

Miller
Santo
Haugh

ELEVEN AND ONE HALF MILE RELIEF DRAIN
INTRA-COUNTY DRAINAGE BOARD
NOVEMBER 9, 2020
10:15 A.M.
AGENDA

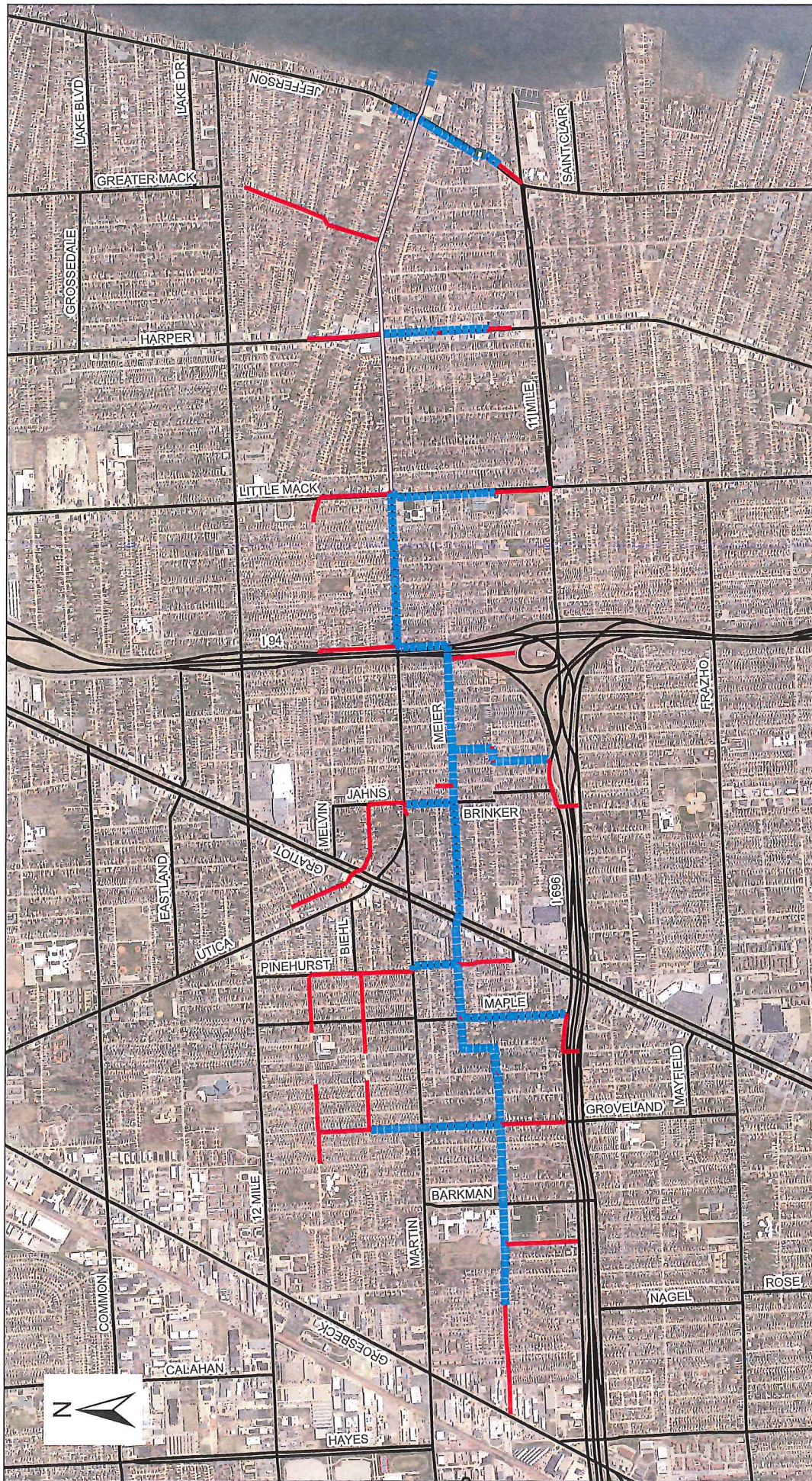
NOTE: THIS MEETING WILL BE HELD BY TELECONFERENCE

Call in Number: 1-408-418-9388
Access Code: 173 897 6343

	Page
1. Call of meeting to order and roll call	
2. Approval of Agenda for November 9, 2020	
3. Approval of Minutes for October 19, 2020	3
4. Public Participation	
5. Project Update – Jeff Bednar	
6. VFW Consent Judgment and Amended Right of Way/Easement Agreement – Ben Aloia	5
Motion: To approve the Consent Judgment and Amended Right of Way and Drainage Easement agreement with the VFW Post.	
7. Consideration for approval of invoices (see attached)q	14
8. Financial Report – Bruce Manning	15
9. Adjourn	

11 & 1/2 MILE RELIEF DRAIN

ROSEVILLE/ST CLAIR SHORES



Legend

- Enclosed Gravity**
 - < 60" Dia
 - >= 60" Dia
 - Multiple Pipes
- Open Channel**
 - Ditch
 - Pond
- Culvert



Drain Length (Feet/Miles):
64,387.97 / 12.19



An adjourned meeting of the Intra-County Drainage Board for the **ELEVEN AND ONE HALF MILE RELIEF DRAIN INTRA-COUNTY DRAIN** was held via telephone conference per the State Public Act 228 of 2020 due to the COVID-19 pandemic, on October 19, 2020, at 10:30 A.M.

PRESENT: Candice S. Miller, Chair
Harold Haugh, Member
Bryan Santo, Member

ALSO PRESENT: Robert Mijac, Macomb County Board of Commissioners; Brian Baker, Chief Deputy, Karen Czernel, Deputy, Stephen Downing, Construction & Maintenance Manager, Bruce Manning, Financial Manager, Tom Stockel, Construction Engineer, Jeff Bednar P.E., Environmental Resources Manager, Vince Astorino, Operations & Flow Manager, Kellie Kource, Drain Account Specialist, Norb Franz, Communications Manager, Macomb County Public Works

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

Adopted: YEAS: 3
NAYS: 0

Minutes of the meeting of September 14, 2020 were presented. A motion was made by Mr. Haugh, supported by Mr. Santo to approve the minutes as presented.

Adopted: YEAS: 3
NAYS: 0

The meeting was opened to public participation, then closed, there being no comments from the public.

Mr. Bednar updated the board that there was a meeting with St. Clair Shores regarding the quiet title action with VFW Post and have a verbal agreement to move forward. We are waiting for the legal documents to be finalized. We are also completing the trash collector/potential park study for St. Clair Shores funded through SEMCOG and are at the final drawings with Fishbeck. The public outreach for feedback will happen in November and will then seek out a grant for the project.

A motion was made by Mr. Haugh, supported by Mr. Santo to receive and file the project update by Mr. Bednar.

Adopted: YEAS: 3
NAYS: 0

The Chair presented the invoices totaling \$11,235.89 to the board for review and approval.

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

Adopted: YEAS: 3
NAYS: 0

A motion to receive and file the financial report given by Mr. Manning was made by Mr. Santo and supported by Mr. Haugh.

Adopted: YEAS: 3
NAYS: 0

There being no further business, it was moved by Mr. Haugh, supported by Mr. Santo, that the meeting of the Eleven and One-Half Mile Relief Intra-County Drain Board be adjourned.

Adopted: YEAS: 3
NAYS: 0

The meeting was adjourned at 10:39 a.m.



Candice S. Miller, Chair
Macomb County Public Works Commissioner

STATE OF MICHIGAN
COUNTY OF MACOMB

I certify that the foregoing is a true and correct copy of proceedings taking by the Intra-County Drainage Board for the Drainage District shown on the attached set of minutes, on October 19, 2020 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, Chair
Macomb County Public Works Commissioner

DATED: 10/19/20

11 ½ MILE RELIEF DRAIN DRAINAGE DISTRICT
AGENDA ITEM WORKSHEET

Meeting Date: Monday, November 9, 2020

Lawsuit: VFW v 11 ½ Mile Relief Drain Drainage District, et. al.
Macomb County Circuit Court Case No. 20-0531-CH

Subject Property: The north 26 feet of Lot 1, Bayview Subdivision (vacant)
Tax ID No. 14-14-326-015 ("Subject Property")

Case Synopsis:

This is a request for the 11 ½ Mile Relief Drain Drainage District's ("Drainage District's") review and approval of the enclosed Consent Judgment and Amended Right of Way and Drainage Easement ("Amended Easement").

On February 7, 2020 the Corp. Walter F. Bruce Post 1146 Veterans of Foreign Wars of the U.S. ("VFW") filed a lawsuit to quiet the title of the 26' wide Subject Property abutting their VFW Post in St. Clair Shores. The Subject Property's length extends from Jefferson Avenue to Lake St. Clair (see enclosed picture). The VFW claimed in the lawsuit that they have used and maintained exclusive control of the Subject Property for more than 50 years. The Subject Property is titled in the name of an unknown individual named James D. May.

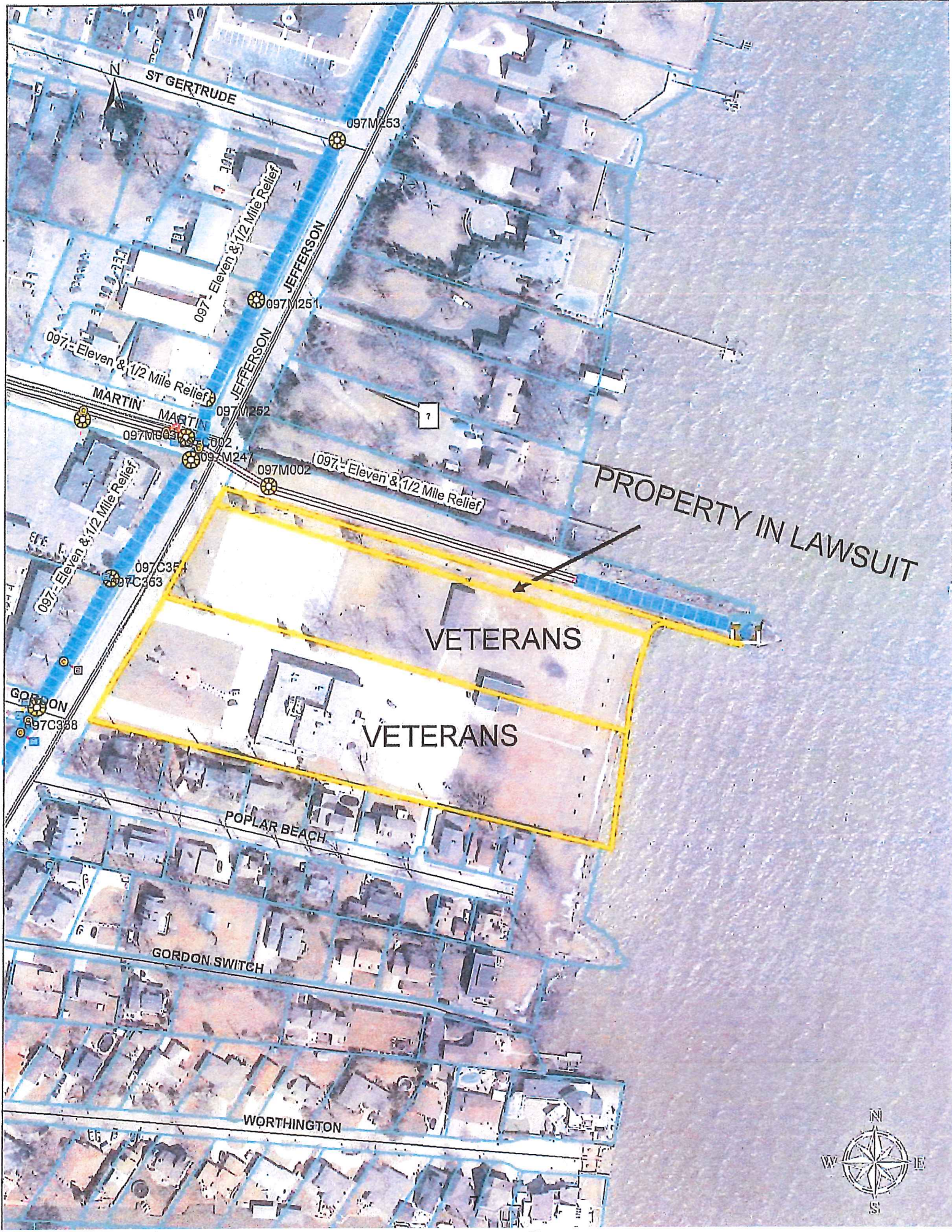
However, the Drainage District has maintained a right of way easement over the entire Subject Property since 1964. In addition, the Drainage District owns the property immediately to the north of the Subject Property. The proposed Consent Judgment quiets the title in the name of the VFW, but preserves the Drain District's easement rights under the Amended Easement. The proposed Amended Easement maintains the Drainage District's broad easement rights to maintain its storm sewer facilities and access within its easement on the Subject Property, but modernizes the terms of the easement document and further defines the Drainage District's rights in relationship to the VFW's title ownership.

The Consent Judgment further preserves the access easement rights of the Bayview Subdivision homeowners through an easement document which has never been recorded until now. None of the homeowners of this subdivision, including James D. May, answered the Complaint or appeared in the lawsuit, and have been defaulted from defending it. The City of St. Clair Shores has requested both the Drain District and the VFW to work out their own deal relating to the Subject Property, and the City is only interested in the possibility of the Drainage District building a park on the Drain District's adjacent parcel, which may still occur.

The Consent Judgment and Amended Drainage and Right of Way Easement resolves all outstanding issues in the litigation relating to the Subject Property. All documents have been reviewed and recommended for approval by Macomb County Public Works' administration.

Recommendation:

Approve the enclosed Consent Judgment and Amended Easement.



ST GERTRUDE

097M253

Eleven & 1/2 Mile Relief

097M251

097M252

MARTIN

097M002

Eleven & 1/2 Mile Relief

097M247

097C354

097C363

097C368

GORDON

VETERANS

VETERANS

POPULAR BEACH

GORDON SWITCH

WORTHINGTON

PROPERTY IN LAWSUIT



STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF MACOMB

CORP. WALTER F. BRUCE POST 1146 VETERANS OF
FOREIGN WARS OF THE U.S., a Michigan nonprofit
corporation,

Plaintiff,

Case No. 20-0531-CH
HON. JOSEPH TOIA

vs.

JAMES D. MAY, KALEEL B. BONABOON and HELEN
BONABOON, husband and wife, HENRY BARANOWSKI
and AUGUSTA BARANOWSKI, husband and wife,
MATHIAS J. DOEREN and ALICE A. DOEREN, husband
and wife, MAX SHRODECK, ISIDORE FREEDMAN and
SARAH FREEDMAN, husband and wife, CHARLES E.
GORSUCH and FLORA I. GORSUCH, husband and wife,
MARY BOYD and BESSIE HEALEY, as joint tenants, the
CITY OF ST. CLAIR SHORES, and 11 ½ MILE RELIEF
DRAIN DRAINAGE DISTRICT,

Defendants.

JAMES P. BABCOCK (P27248)
Attorney for Plaintiff
21610 Eleven Mile Road, Suite 1
St. Clair Shores, MI 48081
586.445.1660
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ALOIA & ASSOCIATES, P.C.
By: BENJAMIN J. ALOIA (P54424)
AARON M. KEYES (P68757)
JEFFREY M. CANDELA (P78309)
Attorneys for 11 ½ Mile Relief Drain Drainage
District
48 South Main Street, Suite 3
Mt. Clemens, MI 48043
586.783.3300
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CONSENT JUDGMENT QUIETING TITLE

At a session of said Court, held in the
Circuit Courthouse, in the City of Mt. Clemens,
County of Macomb, State of Michigan, on

PRESENT: HONORABLE _____
JOSEPH TOIA
Circuit Court Judge

This matter has come before the court upon the consent of the parties and the Court otherwise being advised of the premises states as follows:

RECITALS

WHEREAS, Plaintiff Corp. Walter F. Bruce Post 1146 Veterans of Foreign Wars of the U.S., (“VFW”) filed a Complaint to Quiet Title to real property located in the City of St. Clair Shore, County of Macomb, State of Michigan and more specifically described as follows:

The north 26 feet of Lot 1, Bayview Subdivision, according to the plat thereof recorded in Liber 2, Page 104 of Plats, Macomb County Records.

Tax Parcel ID No. 09-14-14-326-015

(“Subject Property”);

WHEREAS, Defendant 11 ½ Mile Relief Drain Drainage District (the “Drainage District”) has an interest in the Subject Property through a Right of Way and Easement, dated January 21, 1964 and recorded on February 18, 1964 in Liber 1543, Page 678, Macomb County Records (“1964 Easement”);

WHEREAS, on March 6, 2020, Defendant City of St. Clair Shores was dismissed without prejudice;

WHEREAS, on _____, a default judgment was entered against Defendants James D. May, Kaleel B. Bonaboon, Helen Bonaboon, Henry Baranowski, Augusta Baranowski, Mathias J.

Doeren, Alice A. Doeren, Max Shrodeck, Isidore Freedman, Sarah Freedman, Charles E. Gorsuch, Flora I. Gorsuch, Mary Boyd, and Bessie Healey (the “Defaulted Defendants”);

WHEREAS, the VFW and the Drainage District have reached a settlement of their respective claims and have memorialized their settlement terms in this Consent Judgment.

NOW THEREFORE, IT IS ORDERED AND ADJUDGED AS FOLLOWS:

1. **Incorporation of Recitals.** Each of the foregoing Recitals is true and correct and is incorporated as if fully set forth herein.

2. **Quiet Title.** All right, title and interest to the Subject Property claimed, held or owned by the Defaulted Defendants and their respective predecessors in interest, affiliates, heirs, successors and assigns shall be quieted, sold, transferred and conveyed to VFW in accordance with the default judgment.

3. **Agreement.** VFW’s right, title and interest to the Subject Property is subject to an Agreement Between Martin Road Homeowners Association on Behalf of Bayview Subdivision Property Owners and the Bruce Post Memorial Home Corporation attached hereto as **Exhibit A**.

4. **1964 Easement.** VFW’s right, title and interest to the Subject Property is subject to the 1964 Easement attached hereto as **Exhibit B**.

5. **2020 Easement.** VFW’s right, title and interest to the Subject Property is subject to the easement attached hereto as **Exhibit C**, which will be recorded by VFW with the Macomb County Register of Deeds after the entry of this Consent Judgment by the Court.

6. **Recording.** A copy of the Consent Judgment shall be recorded by VFW with the Macomb County Register of Deeds after its entry by the Court.

HON. JOSEPH TOIA
CIRCUIT COURT JUDGE

THIS IS A FINAL JUDGMENT THAT RESOLVES THE LAST PENDING CLAIMS WITH PREJUDICE AND WITHOUT COSTS BETWEEN ALL OF THE PARTIES TO THIS ACTION AND CLOSES THIS CASE.

Approved as to form and substance:

James P. Babcock (P27248)
Attorney for VFW

Benjamin J. Aloia (P54424)
Attorney for Drain District

AMENDED RIGHT-OF-WAY AND DRAINAGE EASEMENT

This Right of Way and Drainage Easement amends the Right of Way Easement recorded on February 18, 1964 at Liber 1543, Page 678 of Macomb County Records.

For and in consideration of the sum of One and 00/100 (\$1.00) Dollar, **CORP. WALTER F. BRUCE POST 1146 VETERANS OF FOREIGN WARS OF THE U.S.** (the "Grantor"), whose address is 28404 E Jefferson, St. Clair Shore, MI 48081, does hereby grant, warrant and convey to the **11 ½ MILE RELIEF DRAIN DRAINAGE DISTRICT**, a body corporate, organized and existing by virtue of and under the provision of Chapter 20 of Act No. 40 of the Public Acts of the State of Michigan for the year 1956, as amended (the "Grantee"), whose address is c/o Macomb County Department of Public Works, 21777 Dunham Road, Clinton Township, MI 48036, its agents, servants, employees and contractors, a permanent, exclusive easement, and perpetual right of entry to real property located in the City of St. Clair Shores, County of Macomb, State of Michigan and more specifically described as follows:

The north 26 feet of Lot 1, Bayview Subdivision, according to the plat thereof recorded in Liber 2, Page 104 of Plats, Macomb County Records.

Tax Parcel ID No. 09-14-14-326-015

("Easement Area")

The rights granted under this Easement include the perpetual right to enter through, over, under and upon the Easement Area and to do that which is necessary or desirable for the location, establishment, construction, reconstruction, installation, use, repair, maintenance, preservation, replacement, and operation of the 11 ½ Mile Relief Drain ("Drain") and its facilities and appurtenances, which includes, but is not limited to, the right to install, maintain, repair or relocate any desirable drainage and storm sewer facilities, temporary or permanent soil erosion control facilities, low-flow diversion weirs, an access road for ingress and egress, utilities to service any of the above uses, and the right to trim or remove any brush, trees, or other vegetation that interfere with the uses authorized above or that is not being maintained by the Grantor. All of this is subject to the continuation of the provision allowing a ramp providing access to the lake as stated in the original Right-of Way Easement recorded on February 18, 1964 referred to above. Grantee shall not permanently prevent unfettered access to vehicles, trailers and pedestrians to any boat ramp that may exist.

Notwithstanding the changes and improvements permitted by this Easement, Grantee shall reasonably restore and repair any damage to the Easement Area or adjoining property, caused by Grantee, its contractors or agents, at its own cost and expense, in substantially the same condition that existed before the commencement of Grantee's activities. The existing fencing shall remain at its current location, or replaced in the same location, unless otherwise agreed to by Grantor and Grantee. No additional permanent perimeter fencing shall be installed on the Easement Area without the prior written consent of the Grantor.

ELEVEN AND ONE HALF MILE RELIEF DRAIN 10/20/20 - 11/4/20

<u>Funding Source</u>	<u>Apportionment</u>	<u>Manager</u>	<u>Vendor</u>	<u>Amount</u>	<u>Invoice Detail</u>	<u>Project Summary</u>	<u>Project Balance</u>
Eleven and One Half Mile Relief	Chapter 20 St. Clair Shores	Baker Bednar	Aloia & Associates, P.C. Fishbeck	\$ 617.50	Invoice #20630 - 9.1.20	VFW Post Quick Claim Deed Professional Services through 10.2.20	\$ 7,617.70
				\$ 694.00	Invoice #395879 - 10.12.20		
Total				\$ 1,311.50			

YTD Trial Balance

Fund: 11.5 Mile

As of Fiscal Period: Oct 1, 2020-Oct 31, 2020

	O&M Balance 9/30/2020	O&M	Total 10/31/2020
Cash - Operating	401,621	195	401,816
Accounts Receivable			0
Assets			0
Liabilities			0
Revenues		195	195
Expenditures			0
Encumbered for SAW			0
Equity	401,621		401,816

<u>NOTES</u>	Grant	Match	Total
SEMCOG Retrofit & Public Access	36,832	8,168	45,000
YTD	(25,962)	(5,757)	(31,719)
Remaining	10,870	2,411	13,281