

## 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 MIDDD 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 MIDDD.

7. **TERMS OF SALE** – Immediately after the auction sale, successful bidder must execute the MIDDD’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 MIDDD’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 MIDDD, 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 MIDDD RESERVES THE RIGHT TO CANCEL ANY SALE, AT ANY TIME.

Any announcements made by the MIDDD 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 MIDDD at closing. Title insurance companies may or may not issue title insurance on the Subject Property purchased at this auction sale. The MIDDD makes no representation as to the availability of title insurance and the UNAVAILABILITY OF TITLE INSURANCE IS NOT A GROUND FOR RECONVEYANCE TO THE MIDDD. 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.