

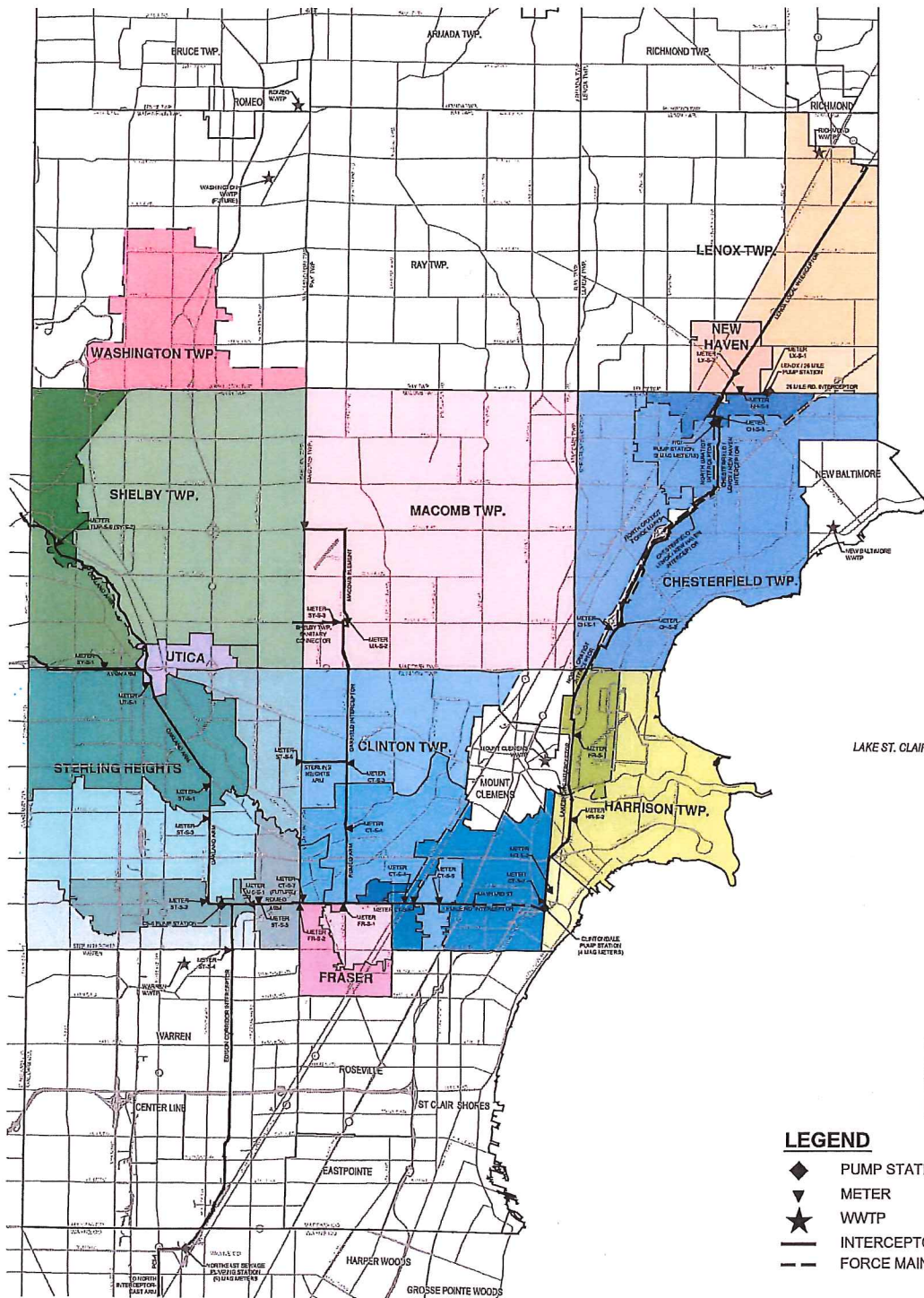
MACOMB INTERCEPTOR DRAIN
OCTOBER 15, 2018
10:45 A.M.
AGENDA

	Page
1. Call of meeting to order and roll call	
2. Approval of Agenda for October 15, 2018	
3. Approval of Minutes for September 10, 2018	3
4. Public participation	
5. Project Updates (Project Plan, Master Plan) – Vince Astorino and Evans Bantios	
6. M-59/Garfield Property Auction – Tamara Keskeny	5
Motion: To authorize Candice S. Miller, as MIDDD Chairperson, to execute the MIDDD's purchase agreement for the sale of the property with the successful bidder in compliance with the auction rules and regulations	
7. Consideration for approval of invoices (see attached)	21
8. MIDD Financial Report – Bruce Manning	23
9. Old Business	
10. New Business	
11. Adjourn	

Next Regular Meeting

November 19, 2018 at the Office of the Macomb County Public Works Commissioner,
21777 Dunham Road, Clinton Township, Michigan 48036

MACOMB INTERCEPTOR DRAIN DRAINAGE DISTRICT



- LEGEND**
- ◆ PUMP STATION
 - ▼ METER
 - ★ WWTP
 - INTERCEPTOR
 - - - FORCE MAIN



Candice S. Miller
 MACOMB COUNTY PUBLIC WORKS COMMISSIONER

frch
 UPDATED: FEBRUARY 2017

An adjourned meeting of the Intra-County Drainage District for the **MACOMB INTERCEPTOR DRAIN DRAINAGE DISTRICT** was held in the Office of the Macomb County Public Works Commissioner, 21777 Dunham Road, Clinton Township, Michigan, on September 10, 2018 at 11:00 A.M.

PRESENT: Candice Miller, Chair
Bryan Santo, Member
Robert Mijac, Member

ALSO PRESENT: Brian Baker, Chief Deputy, Karen Czernel, Deputy, Vincent Astorino, Operations and Flow Manager, Evans Bantios, P.E., Construction & Maintenance Manager, Thomas Stockel, Construction Engineer, Dan Heaton, Public Relations Manager, Denise Harwood, Accountant, Barbara Delecke, Administrative Services, Macomb County Public Works (MCPW); Jordan Scott, Sterling Heights Dept. of Public Works

The meeting was called to order by the Chair, Candice Miller. A motion was made by Mr. Mijac, supported by Mr. Santo to approve the agenda as presented.

Adopted: YEAS: 3
NAYS: 0

Minutes of the meeting of August 13, 2018 were presented. A motion was made by Mr. Mijac and supported by Mr. Santo to approve the minutes as presented.

Adopted: YEAS: 3
NAYS: 0

Master Plan survey forms have been sent to all communities for community data and their interest in joining the MIDDD. Thus far, Warren and the Township of Ray have expressed interest in joining the MIDDD. The community information will be compiled and used to produce a Master Plan for the MIDDD.

The fatberg, which is 100 feet long and approximately 5 feet deep, sits at the bottom of the Lakeshore Interceptor. Doetsch removed the blockage.

A design plan was put together to grout the pipes downstream of the sinkhole to eliminate infiltration of groundwater into the sewer system. The design is approximately 80 percent complete. Once the plan is complete, RFPs will sent out late September or early October.

CCTV inspection reviews have been completed by Hubbell, Roth & Clark (HRC). HRC is currently putting together a project plan to help improve and maintain the system. A complete plan will be presented to the board and communities by the end of the year.

A motion was made by Mr. Mijac, supported by Mr. Santo to receive and file the project updates given by Mr. Astorino and Mr. Bantios.

Adopted: YEAS: 3
NAYS: 0

The Chair presented the invoices totaling \$5,198,710.99 to the board for review and approval.

A motion was made by Mr. Mijac, supported by Mr. Santo to approve the invoices as presented.

Adopted: YEAS: 3
NAYS: 0

The property on Garfield and M-59 will be sold at a public auction in November.

A motion to receive and file the financial report given by Mr. Baker was made by Mr. Santo and supported by Ms. Mijac.

Adopted: YEAS: 3
NAYS: 0

There being no further business, it was moved by Mr. Santo, supported by Mr. Mijac, that the meeting of the Macomb Interceptor Drain Board be adjourned.

Adopted: YEAS: 3
NAYS: 0

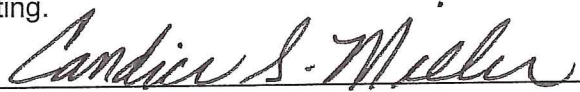
The meeting was adjourned at 11:17 a.m.



Candice S. Miller
Macomb County Public Works Commissioner

STATE OF MICHIGAN
COUNTY OF MACOMB

I certify that the foregoing is a true and correct copy of proceedings taken by the Intra-County Drainage District shown on the attached set of minutes, on September 10, 2018, the original of which is on file in the Public Works Commissioner's Office. Public notice of the meeting was given pursuant to Act No. 267, Public Acts of Michigan, 1975, including, in the case of a special or rescheduled meeting or a meeting secured for more than 36 hours, notice by posting at least 18 hours prior to the time set for the meeting.



Candice S. Miller
Macomb County Public Works Commissioner

DATED: 9/13/18

9453.bd

PUBLIC WORKS OFFICE

Candice S. Miller

21777 Dunham Road, Clinton Township, MI 48036

(586) 469-5325

More Locations (/locations/)




Public Auction Nov. 14th

Address:

45345 GARFIELD MACOMB, MI 48044
Northwest corner of M-59 (Hall) & Garfield

Legal Description:

Part of the southwest ¼ of section 32, town 3 north, range 13 east, being described as: Commencing at the southwest corner of section 32, thence north 00 degrees 13 minutes 12 seconds west 285.77 feet along the west line of section 32 to the north line of M-59 and the point of beginning; thence continuing along the west line of section 32 north 00 degrees east 171.39 feet to the west right of way line of Garfield Road (120 feet wide); thence along the west line of Garfield Road and following two courses, south 21 degrees 26 minutes 45 seconds east 659.63 feet and along a tangent curve concave to the southwest having a central angle of 14 degrees 11 minutes 38 seconds, a radius of 1840.00 feet, an arc length of 455.82 feet and whose chord is south 14 degrees 20 minutes 56 seconds east 454.66 feet to the north right of way line of M-59; thence north 89 degrees 45 minutes 15 seconds west 512.00 feet along the north right of way line of M-59 to the west line of section 32 and the point of beginning.  Image version of description.

(/sites/default/files/content/government/publicworks/land/08-32-300-018.pdf)

Parcel Number:	08-32-300-018
Property Class:	EXEMPT COUNTY, CITY, TWP
Unit:	08 Macomb Township
Zoning Code:	C3

Total Acres:	8.89
ECF Neighborhood:	PUB - Municipal / School / Church

Links:

AUCTION RULES AND REGULATIONS

(/sites/default/files/content/government/publicworks/land/20181005AuctionRulesandRegulations.pdf)

PURCHASE AGREEMENT

(/sites/default/files/content/government/publicworks/land/20181005MIDDDPurchaseAgreement.pdf)

WARRANTY DEED

(/sites/default/files/content/government/publicworks/land/20180824101204064.pdf)

Tax info  (<https://bsaonline.com/SiteSearch/SiteSearchDetails?SearchFocus=All+Records&SearchCategory=Address&SearchText=45345+GARFIELD&uid=259&Page108-32-300-018&ReferenceType=0&SortBy=&SearchOrigin=0&RecordKeyDisplayString=20-08-32-300-018&RecordKey=1%3d20-08-32-300-018%3a%3a4%3d20-08-32-300-018%3a%3a7%3dc6c982e5-5dd2-4b2a-b479-a27700fee90c&RecordKeyType=1%3d0%3a%3a4%3d0%3a%3a7%3d2>)

TITLE SEARCH

(/sites/default/files/content/government/publicworks/land/20180926ATAtitlesearch-REV1-exc(50-18611250-SSP).pdf)

Contact us if your interested (<http://publicworks.macombgov.org/Publicworks-Land-ContactUs>)



AUCTION RULES AND REGULATIONS

45345 Garfield Road, Macomb Township, Michigan 48044

1. **AUCTION TIME AND PLACE** – The auction sale for 45345 Garfield Road, Macomb Township, Michigan 48044 (“Subject Property”), owned by the Macomb Interceptor Drain Drainage District (“MIDDD”) will be conducted by its agent, the Macomb County Department of Public Works (“MCPW”), at 21777 Dunham Road, Clinton Township, MI 48036, on **Wednesday, November 14, 2018, at 10:00 am EST.**

2. **REGISTRATION** – All bidders must register for the auction sale by delivering the following **before 4:30 pm EST on November 13, 2018,** to the Macomb County Public Works Commissioner’s Office, c/o Tamara Keskeny, located at 21777 Dunham Road, Clinton Township, MI 48036:
 - This form fully completed and executed by the bidder; and,
 - \$350,000.00 deposit in certified funds or cashier’s check.

The MIDDD reserves the right to extend the qualification period up and until the check-in deadline in the MIDDD’s sole discretion.

3. **CHECK-IN** – On the morning of the auction sale, all bidders must check-in by 9:30 am EST. At check-in all qualified bidders will be given a pre-numbered bid card. No bids will be accepted unless the bidder has been qualified and registered and has received a pre-numbered bid card.

4. **DEPOSIT** – All bidders must timely provide the \$350,000.00 deposit in certified funds to be qualified to bid. If the qualified bidder is not the successful bidder at the auction sale, that bidder’s deposit will be returned upon surrender of the bidder’s bid card at the auction. The successful bidder’s deposit will be held in escrow by the MCPW and applied to the purchase in accordance with the signed purchase agreement.

5. **PROPERTY OFFERED** – The Subject Property is owned by the MIDDD and is subject to any state, county or local zoning or building ordinances. The MIDDD does not guarantee the suitability, fitness, purpose, environmental conditions, usability or access to the Subject Property.

IT IS THE RESPONSIBILITY OF PROSPECTIVE PURCHASERS TO DO THEIR OWN RESEARCH AS TO THE USE OF THE SUBJECT PROPERTY FOR THEIR INTENDED PURPOSE AND TO MAKE A PERSONAL INSPECTION OF THE SUBJECT PROPERTY TO DETERMINE IF IT WILL BE SUITABLE FOR THE PURPOSES FOR WHICH IT IS BEING PURCHASED. THE MIDDD MAKES NEITHER REPRESENTATIONS NOR CLAIMS AS TO FITNESS FOR PURPOSE, INGRESS/EGRESS, CONDITION, COVENANTS, OR RESTRICTIONS. THE SUBJECT PROPERTY MAY NOT BE ENTERED WITHOUT THE MIDDD’S PERMISSION. ALL PROPERTY IS SOLD “AS IS”.

The Subject Property may be subject to flooding. Any new construction or reconstruction should be elevated above the 100-year flood plain. Also, any filling, dredging or other permanent construction below the ordinary high-water mark of the water body involved may be subject to the provisions of 1994 Public Act 451, as amended by Part 91 and Public Act 60 of 1995. Any earth change on the Subject Property may be subject to the provisions of 1994 Public Act 451, as amended by Part 301 and Public Act 59 of 1995. The Subject Property may also be subject to Part 303 of Public Act 451 of 1994.

6. **BIDDING** – Only qualified and registered bidders may bid on the Subject Property. The starting bid is Three Million Five Hundred Thousand and 00/100 Dollars (\$3,500,000.00). Any person unable to attend the sale can be represented at the sale by an agent or other representative with written authority to bid and otherwise represent the person. The registered bidder is legally and financially responsible for its bids whether representing oneself or acting as an agent. The auction sale will be awarded to the qualified and registered person bidding the highest amount, equal to or greater than the minimum bid.

An oral bid accepted at public auction is a legal and binding contract to purchase the Subject Property. No sealed bids will be accepted and the MIDD reserves the right to reject any or all bids. Bids will be accepted in increments as set by the auctioneer. The Subject Property may be subject to rebidding at the discretion of the MIDD.

7. **TERMS OF SALE** – Immediately after the auction sale, successful bidder must execute the MIDD's Purchase Agreement for the Subject Property with consideration set at the winning bid at the auction sale **by 4:00pm on November 14, 2018**. A copy of the MIDD's Purchase Agreement is published on the MCPW's website at publicworks.macombgov.org. The purchase agreement will include rights of due diligence. A BIDDER WHO FAILS TO CONSUMMATE A PURCHASE BY IMMEDIATELY EXECUTING A PURCHASE AGREEMENT SHALL BE DEEMED IN DEFAULT. In the event of a default by the winning bidder, the MIDD, in its sole discretion, may do any of the following (a) keep the deposit as liquidated damages; (b) bring an action to specifically enforce the sale of the Subject Property on the successful bid; (c) award the bid to the next highest bidder; or (d) resubmit the Subject Property at a new auction sale.

THE MIDD RESERVES THE RIGHT TO CANCEL ANY SALE, AT ANY TIME.

Any announcements made by the MIDD on the day of the sale take precedence over previously published or verbally conveyed rules, regulations, terms and conditions. Bidders must be attentive at the auction.

8. **TITLE BEING CONVEYED** – A covenant deed will be issued conveying title from the MIDD at closing. Title insurance companies may or may not issue title insurance on the Subject Property purchased at this auction sale. The MIDD makes no representation as to the availability of title insurance and the UNAVAILABILITY OF TITLE INSURANCE IS NOT A GROUND FOR RECONVEYANCE TO THE MIDD. THE

SUCCESSFUL BIDDER MAY INCUR LEGAL COSTS FOR A QUIET TITLE ACTION TO SATISFY THE REQUIREMENTS OF TITLE INSURANCE COMPANIES IN ORDER TO OBTAIN TITLE INSURANCE.

9. **DEFERRED ASSESSMENTS AND DISCLOSURES** – All bidders should contact the county, city or township office to determine if there are any outstanding bonded or deferred assessments on the Subject Property.
10. **POSSESSION OF PROPERTY** – The MIDDD will retain possession of the Subject Property until all conditions of these rules and regulations and all conditions of the purchase agreement are satisfied and the closing of the sale is complete.
11. **CONDITION OF PROPERTY** – The successful bidder accepts the Subject Property in its present “as is” condition, and releases the MIDDD and its officers, employees, representatives and agents from all liability whatsoever arising from any condition of the Subject Property, whether now known or subsequently discovered, including but not limited to all claims based on environmental contamination of the premises.

A person who acquires property that is contaminated (a “facility” pursuant to Section 20101(1)(l) of the Natural Resources and Environmental Protection Act (NREPA), 1994, P.A. 451, as amended) as a result of release(s) of a hazardous substance(s) may become liable for all costs of cleaning up the property and any other properties impacted by the release(s). Liability may be imposed upon the person acquiring the property even in the absence of any personal responsibility for, or knowledge of, the release. Protection from such liability may be obtained by conducting a Baseline Environmental Assessment (BEA) as provided for under Section 20126(1)(c) of NREPA. However, the BEA must be conducted prior to or within 45 days of the earliest date of purchase or occupancy of the property. Persons who acquire contaminated property may have “due care” obligations under Section 20107a of NREPA even if they conduct a BEA and are not liable for the contamination.

Pursuant to Part 201 of the NREPA, the person(s) responsible for an activity causing a release at the Subject Property is obligated to pursue response activities at the Subject Property. Consequently, the non-labile successful bidder may be required to provide access to a liable party to conduct response activities at the property in the future.

Section 20116 of the NREPA requires that a person who has knowledge that the Subject Property is contaminated provide a written notice to the successful bidder or other person to which the property is transferred which discloses the general nature and extent of the release. Additional disclosure obligations may also apply at the time the Subject Property, or an interest in the Subject Property, is transferred.

Accordingly, the MIDDD recommends that a person who is interested in acquiring property contact an attorney or an environmental consultant for advice prior to the acquisition of any property that may be contaminated.

YOU MAY ALSO CONTACT THE MICHIGAN DEPARTMENT OF ENVIRONMENTAL QUALITY'S, ENVIRONMENTAL ASSISTANCE CENTER AT 1-800-662-9278 FOR POSSIBLE INFORMATION REGARDING ENVIRONMENTAL CONCERNS ON THIS PROPERTY, IF ANY.

Prospective purchasers are notified that Macomb County has REGULATIONS GOVERNING ON-SITE SEWAGE DISPOSAL AND ON-SITE WATER SUPPLY SYSTEM EVALUATION AND MAINTENANCE. Prospective purchasers assume all responsibility for notification, payment of fees, permits, all costs for evaluation and repair. Further information may be obtained from the Macomb County Health Dept., Environmental Health Services Division at (586) 469-5235.

12. **DEEDS** – The covenant deed will be executed at closing and filed with the Register of Deeds within 30 days of closing. It is the responsibility of successful bidder to provide an address for the recorded deed to be mailed to and to pay recording fees at the time the bid amount is paid.

I acknowledge receipt of Rules and Regulations and agree to be bound by the terms and conditions and any updates stated at the auction. I further swear and affirm under penalty of perjury that I am qualified to bid at this auction.

Name _____

Address _____ City _____ Zip _____

Michigan Drivers License # _____

Dob _____ Sex _____ Height _____ Eyes _____

Social Security # or Federal Identification # _____

Telephone # (Home) _____ (Work) _____

Employer _____

Bank _____ Checking Account _____

Signature of Bidder:

Signature of Bidder:

Bidder # _____ Registration Fee Refunded? Yes / No.

REAL ESTATE PURCHASE AGREEMENT

THIS REAL ESTATE PURCHASE AGREEMENT (the "Agreement") is made this day of November __, 2018 (the "Effective Date"), by and between _____ (the "Purchaser"), and the MACOMB INTERCEPTOR DRAIN DRAINAGE DISTRICT, as Seller (the "MIDDD"). (Sometimes the "Purchaser and "MIDDD" are singularly referred to as "Party" and jointly referred to as "Parties" in this Agreement")

1. General Terms and Conditions. Subject to the terms and conditions of this Agreement, Purchaser hereby offers to purchase, and MIDDD agrees to sell to Purchaser, the Subject Property described in paragraph 2 of this Agreement. Purchaser acknowledges and agrees the offer to purchase real estate presented in this Agreement is being submitted to the MIDDD c/o the Macomb County Department of Public Works ("MCPW").

2. Subject Real Property. The real property that is the subject of this Agreement, legally described on **Exhibit A**, is commonly known as:

Address: 45345 Garfield Road, Macomb Township, MI 48044

Parcel/Tax ID: 08-32-300-018

Legal Description: See **Exhibit A**

together with all structures, improvements, appurtenances, rights, tenements and hereditaments, now with the land, and subject to any easements, covenants and restrictions of record and zoning laws and ordinances affecting the real property (the "**Subject Property**"). Purchaser acknowledges that upon consummation of the sale contemplated by the Agreement that Purchaser will acquire whatever title to the Subject Property that is being offered by the MIDDD, "as is," "where is," subject to assessments, debt service fees, taxes, liens, easements, or claims of rights of others, if any.

3. Eligibility of Purchaser. The Purchaser represents and warrants that it, and/or any affiliated owners, shareholders or members are not: (a) under 18 years of age; (b) an employee of the MIDDD, MCPW or Macomb County; or (c) an agent or immediate member of the household of an employee of the MIDDD, MCPW or Macomb County. For breach of this warranty, the MIDDD shall have the right to terminate this Agreement without and further liability on the part of the MIDDD and Purchaser shall be deemed to be in default as provided in Paragraph 12 below.

4. Offer to Purchase and Sale of Real Property. Subject to the terms and conditions herein, MIDDD Agrees to sell and convey to Purchaser, and Purchaser agrees to purchase the Subject Property from the MIDDD for _____ in U.S. Dollars (the "**Purchase Price**").

5. Terms of Payment. The Purchase Price shall be paid by Purchaser to the MIDDD as follows:

a. The entire unpaid balance of the Purchase Price shall be paid by the Purchaser at closing in cash, certified funds, cashier's check or wire transfer.

- i. Certified Funds. As used in this Agreement, the term “Certified Funds” shall mean, funds that are guaranteed by bank, (cleared wire transfer, cashier’s check), or paid in cash (subject to the cash limit as defined herein below).
- ii. Cash Limit. No more than Ten Thousand and 00/100 (\$10,000.00) Dollars in total may be paid in cash to MIDDD to pay all, or any part of the Purchase Price.

6. Due Diligence and Access to Property. Purchaser shall have the right to inspect and determine the feasibility of the purchase of the Property within ninety (90) days of the Effective Date (the “**Due Diligence Period**”), including, but not limited to investigations relating to zoning and municipal restrictions, easements and title encumbrances, available utilities, development potential, and conducting soil tests, structural, subsurface, environmental, wetlands, topographical analysis or any other test or analysis the Purchaser desires in order to determine the feasibility of the purchase of the Property in the Purchaser’s sole discretion (the “**Due Diligence**”). During the Due Diligence Period, Purchaser, its agents and representatives, shall have reasonable access to the Property, including, the right to inspect the Property via Purchaser’s employees, appraisers, agents, architects, environmental consultants and engineers. All appraisals, inspections, audits, tests, that Purchaser requests shall be at the Purchaser’s sole cost and expense and shall be performed during reasonable business hours with reasonable prior advance to the MIDDD. Purchaser shall, at its sole cost and expense, restore any damage to the Subject Property resulting from any of Purchaser’s inspections or testing. Purchaser shall also indemnify, defend, and hold the MIDDD harmless with respect to any personal liability, bodily injury, property damage, and construction and/or mechanic’s liens resulting from Purchaser’s entry and conduct of due diligence activities upon the Subject Property, including but not limited to all attorneys’ fees and costs incurred in connection therewith. Upon the MIDDD’s written request, Purchaser shall provide a PDF or paper copy to the MIDDD of any testing results or reports pertaining to the Subject Property arising out of Purchaser’s due diligence activities.

If the Purchaser deems that the purchase of the Subject Property is not acceptable, which shall be in Purchaser’s sole, subjective, and discretionary decision, Purchaser may terminate this Agreement by written notice delivered to MIDDD on or before the expiration of the Due Diligence Period. Upon the timely termination of this Agreement, neither party shall have any further liability or obligation to the other under this Agreement. In the event Purchaser does not terminate this Agreement on or before the expiration of the Due Diligence Period, then Purchaser shall be deemed to have approved all matters relating to Property (other than the conditions to closing set forth in this Agreement), and the Purchaser shall be bound to close.

The MIDDD discloses that the Subject Property is currently used for storage and staging for the M-59 resurfacing project by the contractor with the MIDDD’s permission, but the contractor will vacate and restore the Subject Property before the expiration of the Due Diligence Period.

7. Covenant Deed. Purchaser acknowledges that it will receive a Covenant Deed transferring whatever rights, title and interest the MIDDD had in the Subject Property at the time of the Closing. The Purchaser will also receive a Property Transfer Affidavit that must be submitted to the Macomb Township Assessor in accordance with state law.

8. **“AS IS” Sale.** THE PROPERTY IS BEING SOLD "AS IS", "WHERE IS" AND "WITH ALL FAULTS" AS OF CLOSING, WITHOUT ANY REPRESENTATION OR WARRANTY AS TO ITS CONDITION, FITNESS FOR ANY PARTICULAR PURPOSE, MERCHANTABILITY OR ANY OTHER WARRANTY, EXPRESS OR IMPLIED. THE MIDDD SPECIFICALLY DISCLAIMS ANY WARRANTY, GUARANTY OR REPRESENTATION, ORAL OR WRITTEN, PAST OR PRESENT, EXPRESS OR IMPLIED CONCERNING THE PROPERTY. PURCHASER ACKNOWLEDGES THAT PURCHASER IS PURCHASING THE PROPERTY BASED SOLELY UPON PURCHASER'S OWN INDEPENDENT INVESTIGATIONS AND FINDINGS AND NOT IN RELIANCE UPON ANY INFORMATION PROVIDED BY THE MIDDD'S MCPW'S OR MACOMB COUNTY'S, EMPLOYEES, AGENTS, OR CONTRACTORS.

9. **General Release.** Purchaser releases MIDDD and its agents, employees and representatives, including the MCPW, Macomb County and the Macomb County Public Works Commissioner Candice S. Miller, from any and all claims demands, causes of action, judgments, losses, damages, liabilities, costs and expenses (including without limitation attorney's fees whether suit is instituted or not) whether known or unknown, liquidated or contingent (collectively "**Claims**") arising from or related to (a) the sale administered by the MIDDD, the MCPW or their agents, employees and contractors, or (b) any defects, errors or omissions in the design, condition or construction of the Property, whether the same are a result of negligence or otherwise, or (c) other conditions (including, but not limited to environmental conditions, wetlands, zoning and suitability) affecting the Property, whether the same are a result of negligence or otherwise, or (d) the ownership, title, possession, occupancy, use, management or leasing of the Property.

10. **Environmental Release.** The release set forth in Paragraph 9 above specifically includes any Claims under any Environmental Laws, or with respect to any environmental risk. "Environmental Laws" includes, but is not limited to the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act (42 U.S.C. §§6901 et seq.), the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C. §§9601 et seq.), the Emergency Planning and Community Right to Know Act (42 U.S.C. §§11001 et seq.), the Clean Air Act (42 U.S.C. §§7401 et seq.), the Clean Water Act (33 U.S.C. §§1251 et seq.), the Toxic Substances Control Act (15 U.S.C. §§2601 et seq.), the Hazardous Materials Transportation Act (49 U.S.C. §§1801 et seq.), the Occupational Safety and Health Act (29 U.S.C. §§651 et seq.), the Federal Insecticide, Fungicide and Rodenticide Act (7 U.S.C. §§136 et seq.), and the Safe Drinking Water Act (42 U.S.C. §§300f et seq.), as any of the same may be amended from time to time, and any state or local law dealing with environmental matters, and any regulations, orders, rules, procedures, guidelines and the like promulgated in connection therewith, regardless of whether the same are in existence on the date of this Agreement.

11. **Claims Liability.** The Purchaser acknowledges and agrees hold the MIDDD harmless from any and all losses, liabilities, actions, claims, debts, demands, judgments, liabilities, costs and attorneys' fees arising out of, claimed on account of, or in any manner predicated upon loss of or damage to property and injuries, illness or disabilities to or death of any and all persons whatsoever, including the Purchaser, members of the general public, or to the property of any legal or political entity including State, local and interstate bodies, in any manner caused by or contributed to by the Purchaser, its agents, contractors, servants, employees, or any person subject to its control while in, upon or about the sale site and/or the site of the Subject Property during due

diligence and before Closing, or while the Subject Property is in the possession of or subject to the control of the Purchaser, its agents, servants or employees after the Subject Property has been removed from the MIDDD's ownership, possession and control.

12. Default. In the event Purchaser defaults in its obligations to perform any of the covenants and agreements contained herein to be performed by Purchaser after acceptance and within the time for performance as specified herein, then MIDDD, in its sole discretion, may (i) retain the entire Deposit as liquidated damages; (ii) initiate an action for specific performance of the sale and the agreement to purchase the Subject Property expressly provided herein, including the recoupment of actual attorney fees and costs associated with the enforcement of this Agreement, as its sole remedy, or (iii) terminate this Agreement and return the Deposit to the Purchaser.

13. Closing. The closing of this transaction shall take place within seven (7) days of the close of the Due Diligence Period defined in Paragraph 6, at the offices of the MCPW, or at another mutually acceptable location agreed to by the parties (the "**Closing**"). At Closing, the Purchaser may obtain a title insurance policy at its own expense; however, the MIDDD will have no obligation or responsibility to issue or pay for any title insurance policy at or before Closing.

a. Closing Deliveries. At Closing (or such other times as may be specified below), MIDDD and/or Purchaser, as appropriate, shall deliver or cause to be delivered the following:

- i. Covenant Deed. A Covenant Deed transferring whatever rights, title and interest the MIDDD had in the Subject Property at the time of the sale.
- ii. Closing Statement. A closing statement conforming to the relevant provisions of this Agreement.
- iii. Property Transfer Affidavit. A property transfer affidavit to be submitted by Purchaser to the Macomb Township Assessor in accordance with state law.

Purchaser shall be responsible to pay for any and all escrow fees, closing costs and recording fees arising out of the Closing. The Purchaser shall also pay any and all state and local transfer taxes applicable to the transfer of title at Closing, if any.

14. Possession. MIDDD shall deliver possession of the Subject Property to Purchaser at Closing.

15. Headings. The headings of various Sections in this Agreement are for convenience only and are not to be utilized in construing the content or meaning of the substantive provisions hereof.

16. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Michigan, without regard to conflicts of law principles.

17. Severability. Whenever possible, each provision of this Agreement and all related documents shall be interpreted in such a manner as to be valid under applicable law but to the

extent any provision is invalid or prohibited under applicable law such provision shall be ineffective to the extent of such invalidity or prohibition without invalidating the remainder of such provisions of this Agreement.

18. Assignment. Purchaser shall have no right to assign this Agreement or any of its rights, title or interests without the express written consent of the MIDDD, which may be withheld in its sole discretion, except in the event that Purchaser assigns its rights to an affiliated and/or commonly controlled entity, in which case Purchaser shall not need consent from MIDDD; however, in such event the original Purchaser shall still remain bound by the terms and obligations of the auction bid and Purchase Agreement until a successful closing occurs.

19. Counter-Parts/Electronic Signatures. This Agreement may be executed in one or more counter-parts, each of which shall be deemed an original, but all which together can constitute one and the same document. All electronic copies of signatures of this Agreement shall be treated as an original for all purposes.

20. Notices. All notices and other communications hereunder shall be in writing and shall be effective if and when sent by registered or certified U.S. mail or reputable same-day or overnight courier, postage prepaid or otherwise accounted for by sender, and sent to the addresses set forth below (or at such other address for a party as shall be specified in a notice given in accordance with this Agreement):

If to MIDDD:

Macomb Interceptor Drain Drainage District
c/o Macomb County Department of Public Works
Attn: Tamara Keskeny, Manager Real Property
21777 Dunham Road
Clinton Township, MI 48036
E-mail: tamara.keskeny@macombgov.org

with copy to:

Benjamin J. Aloia, Esq.
Aloia & Associates, P.C.
48 S. Main Street, Ste. 3
Mount Clemens, MI 48043
Email: aloia@aloiaandassociates.com

If to Purchaser:

with copy to:

Either party may, by written notice to the other, change the address to which notices are to be sent. Unless otherwise provided herein, all notices shall be deemed given as provided above, except that a notice of a change of address shall be deemed given when actually received. Seller's affidavit of the date and time of deposit in a mailbox or with the express mail service or the postmark, whichever is earlier shall constitute evidence of the effective date when the notice has been given.

21. Entire Agreement. This written Agreement, including all Exhibits incorporated herein, embodies the entire understanding between the parties hereto with respect to the subject matter contained herein, and supersedes any and all prior negotiations, discussions, understandings and written or oral agreements among them with respect to the subject matter. The terms of this Agreement are contractual and not merely recital and supersede and control any previous course of dealing or usage of trade. In the event there is any conflict between the terms of this Agreement and the terms of any acknowledgment or other documents relating to this Agreement, the terms of this Agreement shall control. All the documents attached to this Agreement as Exhibits are hereby integrated into this Agreement, and have been reviewed and approved by each party, and each party acknowledges its consent to sign those documents at Closing.

22. Voluntary and Knowing Ratification and Construction. Each Party acknowledges that it has retained counsel of its own choosing concerning the claims released in this Agreement; that each Party has read and fully understands the terms of this Agreement and/or has had it reviewed and approved by their counsel of choice, with adequate opportunity and time for such review; that this Agreement has been the result of negotiations; and that each Party is fully aware of its contents and of its legal effect. Accordingly, this Agreement will not be construed against any Party because such Party drafted this Agreement. Instead, this Agreement will be interpreted as though drafted equally by all Parties. Each Party enters into this Agreement freely and voluntarily and with a full understanding of its terms. Each Party acknowledges that, except as expressly set forth in this Agreement; no representations of any kind or character have been made to it by the other to induce its execution of this document. Each Party further state that the only representations made to it to obtain its consent to this Agreement is stated in this agreement and that each Party is signing this Agreement voluntarily and without coercion, intimidation, or threat of retaliation.

23. Waiver. The failure of any party to enforce at any time any of the provisions of this Agreement shall in no way be a waiver of such provision or in any way affect the validity of this Agreement or any part of this Agreement or the right of any party thereafter to enforce each and any such provision. No waiver of any breach of this Agreement shall be held to be a waiver of any other breach of this Agreement.

24. Amendment. This Agreement may not be amended, changed or modified in any manner except by an instrument in writing signed by each of the parties hereto and their respective representatives, agents, successors and permitted assigns.

25. Authority. The signatories of each Party below have signed this Agreement with the authority and approval of their respective governing boards, including the Drain Board for the Macomb County Interceptor Drain Drainage District. This Agreement shall be binding upon the parties, and their respective shareholders, managers, members, boards, directors, officers, agents, employees, successors and permitted assigns.

26. **No Brokers.** Purchaser and the MIDD D acknowledge that there are no real estate brokers or salespersons representing either Party in this sale. Each Party represents and warrants to the other party that neither party, nor anyone acting on the behalf of either party, has incurred any liability to any broker or finder in connection with the transaction contemplated by this Agreement and each Party agrees to defend and indemnify the other Party against claims of any such broker or anyone claiming by, through or under such Party. These representations, warranties and indemnities shall survive Closing and/or termination of this Agreement for any reason.

IN WITNESS WHEREOF, the Seller and Purchaser have executed this Agreement on the dates written below.

Macomb Interceptor Drain Drainage District:

Dated: November __, 2018

/s/ _____

By: Candice S. Miller

Its: Chairperson

PURCHASER:

Dated: November 14, 2018

/s/ _____

By:

Its:

EXHIBIT A

Subject Property Legal Description

Real property in the Township of Macomb, County of Macomb, State of Michigan, described as follows:

Part of the southwest $\frac{1}{4}$ of section 32, town 3 north, range 13 east, being described as: Commencing at the southwest corner of section 32; thence north 00 degrees 13 minutes 12 seconds west 285.77 feet along the west line of section 32 to the north line of M-59 and the point of beginning; thence continuing along the west line of section 32 north 00 degrees 13 minutes 12 seconds west 1052.66 feet; thence south 89 degrees 50 minutes 48 seconds east 171.39 feet to the west right of way line of Garfield Road (120 feet wide); thence along the west line of Garfield Road the following two courses, south 21 degrees 26 minutes 45 seconds east 659.63 feet and along a tangent curve concave to the southwest having a central angle of 14 degrees 11 minutes 38 seconds, a radius of 1840.00 feet, an arc length of 455.82 feet and whose chord is south 14 degrees 20 minutes 56 seconds east 454.66 feet to the north right of way line of M-59; thence north 89 degrees 45 minutes 15 seconds west 521.20 feet along the north right of way line of M-59 to the west line of section 32 and the point of beginning.

Commonly known as: 45345 Garfield Road, Macomb Township, MI 48044
Tax Parcel ID No. 08-32-300-018

MACOMB INTERCEPTOR DRAIN - 10/15/18

Funding Source	Apportionment	Manager	Vendor	Amount	Invoice Detail	Project Summary	Project Balance	
Macomb Interceptor Drain Administration	Chapter 20 Chesterfield - 6.9899% Clinton - 20.9164% Fraser - 4.1343% Harrison - 5.9902% Lenox - .8610% Macomb - 14.5180% New Haven - .8150% Shelby - 9.9241% Sterling Heights - 31.2761% Utica - 1.7244% Washington - 2.8507%							
		Bantios	Anderson, Eckstein & Westrick, Inc.	\$ 13,155.85	Invoice #0118939 - 9/7/18 Engineering Services - 7/23/18 - 8/19/18	Dropshaft & Connecting Sewer Rehab	\$ 270,733.50	
		Astorino	Belle Tire	\$ 789.32	Invoice #32033406 - 9/11/18	2017 F250 - 4 Tires		
		Bantios	Doctor Mole	\$ 24,860.75	Invoice #18012-01 - 9/1/18	Project Plan Review		\$ 75,139.25
		Astorino	Stephen Downing	\$ 742.39	Risk Management in Underground Construction Conference	Education & Training		
		Astorino	Fishbeck, Thompson, Carr & Huber, Inc.	\$ 5,260.50	Invoice #376781 - 8/20/18 Engineering Services - ending 8/10/18	MIDDD WWMP		\$ 715,605.50
		Astorino	Fishbeck, Thompson, Carr & Huber, Inc.	\$ 3,768.50	Invoice #376793 - 8/20/18 Engineering Services - ending 8/10/18	SEMDS WWMP (paid by SEMSD)		\$ 544,769.50
		Astorino	Fishbeck, Thompson, Carr & Huber, Inc.	\$ 1,668.00	Invoice #377509 - 9/17/18 Engineering Services - ending 9/7/18	GLWA Assistance		
		Astorino	Fishbeck, Thompson, Carr & Huber, Inc.	\$ 16,796.70	Invoice #377516 - 9/17/18 Engineering Services - ending 9/7/18	MIDDD WWMP		\$ 698,808.80
		Astorino	Fishbeck, Thompson, Carr & Huber, Inc.	\$ 3,314.50	Invoice #377518 - 9/17/18 Engineering Services - ending 9/7/18	As-Needed Engineering Services		\$ 33,948.60
		Astorino	Fishbeck, Thompson, Carr & Huber, Inc.	\$ 26,181.30	Invoice #377531 - 9/17/18 Engineering Services - ending 9/7/18	SEMDS WWMP (paid by SEMSD)		\$ 518,588.20
		Astorino	Fishbeck, Thompson, Carr & Huber, Inc.	\$ 121,617.00	Invoice #377943 - 9/24/18 Engineering Services - ending 9/7/18	SEMDS WWMP (paid by SEMSD)		\$ 396,971.20
		Astorino	Great Lakes Water Authority	\$ 1,381.10	Invoice #8121-2018 - 9/17/18	Industrial Waste Control (pass through)		
		Astorino	Johnson & Anderson	\$ 1,812.50	Invoice #42090 - 9/19/18 Engineering Services - ending 9/1/18	Conversion of MCMARS to Bluewater		\$ 16,987.50
		Astorino	Macomb County Dept. of Roads	\$ 1,023.46	Invoice #301077 - 9/11/18	Monthly Fuel		
		Astorino	METCO Consulting Engineers	\$ 6,636.29	Invoice #1717-01 - 9/10/18 Engineering Services - 1/15/18 - 9/2/18	Flow Control Services		
		Astorino	Mount Clemens	\$ 13,270.22	Invoice #12689 - 9/5/18	Sewage Flow Billing - 7/28/18 - 8/24/18		
Downing	NTH Consultants, Ltd.	\$ 6,314.15	Invoice #615662 - 9/5/18 Engineering Services - ending 8/24/18	Dropshaft & Connecting Sewer Rehab		\$ 380,194.60		
Astorino	Sprint	\$ 811.66	Invoice #578756375-083 - 8/27/18	Monthly Cell - 7/24/18 - 8/23/18				

MACOMB INTERCEPTOR DRAIN - 10/15/18

Funding Source	Apportionment	Manager	Vendor	Amount	Invoice Detail	Project Summary	Project Balance
Administration (Cont'd)		Astorino	Viviano Law	\$ 5,978.54	Invoice #20044 - 9/5/18 Legal Services - ending 8/31/18	General Matters	
		Astorino	Viviano Law	\$ 2,204.00	Invoice #20058 - 9/12/18 Legal Services - ending 8/31/18	Data Sharing Agreement - Master Plan	
Clintondale P.S.		Astorino	Charter Township of Clinton	\$ 2,249.24	Monthly Water - 7/24/18 - 8/21/18	Tri-Annual Maintenance on ARVs	
		Astorino	DE-CAL, Inc.	\$ 1,695.00	Invoice #WO18001002 - 8/30/18	Tri-Annual Maintenance on ARVs	
		Astorino	DE-CAL, Inc.	\$ 1,786.00	Invoice #WO18000992 - 9/7/18	Tri-Annual Maintenance on ARVs	
		Astorino	DTE Energy	\$ 13,942.71	Monthly Electric - 8/2/18 - 9/4/18	Tri-Annual Maintenance on ARVs	
		Astorino	GFL	\$ 1,224.20	Invoice #RS000252621 - 9/16/18	Trash Removal	
		Manning	Huntington National Bank	\$ 547,500.00	Invoice #18507 - 9/19/18	Bond Series 2011	
15 Mile Sinkhole		Bantios	Anderson, Eckstein & Westrick, Inc.	\$ 25,310.48	Invoice #0118950 - 9/5/18 Engineering Services - 7/23/18 - 8/19/18	Recovery Shaft	
		Manning	Huntington National Bank	\$ 2,949,025.00	Invoice #18-506 - 9/19/18	Refunding Bond Series 2017A	
		Bantios	Viviano Law	\$ 13,495.91	Invoice #20042 - 9/5/18 Legal Services - ending 8/31/18	Sinkhole	
		Bantios	Viviano Law	\$ 12,029.54	Invoice #20043 - 9/5/18 Legal Services - ending 8/31/18	Sterling Heights vs. MIDDD	
Meters		Astorino	HESCO	\$ 15,010.00	Application #22 - 9/14/18	MID Meter Maintenance	
		Astorino	ULINE	\$ 597.08	Invoice #100522103 - 8/22/18	Safety Bollards for Meter ST-S-2	
NGI		Astorino	DTE Energy	\$ 1,123.72	Monthly Electric - 8/1/18 - 8/29/18	Quarterly PM on ARVs	
		Astorino	DE-CAL, Inc.	\$ 5,402.00	Invoice #WO18000847 - 8/29/18	Clean 2 forcemains - 27,000'	
		Astorino	Flowmore Services	\$ 16,435.00	Invoice #21463 - 9/4/18	Vactor Rock Basket	
		Astorino	National Industrial Maintenance	\$ 2,065.00	Invoice #32971 - 8/31/18	As-Needed Engineering Services	\$ 13,821.00
		Astorino	Wade Trim	\$ 1,817.50	Invoice #M2012685 - 9/26/18 Engineering Services - 8/26/18 - 9/22/18		
		Astorino	Macomb County	\$ 771.00	8074-2018 - 8/28/18	Reimbursement for Lunches - 3 Meetings	
OMID		Astorino	Oakland County Treasurer	\$ 4,570,860.67	Invoice #SDS0005967 - 9/4/18	Sewerage Disposal Charges - August 2018	
			Total	\$ 8,439,926.78			

Income Statement
MIDDD
As of September 30, 2018

	30-Jun-18	7-1-18 to 9-30-18
	Total Fund	O&M**
Revenues		11,693,057.00
Expenditures		9,681,130.00
Equity*	24,259,763	

NOTES

- *Projected reserve at 6/30/2018 15,675,763
- *Projected Engineering Reserve 3,250,000
- *Projected Sinkhole Surplus 4,800,000
- *Life Cycle Reserve 534,000
- Use of surplus for 18/19 (3,000,000)

** Includes following Projects:

Dec 2016 Sinkhole	70,000,000	2017A Bond
Revenue	75,633,693	State Grant
Expenditures	71,032,965	Clinton Twp share of AEW invoice
Net	4,600,728	sale of property