the Firm's files that belong to MIDD D. The Firm will dispose of its files (including the Firm's work product) related to MIDD D matters as it sees fit.

Although this engagement letter is intended to govern the legal services that we may render to MIDD D, unless and until the Firm and MIDD D mutually agree in writing to a different arrangement with respect to providing our legal services to MIDD D, the same terms and conditions will govern any other legal services we may be asked to provide to MIDD D.

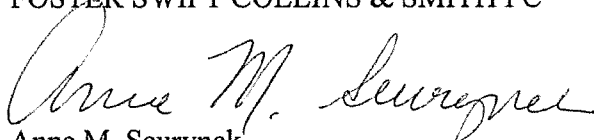
Should you have any questions, please do not hesitate to call us. If MIDD D agrees with the above, please execute this engagement letter at the bottom on behalf of MIDD D. MIDD D's

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return of the letter is the first step in our representation of MIDDD's interests. We look forward to serving the Macomb Interceptor Drain Drainage District.

Sincerely,

FOSTER SWIFT COLLINS & SMITH PC


Anne M. Seurynek

AMS:sdc

AGREED AND ACCEPTED:

Drainage Board for Macomb Interceptor Drain Drainage District
Accepts and agrees to be bound by the foregoing.

DRAINAGE BOARD for
MACOMB INTERCEPTOR DRAIN DRAINAGE DISTRICT

By: _____

Its: _____

Date: _____

**DRAINAGE BOARD FOR THE
MACOMB INTERCEPTOR DRAIN DRAINAGE DISTRICT**

RESOLUTION NO. 2017-3

**RESOLUTION SETTING PROPOSED APPORTIONMENTS; APPROVING PLANS,
SPECIFICATIONS, AND ESTIMATE OF COSTS; AND SCHEDULING PUBLIC
HEARING**

At a special meeting of the Drainage Board for the Macomb Interceptor Drain Drainage District held on the 27th day of March, 2017, at 1:00 P.M.

The following resolution was offered by Member _____ and supported by Member _____.

WHEREAS, the Drainage Board for the Macomb Interceptor Drain Drainage District (“Drainage Board”) was established pursuant to Chapter 20 of the Drain Code, Act 40 of 1956, MCL 280.1 *et seq.*; and

WHEREAS, pursuant to Chapter 20, the Drainage Board previously issued an Order of Determination on May 21, 2010, finding it necessary and practicable to acquire, locate, establish, construct, finance, operate, maintain, repair, rehabilitate, remove from service, extend, add relief drains, add branches and otherwise improve the Macomb Interceptor Drain, as described in the petition filed with the Macomb County Public Works Commissioner on April 20, 2010, by Lenox Township and Village of New Haven; and

WHEREAS, the Drainage Board has received plans, specifications, and an estimate of costs from the engineering firm of AEW, Inc. to acquire, locate, establish, construct, finance, operate, maintain, repair, rehabilitate, remove from service, extend, add relief drains, add branches and otherwise improve the Macomb Interceptor Drain (“2017 Project”); and

WHEREAS, pursuant to Chapter 20, the Drainage Board wishes to approve and adopt the plans, specifications, and estimate of cost for the 2017 Project; tentatively establish the

apportionments to the public corporations to be assessed; and schedule a public hearing on the apportionments.

NOW, THEREFORE, IT IS HEREBY RESOLVED AS FOLLOWS:

1. The Drainage Board hereby approves and adopts the plans, specifications, and estimate of costs provided by AEW, Inc. for the 2017 Project, which are attached as **Exhibit A**. The plans, specifications, and estimate of costs shall remain on file with the Chairperson of the Drainage Board.

2. The Drainage Board tentatively establishes the percentage of the cost to be borne by each public corporation benefitted by the 2017 Project in the manner set forth in **Exhibit B**, which is incorporated by reference.

3. The Drainage Board shall hold a public hearing to hear objections to the tentative apportionments on April 19, 2017, at 10:00 a.m. at the Macomb County Public Works Commissioner's Office, 21777 Dunham Road, Clinton Township, Michigan. Notice of the public hearing, in substantially the form of **Exhibit C**, shall be published twice in the County by inserting the notice in at least one newspaper published in the County, the first publication to be not less than 20 days before the time of the hearing. The notice shall also be sent by registered mail to the clerk or secretary of each public corporation proposed to be assessed. The notice shall be signed by the Chairperson, and proof of the publication and mailing of the notice shall be filed in his or her office.

4. Any and all resolutions in conflict with this Resolution are repealed but only to the extent necessary to give this Resolution full force and effect.

YEAS: _____

NAYS: _____

THE RESOLUTION WAS DECLARED ADOPTED.

STATE OF MICHIGAN)
)
COUNTY OF MACOMB)

I, the undersigned, DO HEREBY CERTIFY that the foregoing is a true and complete copy of certain proceedings taken by the Drainage Board at a special meeting held on the 27th day of March, 2017, at 1:00 p.m.

Candice S. Miller, Chairperson

EXHIBIT A

PLANS, SPECIFICATIONS, AND ESTIMATE OF COST

Description of interceptors and ancillary facilities to be acquired, constructed, reconstructed, renovated financed, operated, maintained, repaired, rehabilitated, removed from service, extended, and otherwise improved:

Phase I – Repair of 15 Mile Sinkhole:

The project consists of a recovery shaft to access the existing 11 foot diameter interceptor sewer, replacing the damaged sewer, removing excess sediment deposits in the sewer and at Northeast Sewage Pump Station and rehabilitating portions of the 11 foot diameter sewer in an effort to prevent future system failures. The access shaft will be approximately 300 feet long and 30 feet wide. The depth of the structure will be approximately 60 feet. Emergency work completed to date includes installation of a bypass pumping system, installation of dewatering wells and pumps around the collapsed area, traffic control, geotechnical investigation, system monitoring, emergency overflow pumping stations and contractor storage area.

Estimated Cost: \$70,000,000.00 (Seventy Million Dollars)

EXHIBIT B

TENTATIVE APPORTIONMENT

Public Corporation	Percent
Chesterfield Twp	7.06912%
Clinton Twp	21.19453%
Fraser	4.20779%
Harrison Twp	5.83288%
Lenox Twp	0.76183%
Macomb Twp	13.78561%
New Haven	0.80870%
Shelby Twp	9.97770%
Sterling Heights	31.74642%
Utica	1.80810%
Washington Twp	2.80732%
Total	100.0000%

EXHIBIT C

MACOMB INTERCEPTOR DRAIN DRAINAGE DISTRICT DRAINAGE BOARD NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that the Drainage Board for the Macomb Interceptor Drain Drainage District ("Drainage Board") will meet at 10:00 a.m. on April 19, 2017, at the Macomb County Public Works Commissioner's Office, 21777 Dunham Road, Clinton Township, Michigan, to hold a public hearing to hear objections to the tentative apportionments of the cost to acquire, locate, establish, construct, finance, operate, maintain, repair, rehabilitate, remove from service, extend, add relief drains, add branches and otherwise improve the Macomb Interceptor Drain, as described in the petition filed with the Macomb County Public Works Commissioner on April 20, 2010, by Lenox Township and Village of New Haven, pursuant to the provisions of Chapter 20 of Act 40 of the Public Act of Michigan of 1956, as amended.

The Drainage Board has received plans, specifications, and an estimate of costs from the engineering firm of AEW, Inc. to acquire, locate, establish, construct, finance, operate, maintain, repair, rehabilitate, remove from service, extend, add relief drains, add branches and otherwise improve the Macomb Interceptor Drain ("2017 Project").

The plans, specifications, and estimate of cost for the improvements are available for inspection at the office of the Chairperson of the Drainage Board, located at the Macomb County Public Works Commissioner's Office, 21777 Dunham Road, Clinton Township, Michigan.

At the conclusion of the public hearing, the Drainage Board will consider the comments made at the hearing and make a determination as to whether it will confirm the apportionments as tentatively made and issue its final order of apportionment or whether it will readjust the apportionments.

The public corporations to be assessed for the cost of the 2017 Project, and their tentative apportionments, are as follows:

Public Corporation	Percent
Chesterfield Twp	7.06912%
Clinton Twp	21.19453%
Fraser	4.20779%
Harrison Twp	5.83288%
Lenox Twp	0.76183%
Macomb Twp	13.78561%

New Haven	0.80870%
Shelby Twp	9.97770%
Sterling Heights	31.74642%
Utica	1.80810%
Washington Twp	2.80732%
Total	100.0000%

The Drainage Board may also consider such other matters and take such other actions at the meeting as may be necessary or proper.

Candice S. Miller, Chairperson
 Drainage Board for the Macomb Interceptor Drain Drainage District

**DRAINAGE BOARD
 MACOMB INTERCEPTOR DRAIN DRAINAGE DISTRICT
 CERTIFICATE OF MAILING**

I certify that on _____, I mailed the attached Notice of Hearing for the proposed apportionment of the cost for the 2017 Project by registered mail, postage prepaid to each of the following public corporations:

- Chesterfield Township,
- City of Fraser
- City of Sterling Heights
- City of Utica
- Clinton Township
- Harrison Township
- Lenox Township
- Macomb Township
- Shelby Township
- Village of New Haven
- Washington Township

Drainage Board
 Macomb Interceptor Drain Drainage District

By: _____

Its: _____

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