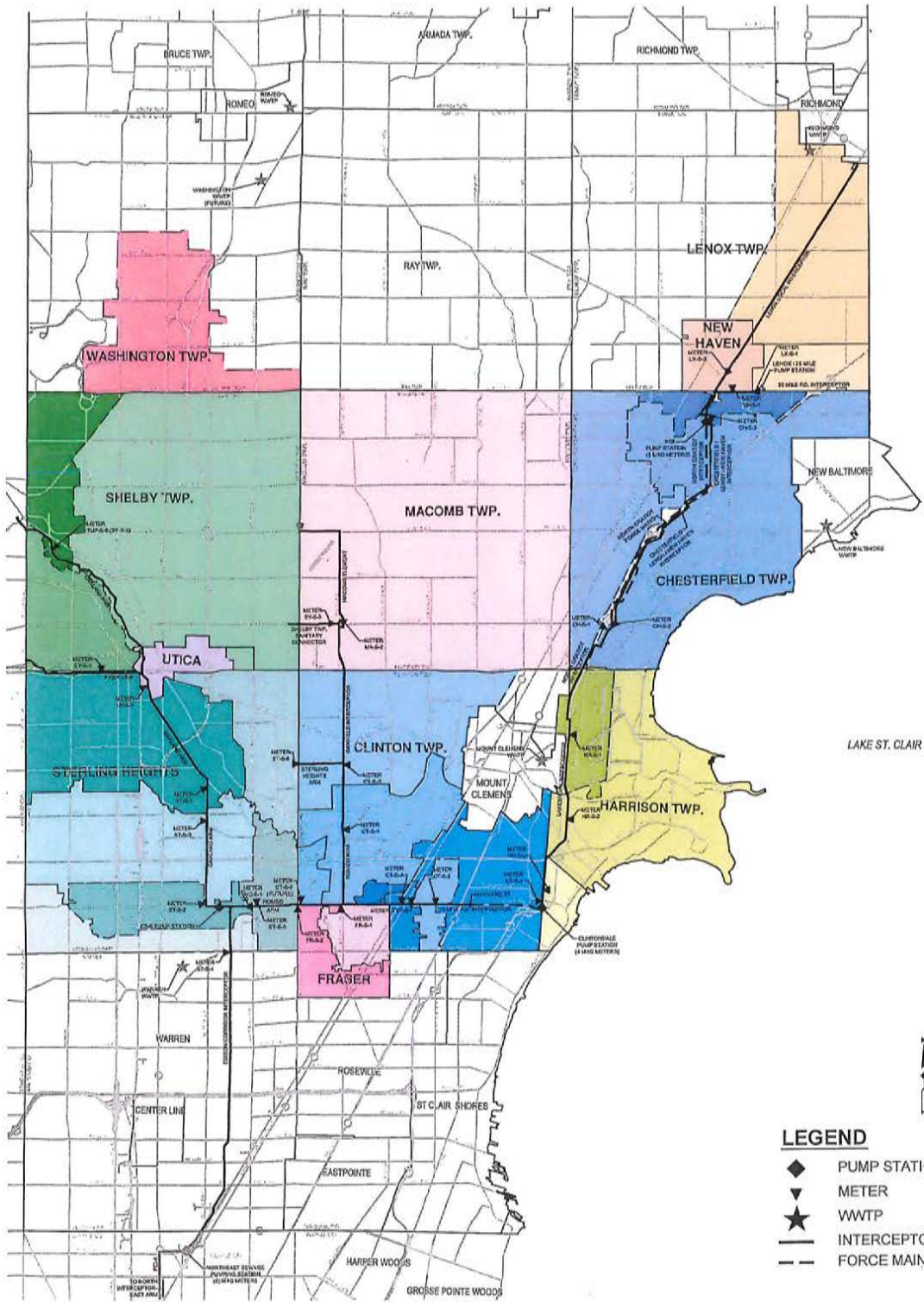


MACOMB INTERCEPTOR DRAIN
INTRA-COUNTY DRAINAGE BOARD
AUGUST 12, 2019
10:45 A.M.
AGENDA

	Page
1. Call of meeting to order and roll call	
2. Approval of Agenda for August 12, 2019	
3. Approval of Minutes for July 8, 2019	3
4. Public Participation	
5. Correspondence: Notice of Termination Garfield/M59 Guastello Purchase Agreement – Ben Aloia	5
6. Garfield/M59 Property Sale – Mansour Purchase Agreement – Ben Aloia	8
Motion: To approve the proposed purchase agreement’s basic terms, subject to MIDD’s counsel Ben Aloia and Commissioner Miller working with the purchaser to finalize the details of the Purchase Agreement before Commissioner Miller’s execution	
7. Project Updates – Vince Astorino/Stephen Downing	
8. MIDDD Romeo Arm Grouting Program – Vince Astorino/Stephen Downing	31
Motion: To authorize the Macomb County Public Works Office to contract with Doetsch Environmental on a time and materials basis to grout needed sections of the interceptor at a not to exceed cost of 350,000	
9. Award Recommendation for Design of Segment 5 Lining - Vince Astorino/Stephen Downing (Information to be presented at meeting)	
10. Revised SRF Romeo Arm Project Plan Board Resolution - Vince Astorino	33
Motion: To adopt the revised SRF Resolution which appoints the Macomb County Public Works Office Chief Deputy as authorized representative for SRF activities associated with the Romeo Arm Project	
11. Consideration for approval of invoices (see attached)	35
12. Financial Report – Bruce Manning	36
13. Adjourn	

MACOMB INTERCEPTOR DRAIN DRAINAGE DISTRICT



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



Candice S. Miller

MACOMB COUNTY PUBLIC WORKS COMMISSIONER



UPDATED: FEBRUARY 2017

An adjourned meeting of the Intra-County Drainage Board for the **MACOMB INTERCEPTOR DRAIN** was held in the Office of the Macomb County Public Works Commissioner, 21777 Dunham, Clinton Township, Michigan, on July 8, 2019, at 10:53 A.M.

PRESENT: Brian Baker, Acting Chair
Bryan Santo, Member

ABSENT: Robert Mijac, Member

ALSO PRESENT: Dan Heaton, Communications Manager, Kellie Kource, Drain Account Specialist, Bruce Manning, Financial Manager, Stephen Downing, Construction & Maintenance Manager, Macomb County Public Works; Brett McDonald, SEMSD

The meeting was called to order by Acting Chair, Brian Baker. A motion was made by Mr. Baker, supported by Mr. Santo to approve the agenda as presented.

Adopted: YEAS: 2
NAYS: 0

Minutes of the meeting of June 10, 2019 were presented. A motion was made by Mr. Baker, supported by Mr. Santo to approve the minutes as presented.

Adopted: YEAS: 2
NAYS: 0

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

Mr. Downing updated the board that we released the contractors to start the Biofilter Media Replacement in Fraser. They will give him a start date soon and it should be about a one week operation. Bid preparations for many projects are underway including the Drop Shaft Rehab Project, the chemical grouting of Segment 5, and a recommendation to the board next month for the design of Segment 5 lining. The next risk analysis for Segment 6 is set to start soon also. Many bid packages will be out for bid and we should have a lot of recommendations the next couple of months. The regular 3 year maintenance contract will be going out for bid in August, and we will line up our next inspection cycle of non-reinforced concrete pipe. It will be a very active late summer and fall for the MIDD.

A motion was made by Mr. Santo, supported by Mr. Baker to receive and file the project update given by Mr. Downing.

Adopted: YEAS: 2
NAYS: 0

The Chair presented the invoices totaling \$189,677.94 to the board for review and approval.

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

Adopted: YEAS: 2
NAYS: 0

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

Adopted: YEAS: 2
NAYS: 0

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

Adopted: YEAS: 2
NAYS: 0


The meeting was adjourned at 11:00 a.m.



Brian Baker, Acting 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 July 8, 2019 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.



Brian Baker, Acting Chair
Macomb County Public Works Commissioner

DATED: 7/8/19

July 22, 2019

VIA ELECTRONIC MAIL

Macomb Interceptor Drain Drainage District Board
c/o Candice Miller, Macomb County Public Works Commissioner
21777 Dunham Road
Clinton Township, MI 48036

Re: Macomb Interceptor Drain Drainage District
MIDDD Property – 45345 Garfield Road, Macomb Twp., MI (“Property”)

Dear Commissioner Miller, Mr. Santo and Mr. Mijak:

As you are aware, on December 18, 2018, the MIDDD signed a purchase agreement to sell the above-referenced property to Thomas Guastello for \$3.5 Million. The purchase agreement permitted a due diligence period and sale contingencies. On April 5, 2019, Mr. Guastello sent the enclosed termination notice.

The main point of contention by Mr. Guastello at that time was that there is a disputed tract of land situated between a parcel he owns off M-59 and the MIDDD parcel, and until title to the disputed tract of land is resolved, he cannot assemble the properties, defeating the purpose of his purchase.

Because this disputed tract is immediately adjacent to the MIDDD parcel and potentially affecting the marketability of the MIDDD parcel, my office did some research and discovered that the disputed tract was erroneously titled in the Macomb County Road Commission by the Macomb Township Assessor. This parcel should have been part of the purchase of Mr. Guastello’s M-59 property many years ago, but it was excluded due to this mistake.

After several discussions with Mr. Guastello, he was convinced that he should file a quiet title action to resolve title to disputed parcel and remain in the MIDDD deal. In reliance of Mr. Guastello’s representation, and after consulting with Commissioner Miller, I drafted an addendum to revoke the termination and extend the due diligence period. It was wise to remain in this deal with Mr. Guastello if this quiet title issue was the only remaining item to be resolved.


Mr. Guastello did file his quiet title action last week, but he contacted me and informed me he is not going to sign the extension and he is going to rely on his previous termination because the current retail commercial climate is negatively affecting his investment portfolio.

I am coordinating with Commissioner Miller and Tamara Keskeny to renew a marketing strategy, including listing the parcel on LoopNet, adding it back to our website and re-installing the “For Sale” sign back on the MIDDD Property. We have been contacted by numerous brokers about this property, and we believe we may receive other offers.

Macomb Interceptor Drain Drainage District Board
c/o Candice Miller, Macomb County Public Works Commissioner
July 22, 2019
Page Two

Thank you for your attention to this matter. Please do not hesitate to contact my office with any questions or concerns.

Sincerely,



Benjamin J. Aloia

BJA/alf
Enclosure

Cc via email: (w/encl.)

Candice Miller, Public Works Commissioner
Brian Baker, Chief Deputy Commissioner
Tamara Keskeny, MCPW

CENTER MANAGEMENT
34120 Woodward Avenue
Birmingham, MI 48009

April 5, 2019

Mr. Benjamin J. Aloia
Aloia & Associates, P.C.
48 S. Main Street, Ste. 3
Mount Clemens, MI 48043

RE: Notice of Termination of Real Estate Purchase Agreement

Mr. Aloia:

One of the primary reasons for us to acquire the Garfield Road county property was to combine the county property with Hall road property we own so that both properties would have the benefit of better ingress and increased visibility.

Unfortunately, we discovered that making this connection would be extremely difficult if not impossible. An easement and separate ownership for a 60 ft wide parcel divides the property. Therefore we are regrettably terminating the purchase agreement.

Thank you for your council and assistance in this matter

Sincerely,



Thomas Guastello

Cc: 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

RECEIVED
APR 08 2019

Tel: 248-540-9999 Fax: 248-540-1222 Email: cmsinmi@aol.com

MACOMB INTERCEPTOR DRAIN DRAINAGE DISTRICT
AGENDA ITEM WORKSHEET

Meeting Date: Monday, August 12, 2019

Property: 45345 Garfield Road, Macomb Township, MI 48044
Parcel/Tax ID 08-32-300-018

Synopsis: This Board previously gave Commissioner Miller authority to market and sell the above-referenced Property. After the sale to Tom Guastello fell through for \$3.5 Million, the MIDDD received the enclosed offer from the Mansour Companies for \$3.1 Million. The proposed offer contains a 90-day due diligence which can be extended in order to obtain a curb cut on Hall Road and over the open drain where a culvert will need to be installed. This is a reasonable request, but the Purchaser will need County, MDOT and MDEQ approval for this access. The purchase agreement needs some slight clean up on the counter-proposed term details, specifically related to the due diligence. I am enclosing a suggested redline draft, but also requesting that if the Board approves this purchase it also gives Commissioner Miller and MIDDD counsel Ben Aloia authority to finalize the details of the Purchase Agreement.

Recommendation: Approve the proposed purchase agreements basic terms, subject to MIDDD's counsel Ben Aloia and Commissioner Miller working with the Purchaser to finalize the details of the Purchase Agreement before Commissioner Miller's execution.

MANSOUR OFFER TO PURCHASE

REAL ESTATE PURCHASE AGREEMENT

THIS REAL ESTATE PURCHASE AGREEMENT (the "Agreement") is made this day of _____, 2019 (the "Effective Date"), by and between

Mansour Companies, LLC on behalf of an entity to be formed (the "Purchaser"), and the MACOMB INTERCEPTOR DRAIN DRAINAGE DISTRICT, as Seller (the "MIDDD"). (Sometimes the "Purchaser" and the "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, the Purchaser hereby offers to purchase, and the MIDDD agrees to sell to the Purchaser, the Subject Property described in paragraph 2 of this Agreement. The 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 (the "MCPW").

2. **Subject Real Property.** The real property that is the subject of this Agreement, legally described in **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**"). The Purchaser acknowledges that upon consummation of the sale contemplated by the Agreement, that the 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, encroachments, easements, or claims of rights of others, if any.

3. **Eligibility of the 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, the MCPW or Macomb County; or (c) an agent or immediate member of the household of an employee of the MIDDD, the MCPW or Macomb County. For breach of this warranty, the MIDDD shall have the right to terminate this Agreement without any further liability on the part of the MIDDD, and the 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, the MIDDD agrees to sell and convey to the Purchaser, and the Purchaser agrees to purchase the Subject Property from the MIDDD for Three Million One Hundred Ten Thousand and 00/100 Dollar (\$3,110,000.00).

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

a. **Earnest Money Deposit.** The Purchaser has deposited Twenty Five Thousand and 00/100 Dollars (\$25,000) with the MCPW on behalf of the MIDDD to be held as an earnest money deposit (the “**Deposit**”). The Deposit shall be applied to reduce the funds due at Closing, or shall be refunded to the Purchaser or retained by the MIDDD in accordance with the terms of this Agreement and the “Escrow Agreement” (as defined in subparagraph (c) below).

b. 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 a bank, (cleared wire transfer, cashier’s check), or paid in cash (subject to the cash limit as defined hereinbelow).

ii. **Cash Limit.** No more than Ten Thousand and 00/100 Dollars (\$10,000.00) in total may be paid in cash to the MIDDD to pay all or any part of the Purchase Price.

c. **Escrow Agreement.** The Deposit shall be held in escrow by the MCPW on behalf of the MIDDD pursuant to the signed Acknowledgment of Receipt of Deposit and Escrow Agreement in the form attached hereto as **Exhibit B**. The Deposit held in escrow shall be returned to the Purchaser if the Purchaser properly terminates this Agreement in a signed written notice submitted to the MIDDD during the Due Diligence Period, as described below in Paragraph 6, requesting the Deposit be returned. In the event of the Purchaser’s default under this Agreement, the Purchaser hereby expressly authorizes the MIDDD to retain the Purchaser’s Deposit held in escrow as Liquidated Damages and as the MIDDD’s sole and exclusive remedy, as more fully provided in Paragraph 12 below.

6. **Due Diligence and Access to the Subject Property.** The Purchaser shall have the right to inspect and determine the feasibility of the purchase of the Subject Property within 90 days of the effective date of this Agreement (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 Subject Property in the Purchaser’s sole discretion (the “**Due Diligence**”). During the Due Diligence Period, the Purchaser, its agents and representatives shall have reasonable access to the Subject Property, including, the right to inspect the Subject Property via the Purchaser’s employees, appraisers, agents, architects, environmental consultants and engineer. Seller shall provide to Purchaser any existing third-party reports in its possession and shall certify to Purchaser and its Lender and existing reports that can be transferable. Seller shall cooperate in all phases of Purchaser’s pursuit of final Site Plan Approval, rezoning application and/or any other municipal approvals and permits to build its contemplated development. All new appraisals, inspections, audits, and/or tests that the 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. The Purchaser

shall, at its sole cost and expense, restore any damage to the Subject Property resulting from any of the Purchaser's inspections or testing. The 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 the 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. In the event that the Purchaser properly terminates this Agreement, and upon the MIDDD's written request, the 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 the Purchaser's due diligence activities.

If the Purchaser deems that the purchase of the Subject Property is not acceptable, which shall be in the Purchaser's sole, subjective, and discretionary decision, the Purchaser may terminate this Agreement by written notice delivered to the MIDDD on or before the expiration of the Due Diligence Period and thereby terminate this Agreement and receive a refund of the Deposit. 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 the Purchaser does not terminate this Agreement on or before the expiration of the Due Diligence Period, the Purchaser shall be deemed to have approved all matters relating to the Subject Property (other than the conditions to closing set forth in this Agreement), and the Purchaser shall be bound to close.

The Due Diligence Period may be extended by a mutual agreement of the parties ratified in writing before the expiration of the Due Diligence Period.

7. **Covenant Deed.** The 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 SUBJECT 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 SUBJECT PROPERTY. THE PURCHASER ACKNOWLEDGES THAT THE PURCHASER IS PURCHASING THE SUBJECT PROPERTY BASED SOLELY UPON THE PURCHASER'S OWN INDEPENDENT INVESTIGATIONS AND FINDINGS AND NOT IN RELIANCE UPON ANY INFORMATION PROVIDED BY THE MIDDD'S, THE MCPW'S OR MACOMB COUNTY'S, EMPLOYEES, AGENTS, OR CONTRACTORS.

9. **General Release.** The Purchaser releases the MIDDD, 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 attorneys' 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 Subject Property, whether the same are a result of negligence or otherwise,

or (c) other conditions (including, but not limited to environmental conditions, encroachments, wetlands, zoning and suitability) affecting the Subject Property, whether the same are a result of negligence or otherwise, or (d) the ownership, title, possession, occupancy, use, management or leasing of the Subject Property.

10. **Environmental Release.** The releases set forth in this Agreement specifically include 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, 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 MIDD, the MCPW, and Macomb County 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 MIDD's ownership, possession and control.

12. **Default.** In the event the Purchaser defaults in its obligations to perform any of the covenants and agreements contained herein to be performed by the Purchaser after acceptance and within the time for performance as specified herein, the MIDD, in its sole discretion, may (i) as its sole and exclusive remedy retain the entire Deposit as liquidated damages, or (ii) terminate this Agreement and return the Deposit to the Purchaser.

13. **Closing.** The closing of this transaction shall take place within thirty (30) 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 MIDD 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), the MIDD and/or the 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 the Purchaser to the Macomb Township Assessor in accordance with state law.
- iv. Curb Cut. MIDDD shall work with Purchaser to have a curb cut approved on Hall Rd. over the drain. The Approved Curb Cut shall be a condition precedent to Closing. The Due Diligence period herein shall be extended until such time as the Curb Cut is approved if not approved within the 90 days.

The 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**. The MIDDD shall deliver possession of the Subject Property to the 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 of this Agreement is held to be invalid or prohibited under applicable law by a Court with competent jurisdiction, such provision shall be ineffective only to the extent of such invalidity or prohibition, without invalidating the remainder of this Agreement.

18. **Assignment**. The 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 the Purchaser assigns its rights to an affiliated and/or commonly controlled entity, in which case the Purchaser shall not need consent from the MIDDD; however, in such event the original Purchaser shall still remain bound by the terms and obligations of this Agreement, jointly and severally with the new purchaser, until a successful closing occurs.

19. **Counter-Parts/Electronic Signatures**. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together 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 the MIDD:

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 a copy to:

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

If to the Purchaser:

Mansour Companies LLC
Attn: Al Mansour
330 Hamilton Row, Ste. 300
Birmingham, MI 48009
al@mansourcompanies.com

with a copy to:

Law Office of Aaron M. Fales, P.C.
1080 Canyon Creek Dr.
Rochester Hills, MI 48306
aaron@afaleslaw.com

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. Sender'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 Agreement. Each Party further states that the only representations made to it to obtain its consent to this Agreement are 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 nor 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.** The Purchaser and the MIDDD 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.

****Signature Page to Follow****

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

Macomb Interceptor Drain Drainage District:

Dated: _____, 2019

/s/ _____
By: Candice S. Miller
Its: Chairperson

PURCHASER:

Mansour Companies LLC

Dated: _____, 2019

/s/  _____
By: Hani Mansour

Its: Member

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

EXHIBIT B

ACKNOWLEDGMENT OF RECEIPT OF DEPOSIT AND ESCROW AGREEMENT

The Macomb County Department of Public Works (the "MCPW") on behalf of Macomb Interceptor Drain Drainage District (the "MIDDD") hereby acknowledges receipt of a certain signed "Real Estate Purchase Agreement" made by Mansour Companies LLC (the "Purchaser") _____ (the "Agreement"), together with the receipt the "Deposit" to be held in escrow by the MIDDD subject to the terms and conditions of the Agreement.

The Deposit held in Escrow may only be returned to the Purchaser if the Purchaser properly terminates the Real Estate Purchase Agreement in a signed written notice submitted to the MIDDD during the Due Diligence Period, as described in Paragraph 6 of the Agreement, requesting the Deposit be returned. In the event of the Purchaser's default under the Agreement, the Purchaser hereby expressly authorizes the MIDDD to retain the Purchaser's Deposit held in escrow as Liquidated Damages, as more fully provided in Paragraph 12 of the Agreement.

The Purchaser expressly acknowledges and agrees that this receipt is only an acknowledgment of the MCPW's receipt of the Deposit on behalf of the MIDDD.

Macomb Interceptor Drain Drainage District:

Dated: _____, 2019

/s/ _____
By: Candice S. Miller
Its: Chairperson

PURCHASER:

Mansour Companies LLC

Dated: _____, 2019

/s/ _____
By: Hani Mansour
Its: Member

**MANSOUR OFFER TO PURCHASE WITH
REDLINES SHOWING COUNTER-PROPOSED
EDITS TO THEIR INSERTED INFORMATION
TO MIDD FORM PURCHASE AGREEMENT**

REAL ESTATE PURCHASE AGREEMENT

THIS REAL ESTATE PURCHASE AGREEMENT (the “**Agreement**”) is made this day of _____, 2019 (the “**Effective Date**”), by and between Mansour Companies, LLC on behalf of an entity to be formed (the “**Purchaser**”), and the MACOMB INTERCEPTOR DRAIN DRAINAGE DISTRICT, as Seller (the “**MIDDD**”). (Sometimes the “**Purchaser**” and the “**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, the Purchaser hereby offers to purchase, and the MIDDD agrees to sell to the Purchaser, the Subject Property described in paragraph 2 of this Agreement. The 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 (the “**MCPW**”).

2. **Subject Real Property.** The real property that is the subject of this Agreement, legally described in **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**”). The Purchaser acknowledges that upon consummation of the sale contemplated by the Agreement, that the 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, encroachments, easements, or claims of rights of others, if any.

3. **Eligibility of the 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, the MCPW or Macomb County; or (c) an agent or immediate member of the household of an employee of the MIDDD, the MCPW or Macomb County. For breach of this warranty, the MIDDD shall have the right to terminate this Agreement without any further liability on the part of the MIDDD, and the 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, the MIDDD agrees to sell and convey to the Purchaser, and the Purchaser agrees to purchase the Subject Property from the MIDDD for Three Million One Hundred Ten Thousand and 00/100 Dollars (\$3,110,000.00) (the “**Purchase Price**”).

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

a. **Earnest Money Deposit.** The Purchaser has deposited Twenty-Five

Page 1 of 10

~~Thousand and 00/100 Dollars (\$25,000.00) the amount of ten percent (10%) of the Purchase Price totaling _____ and _____/100 Dollars (\$ _____)~~ with the MCPW on behalf of the MIDD to be held as an earnest money deposit (the "Deposit"). The Deposit shall be applied to reduce the funds due at Closing, or shall be refunded to the Purchaser or retained by the MIDD in accordance with the terms of this Agreement and the "Escrow Agreement" (as defined in subparagraph (c) below).

b. 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 a bank, (cleared wire transfer, cashier's check), or paid in cash (subject to the cash limit as defined hereinbelow).
- ii. Cash Limit. No more than Ten Thousand and 00/100 Dollars (\$10,000.00) in total may be paid in cash to the MIDD to pay all or any part of the Purchase Price.

c. **Escrow Agreement**. The Deposit shall be held in escrow by the MCPW on behalf of the MIDD pursuant to the signed Acknowledgment of Receipt of Deposit and Escrow Agreement in the form attached hereto as **Exhibit B**. The Deposit held in escrow shall be returned to the Purchaser if the Purchaser properly terminates this Agreement in a signed written notice submitted to the MIDD during the Due Diligence Period, as described below in Paragraph 6, requesting the Deposit be returned. In the event of the Purchaser's default under this Agreement, the Purchaser hereby expressly authorizes the MIDD to retain the Purchaser's Deposit held in escrow as Liquidated Damages and as the MIDD's sole and exclusive remedy, as more fully provided in Paragraph 12 below.

6. **Due Diligence and Access to the Subject Property**. The Purchaser shall have the right to inspect and determine the feasibility of the purchase of the Subject Property within 90 days of the effective date of this Agreement (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 Subject Property in the Purchaser's sole discretion (the "**Due Diligence**"). During the Due Diligence Period, the Purchaser, its agents and representatives shall have reasonable access to the Subject Property, including, the right to inspect the Subject Property via the Purchaser's employees, appraisers, agents, architects, environmental consultants and engineers. The Seller shall provide to the Purchaser any existing third-party reports in its possession and shall certify to the Purchaser and its lender any existing reports that can be transferable. Seller shall reasonably cooperate in all phases of the Purchaser's pursuit of final Site Plan Approval, rezoning application and/or any other municipal approvals and permits to build its contemplated development; however, Purchaser's pursuits shall be at Purchaser's sole cost and expense. All new appraisals, inspections, audits, and/or tests that the 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 MIDD. The Purchaser shall, at its sole cost and expense, restore any damage to the Subject Property resulting from any of the Purchaser's

inspections or testing. The 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 the 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. In the event that the Purchaser properly terminates this Agreement, and upon the MIDDD's written request, the 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 the Purchaser's due diligence activities.

If the Purchaser deems that the purchase of the Subject Property is not acceptable, which shall be in the Purchaser's sole, subjective, and discretionary decision, the Purchaser may terminate this Agreement by written notice delivered to the MIDDD on or before the expiration of the Due Diligence Period and thereby terminate this Agreement and receive a refund of the Deposit. 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 the Purchaser does not terminate this Agreement on or before the expiration of the Due Diligence Period, the Purchaser shall be deemed to have approved all matters relating to the Subject Property (other than the conditions to closing set forth in this Agreement), and the Purchaser shall be bound to close.

The Due Diligence Period may be extended by a mutual agreement of the parties ratified in writing before the expiration of the Due Diligence Period.

7. **Covenant Deed.** The 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 SUBJECT 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 SUBJECT PROPERTY. THE PURCHASER ACKNOWLEDGES THAT THE PURCHASER IS PURCHASING THE SUBJECT PROPERTY BASED SOLELY UPON THE PURCHASER'S OWN INDEPENDENT INVESTIGATIONS AND FINDINGS AND NOT IN RELIANCE UPON ANY INFORMATION PROVIDED BY THE MIDDD'S, THE MCPW'S OR MACOMB COUNTY'S, EMPLOYEES, AGENTS, OR CONTRACTORS.

9. **General Release.** The Purchaser releases the MIDDD, 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 attorneys' 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 Subject Property, whether the same are a result of negligence or otherwise,

or (c) other conditions (including, but not limited to environmental conditions, encroachments, wetlands, zoning and suitability) affecting the Subject Property, whether the same are a result of negligence or otherwise, or (d) the ownership, title, possession, occupancy, use, management or leasing of the Subject Property.

10. **Environmental Release.** The releases set forth in this Agreement specifically include 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, 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 MIDD, the MCPW, and Macomb County 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 MIDD's ownership, possession and control.

12. **Default.** In the event the Purchaser defaults in its obligations to perform any of the covenants and agreements contained herein to be performed by the Purchaser after acceptance and within the time for performance as specified herein, the MIDD, in its sole discretion, may (i) as its sole and exclusive remedy retain the entire Deposit as liquidated damages, or (ii) terminate this Agreement and return the Deposit to the Purchaser.

13. **Closing.** The closing of this transaction shall take place within ~~seven-thirty~~ (730) 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 MIDD 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), the MIDD and/or the 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 MIDD 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 the Purchaser to the Macomb Township Assessor in accordance with state law.
- iii.iv. Curb Cut. ~~The MIDD reasonably cooperate shall work with the Purchaser to obtain have a curb cut approved on Hall Road and over the adjacent drain, d. over the drain with Macomb County and the State of Michigan. The Purchaser shall apply for the desired Curb Cut within the first thirty (30) days of the Due Diligence Period. An approved Curb Cut shall be a condition precedent to Closing. The Due Diligence Pperiod herein shall be extended up to a period of sixty (60) days solely to obtain curb cut approval until such time as the Curb Cut is approved if not approved within the 90 days.~~

Formatted: Underline

The 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.** The MIDD shall deliver possession of the Subject Property to the 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 of this Agreement is held to be invalid or prohibited under applicable law by a Court with competent jurisdiction, such provision shall be ineffective only to the extent of such invalidity or prohibition, without invalidating the remainder of this Agreement.

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

19. **Counter-Parts/Electronic Signatures.** This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together 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 the MIDD: 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 a 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 the Purchaser: [Mansour Companies, LLC](#)
[Attn: Ali Mansour](#)
[330 Hamilton Row, Ste. 300](#)
[Birmingham, MI 48009](#)
[al@mansourcompanies.com](#)

with a copy to: [Law Office of Aaron M. Fales, P.C.](#)
[1080 Canyon Creek Dr.](#)
[Rochester Hills, MI 48306](#)
[aaron@afaleslaw.com](#)

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. Sender'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 Agreement. Each Party further states that the only representations made to it to obtain its consent to this Agreement are 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 nor 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.** The Purchaser and the MIDDD 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 MIDDD and the Purchaser have executed this Agreement on the dates written below.

Macomb Interceptor Drain Drainage District:

Dated: _____, 2019

/s/ _____
By: Candice S. Miller
Its: Chairperson

Mansour Companies, LLC:

Dated: _____, 2019

/s/ _____
By: Hani Mansour
Its: Member

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 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 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

EXHIBIT B

ACKNOWLEDGMENT OF RECEIPT OF DEPOSIT AND ESCROW AGREEMENT

The Macomb County Department of Public Works (the "MCPW") on behalf of Macomb Interceptor Drain Drainage District (the "MIDDD") hereby acknowledges receipt of a certain signed "Real Estate Purchase Agreement" made by Mansour Companies, LLC (the "Purchaser") (the "Agreement"), together with the receipt the "Deposit" to be held in escrow by the MIDDD subject to the terms and conditions of the Agreement.

The Deposit held in Escrow may only be returned to the Purchaser if the Purchaser properly terminates the Real Estate Purchase Agreement in a signed written notice submitted to the MIDDD during the Due Diligence Period, as described in Paragraph 6 of the Agreement, requesting the Deposit be returned. In the event of the Purchaser's default under the Agreement, the Purchaser hereby expressly authorizes the MIDDD to retain the Purchaser's Deposit held in escrow as Liquidated Damages, as more fully provided in Paragraph 12 of the Agreement.

The Purchaser expressly acknowledges and agrees that this receipt is only an acknowledgment of the MCPW's receipt of the Deposit on behalf of the MIDDD.

Macomb Interceptor Drain Drainage District:

Dated: _____, 2019

/s/ _____
By: Candice S. Miller
Its: Chairperson

Mansour Companies, LLC:

Dated: _____, 2019

/s/ _____
By: Hani Mansour
Its: Member



Candice S. Miller

Public Works Commissioner
Macomb County

To: Candice Miller, Macomb County Public Works Commissioner

CC: Brian Baker, Chief Deputy

From: Vincent Astorino, Operations & Flow Manager

Date: August 6, 2019

Subject: MIDDD Romeo Arm Grouting Program

The Macomb Interceptor Drain Drainage District (MIDDD) consists of various large diameter interceptors that transport flow from 11 - Macomb County communities and ultimately to GLWA Water Resource Recovery Facility. The Romeo Arm interceptor is an 11-foot diameter sewer that starts at the Edison Corridor on 15 Mile and extends to Garfield and Clinton River Rd. A map of this interceptor is attached.

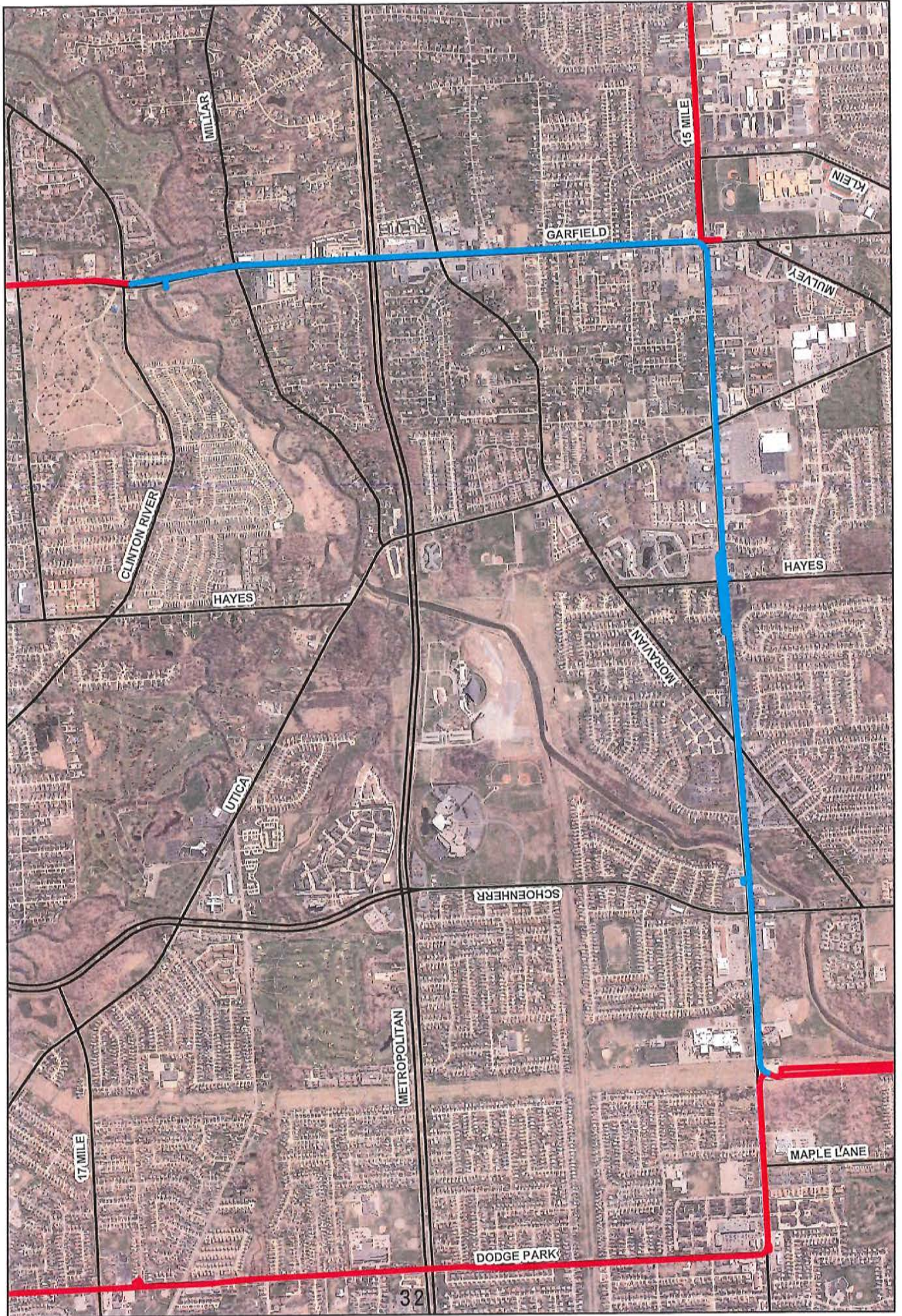
The Macomb County Public Works Office (MCPWO) has been closely monitoring this interceptor while plans are being developed to rehabilitate the system. There was a detailed inspection performed by RedZone Robotics in August of 2017. The interceptor was then walked and inspected in June of 2018. It has now been walked and inspected again as of July 2019. In the most recent inspection, several areas have been identified as PACP level 5 ratings for infiltration.

Due to this, MCPWO has mobilized Doetsch Environmental on a time & material basis to immediately mobilize to seal the leaks and fill any possible voids within this pipeline. If these infiltration points are not corrected immediately there is potential to transport sediment fines into the interceptor through the leaks and potentially create voids on the outside of the pipe. This has potential to create an unstable condition which could lead to a sinkhole.

For this work, MCPWO has also engaged a MIDDD as-needed engineering firm FK Engineering to oversee the grouting operations and document all work so that costs can be controlled. It is currently anticipated to take approximately 3 weeks to seal all of the leaks from Hayes to the Edison Corridor along 15 Mile Road.

This memo is intended to notify the MIDDD board of the recent findings and the plan to address this immediately.

Romeo Arm of the MIDD





Candice S. Miller
Public Works Commissioner
Macomb County

To: Candice Miller, Macomb County Public Works Commissioner

CC: Brian Baker, Chief Deputy

From: Vincent Astorino, Operations & Flow Manager

Date: July 31, 2019

Subject: 2017 Revised SRF Project Plan Board Resolution Recommendation

The Macomb County Public Works Office (MCPWO) has submitted a SRF project plan to provide low interest funding for repairs needed within the Romeo Arm in 2017. This plan has been accepted by the Michigan Department of Environmental Quality (MDEQ) which is now known as the Michigan Department of Environment, Great Lakes, and Energy (EGLE) and given a high priority status.

As part of this initial project plan, Evans Bantios was made the authorized representative from MCPWO. Since Evans is no longer working with MCPWO a new resolution is required to change the authorized representative.

The recommendation for the board is that Macomb Interceptor Drain Drainage District formally adopts that the Chief Deputy Macomb County Public Works Commissioner, a position held by Brian Baker, is designated as the authorized representative for all activities associated with the project referenced above.

Attachments: Board Resolution for Revised Project Plan Authorized Representative.

REVISED

**A RESOLUTION AGREEING TO SUBMISSION OF
POTENTIAL PHASE TWO RECONSTRUCTION
FOR MACOMB INTERCEPTOR DRAIN REPAIR PROJECT AND
DESIGNATING AN AUTHORIZED PROJECT REPRESENTATIVE**

WHEREAS, the Macomb Interceptor Drain Drainage District (MIDDD) Board is currently reconstructing a failed portion of the Macomb Interceptor Drain (MID) and is preparing for the potential need for implementation of improvements to the remainder of the MID PCI-12A, a facility owned and operated by the MIDDD, located in City of Sterling Heights, Clinton Township and City of Fraser; and

WHEREAS, the MIDDD Board authorized Hubbell, Roth & Clark, Inc. to prepare a Project Plan in preparation for possible improvements to the remainder of the MID PCI-12A; and

WHEREAS, said Project Plan was presented at a Public Hearing held on Thursday, June 8, 2017 and all public comments have been considered and addressed;

NOW THEREFORE BE IT RESOLVED, that the MIDDD Board formally adopts said Project Plan submission and SRF loan from the State of Michigan, and agrees to implement the selected alternative (Recovery Shaft/PCI-12A Structural Replacement), assuming all components of the selected alternative are determined to be necessary, by the MIDDD Board, to assure an improved structural integrity and reliability of the MID PCI-12A.

BE IT FURTHER RESOLVED, that the ~~Construction and Maintenance Manager~~ **Chief Deputy**, a position currently held by ~~Evans-Banties~~ **Brian Baker**, is designated as the authorized representative for all activities associated with the project referenced above, including the submittal of said Project Plan as the first step in applying to the State of Michigan for a State Revolving Fund Loan to assist in the implementation of the selected alternative.

Yeas:

Nays:

I certify that the above Resolution was adopted by the Macomb Interceptor Drain Drainage District Board on Monday, August 12, 2019.

BY:

Commissioner Candice S. Miller
Macomb Interceptor Drain Drainage District Board, Chairman

Date

Funding Source	Apportionment	Manager	Vendor	Amount	Invoice Detail	Project Summary	Project Balance		
Macomb Interceptor Drain	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%	Astorino	Aquasight	\$ 50,000.00	Invoice #000520 - 08.01.19	On-Boarding Fees (2 of 5)			
		Astorino	The ASU Group	\$ 1,500.00	Invoice #MD00141438 - 07.31.19	TPA Annual Administration Fee			
		Astorino	CHZM Hill Engineers, Inc.	\$ 20,393.86	Invoice #707997CH009 - 06.28.19		Odor & Corrosion Study	\$ 191,878.08	
		Astorino	City of Mt. Clemens	\$ 14,148.95	Invoice #28000673 - 06.30.19		Sewage Flow Billing - June 2019		
		Downing	Dr. Mole Incorporated	\$ 1,000.00	Invoice #18011-12 - 06.30.19		Finalize expert report	\$ 20,511.17	
		Astorino	DTN, LLC	\$ 735.75	Invoice #585160 - 07.19.19		Storm Sentry		
		Downing	FK Engineering Associates	\$ 6,003.75	Invoice #17-134-014		Grouting and Inspection Work	\$ 84,649.30	
		Astorino	FK Engineering Associates	\$ 635.00	Invoice #17-134-015 - 06.30.19		As Needed Geotechnical Services	\$ 89,675.40	
		Astorino	Fishbeck, Thompson, Carr & Huber, Inc.	\$ 2,905.50	Invoice #384599 - 07.22.19		GLWA Assistance Through 07.12.19	\$ 58,096.49	
		Astorino	Fishbeck, Thompson, Carr & Huber, Inc.	\$ 5,304.65	Invoice #384623 - 07.12.19		Wastewater Master Plan	\$ 592,691.25	
		Astorino	Fishbeck, Thompson, Carr & Huber, Inc.	\$ 731.50	Invoice #384602 - 07.22.19		As Needed Services through 07.12.19	\$ 93,671.80	
		Downing	Kienbaum Hardy Viviano Pelton & Forrest	\$ 12,443.50	Invoice #42465 - 06.30.19		Legal Services - Contracts		
		Astorino	Macomb County Department of Roads	\$ 1,081.68	Invoice #301301 - 06.06.19		Fleet Fuel		
		Astorino	Macomb County Department of Roads	\$ 975.71	Invoice #301326 - 06.30.19		Fleet Fuel		
		Astorino	Motor City Electric Technologies	\$ 502.29	Invoice #92532 - 06.30.19		Maintenance		
		Astorino	Verizon	\$ 551.04	Invoice #9832741065 - 06.23.19		Cell Service - MIDD		
		Astorino	Verizon	\$ 807.27	Invoice #9832741065 - 06.23.19		Cell Service - MIDD (Eq Fund)		
		Biofilter	Astorino	Abel Electronics	\$ 2,035.00	Invoice #154423 - 07.02.19		Upgrade existing camera system	
			Astorino	Abel Electronics	\$ 2,664.00	Invoice #154567 - 07.10.19		Replace existing bad TX	
			Astorino	City of Fraser	\$ 1,813.38	Invoice #19-332 - 06.30.19		Utility Bill - 05.16.19 - 06.18.19	
Astorino	De-Cal, Inc		\$ 546.20	Invoice #WO19000852 - 07.18.19		Preventative Maintenance on HVAC			
Astorino	Cintas Fire 636525		\$ 818.45	Invoice #0D26569565 - 07.05.19		Battery replacement and Inspection			
Clintondale P.S.	Astorino	Cintas Fire 636525	\$ 809.15	Invoice #0D26572211 - 07.05.19		Inspection			
	Astorino	Clinton Township Treasurer	\$ 2,160.76	Invoice #19-324 - 06.30.19		Water and Sewer - 05.28.19 - 06.25.19			
	Astorino	DTE Energy	\$ 16,064.61	Invoice #19-327 - 06.30.19		Monthly Electric - 06.04.19 - 07.01.18			
	Astorino	De-Cal, Inc	\$ 2,661.84	Invoice #WO19000912 - 07.18.19		Preventative Maintenance of HVAC			
	Astorino	FJF Door Sales Company, Inc.	\$ 1,088.10	Invoice #167151 - 07.11.19		Door Repair			

MACOMB INTERCEPTOR DRAIN INVOICES 07/16/19 - 08/06/19

<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>
15 Mile Sinkhole		Baker	Aloia & Associates, P.C.	\$ 2,711.25	Invoice #18508 - 05.01.19	MIDDD v. Inland Waters Pollution Control, Jay	
		Baker	Aloia & Associates, P.C.	\$ 12,092.50	Invoice #18609 - 06.01.19	MIDDD v. OMIDDD Legal Services	
		Baker	Dr. Mole Incorporated	\$ 7,280.00	Invoice #18011-13 - 07.29.19	Forensic Report	\$ 13,231.17
		Downing	Kienbaum Hardy Viviano Pelton & Forrest	\$ 32,839.77	Invoice #42466 - 06.30.19	Water Hammer Lawsuit	
		Downing	Kienbaum Hardy Viviano Pelton & Forrest	\$ 4,842.00	Invoice #42464 - 06.30.19	Legal Services - Contracts	
		Downing	TBM Property Management LLC	\$ 750.00	Invoice #357 - 06.30.19	Pipe and Material Storage	
	Meters		Astorino	\$ 2,640.00	Invoice #140036 - 06.19.19	Data Management Support	\$ 7,712.50
			Astorino	\$ 2,880.00	Invoice #140289 - 06.30.19	McMars Data Management Support	\$ 4,832.50
			Astorino	\$ 1,400.66	Invoice #19-335 - 06.30.19	Meter Bill - Washington Township	
			Astorino	\$ 15,580.00	Invoice #161024-32	Meter Maintenance	\$ 142,080.00
			Astorino	\$ 1,287.50	Invoice #10444 - 07.11.19	CT-S-7 Meter Maintenance	
			Astorino	\$ 3,831.21	Invoice #171660 - 06.30.19	Meter Rehab - Washington Facility	\$ 33,315.28
			Astorino	\$ 2,509.50	Invoice #171589 - 06.30.19	Meter Pit Rehabilitation - Lakeshore	\$ 44,219.00
NGI		Downing	\$ 3,490.30	Invoice #619023 - 06.30.19	Meter & Drop Shaft Rehab	\$ 205,213.97	
		Astorino	\$ 1,231.16	Invoice #19-321 - 06.29.19	Monthly Electric - 05.31.19 - 06.28.19		
		Astorino	\$ 2,903.17	Invoice #M2015338 - 07.30.19	As Needed Services 05.25.19 - 07.26.19	\$ 94,069.08	
OMID		Downing	\$ 4,570,860.67	Invoice #SDS0006525 - 07.02.19	Sewage Disposal Charges - June 2019		
		Downing	\$ 4,585,548.67	Invoice #SDS0006611 - 08.05.19	Sewage Disposal Charges - July 2019		
SEMSD		Astorino	\$ 2,123.75	Invoice #384624 - 07.19.19	Wastewater Master Plan - Paid by SEMSD	\$ 158,228.45	
Total				\$ 9,407,184.05			

Budget to Actual
MIDD
As of July 31, 2019 = 8%

DESCRIPTION	2020 FINAL BUDGET	ENCUMBERED	ACTUAL	REMAINING BUDGET	PCT UTILIZED
REVENUE ACCOUNTS					
GLWA-OMID	46,904,696		3,908,719	42,995,977	8.3%
OMID O&M	8,121,888		676,825	7,445,063	8.3%
Reimbursements	200,000		7,100	192,900	3.6%
PY Revenue-Fund Balance	9,610,000			9,610,000	0.0%
Washington Twp Meter Project	250,000			250,000	0.0%
Reimb-Local Communities	10,927,799		910,649	10,017,150	8.3%
Interest	300,000		46,173	253,827	15.4%
<i>Total Revenue Accounts</i>	76,314,383	-	5,549,466	70,764,917	7.3%
EXPENSE ACCOUNTS					
GLWA-OMID	46,904,696		3,908,719	42,995,977	8.3%
OMID O&M	8,121,888		676,825	7,445,063	8.3%
Public Works Wastewater Disposal Division	1,721,123			1,721,123	0.0%
Office Operations/Insurance	322,800		8,848	313,952	2.7%
SCADA	196,634		7,774	188,860	4.0%
Engineering					
GLWA Assistance	20,000		1,877	18,123	9.4%
Washington Township meter	500,000			500,000	0.0%
Data Review-Aquasight	240,000			240,000	0.0%
Contribution to Segment 5 Construction/Repairs	3,850,000			3,850,000	0.0%
15 Mile Interceptor Design East of Garfield (Seg 6)	1,000,000			1,000,000	0.0%
Seg 5 Engineering Design	1,000,000			1,000,000	0.0%
Drop Shaft Repairs(MA-S-2),CT-S-2, HR-S-2, ST-S-5,UT-S-1)	5,750,000		3,490	5,746,510	0.1%
System wide odor and corrosion study	350,000			350,000	0.0%
SY-S-1 & SY-S-2 Meter Rehab	1,200,000		6,412	1,193,589	0.5%
Meter Dye Dilution Testing/As needed	100,000			100,000	0.0%
McMARS Operations	50,000		2,640	47,360	5.3%
Aquasight Operations	50,000			50,000	0.0%
As Needed FTCH	50,000		2,530	47,470	5.1%
As Needed CH2M	70,000		20,394	49,606	29.1%
As needed FK Engineering	55,000		6,004	48,996	10.9%
As Needed Wade Trim	45,000			45,000	0.0%
As Needed Metco	70,000			70,000	0.0%
As Needed Applied Science	70,000			70,000	0.0%
Wastewater Master Plan/Contract Capacity	500,000		54,473	445,527	10.9%
Legal Services	500,000		21,174	478,826	4.2%
Clintondale PS O&M	345,000		25,737	319,263	7.5%
NGI O&M	330,000		2,284	327,716	0.7%
Meters O&M	415,000		17,500	397,500	4.2%
CS-3 O&M	228,000			228,000	0.0%
Biofilter O&M	277,500		7,951	269,549	2.9%
Contribution Life Cycle Reserve	171,700			171,700	0.0%
Interceptor O&M	1,000,000				
Stormwater Pump Stations	65,800				
Sewage Disposal Charges - Mt. Clemens	200,000		14,149	185,851	7.1%
Debt Service - Revenue Bonds	546,242		45,520.17	500,722	8.3%
<i>Total Expense Accounts</i>	76,314,383	-	4,834,300	70,414,283	6.3%

	O&M Balance 6/30/2019	O&M	Total 7/31/2019
Cash - Operating	25,715,700	715,166	26,430,866
Accounts Receivable			0
Assets			0
Liabilities			0
Revenues		5,549,466	5,549,466
Expenditures		4,834,300	4,834,300
			0
Preliminary Equity*	25,715,700		26,430,866

Detail of 2019 Equity*

Projected reserve at 6/30/2019(No Land Sale)	12,000,000
Projected Engineering Reserve	9,610,000
Projected Sinkhole Surplus	3,400,000
Life Cycle Reserve	705,700