

AGENDA

Red Run Intercounty Drain Drainage Board Macomb and Oakland Counties

July 19, 2023 – 10:30 a.m.

Office of the Macomb County Public Works Commissioner
21777 Dunham Road, Clinton Township, Michigan, and Microsoft Teams

1. Call meeting to order

Board Members:

Michael Gregg, Chair, Michigan Department of Agriculture and Rural Development
Candice Miller, Macomb County Public Works Commissioner
Jim Nash, Oakland County Water Resources Commissioner

2. Approval of the meeting agenda for July 19, 2023
3. Approval of Drainage District Board Meeting Minutes from May 17, 2023
4. Public Comment
5. Red Run Freedom Hill
 - a. Account of Project Standing
6. Litigation Update for 7001 Chicago Road, Warren, Michigan
7. Present trial balance
8. Present for approval payment of invoices in the amount of \$75,534.35
9. Other business
10. Adjourn

Agenda Item No. 3

Board Meeting Minutes from
May 17, 2023

Minutes of the Meeting
of the Intercounty Drainage Board for the
Red Run Drain

May 17, 2023

Minutes of the regular meeting of the Drainage Board of the Red Run Drain Drainage District held at the office of the Oakland County Water Resources Commissioner, One Public Works Drive, Building 95 West, Waterford, Michigan on the 17th day of May at 10:30 a.m. Eastern Standard Time and via Microsoft Teams.

Present:

Michael Gregg, Chairperson and Deputy for Gary McDowell, Director of the Michigan Department of Agriculture and Rural Development; Candice Miller, Member and Macomb County Public Works Commissioner; and Anne Vaara for Jim Nash, Secretary and Oakland County Water Resources Commissioner.

Also Present: Representing the office of the Macomb County Public Works Commissioner; Brian Baker, Jeff Bednar and Danielle Devlin. Representing the office of the Oakland County Water Resources Commissioner: Steve Korth, Gary Nigro, George Nichols, Meg Koss, and Stephanie Lajdziak. Others in attendance: Jeff Ragle (OC Fiscal Services); Nancy Kolinski (Hubbell, Roth & Clark).

1. Call meeting to order.

Chairperson Gregg called the meeting to order at 10:32 a.m.

2. Agenda.

Motion by Miller, supported by Vaara, to approve the May 17, 2023, agenda as presented.

Adopted: YEAS – 3
NAYS – 0

3. Minutes.

Motion by Vaara, supported by Miller, to approve the minutes of the April 19, 2023, meeting.

Adopted: YEAS – 3
NAYS – 0

4. Public Comment.

None.

5. Freedom Hill.

Nancy Kolinski gave the Board an update on the Freedom Hill projects. She advised that the first round of invasive species treatment was done in the beginning of May. The treatment started as a spot treatment and is now a broadcast treatment. Discussion ensued as to the future treatment of the invasive species and the oversight of the treatment.

Motion by Vaara, supported by Miller, to receive and file the Freedom Hill update as presented.

Adopted: YEAS – 3
NAYS – 0

6. U.S. Army Corps. of Engineers Inspection Report

George Nichols presented the May 6, 2022 final inspection report from the U.S. Army Corps. of Engineers for the Drainage District (as attached). Motion by Miller, supported by Vaara, to receive and file the U.S. Army Corps. of Engineers Inspection Report as presented.

Adopted: YEAS – 3
NAYS – 0

7. U.S. Army Corps. of Engineers Spill Response Work Plan Agreement

George Nichols presented the Spill Response Work Plan Agreement to the Board for approval. Through efforts from both Oakland and Macomb counties, a Planning Assistance to States grant that requires a 50% District match of \$204,760 will be utilized to meet the spill response needs within the Drainage District. Jeff Bednar offered insight as to the proposed monitoring technologies that are available to deploy within the Drainage District to detect contaminants. Mr. Bednar noted that upon approval of the agreement, the work plan will then be finalized and is expected to be implemented within the next month. Once completed, a 2-year pilot study is anticipated. Motion by Miller, supported by Vaara, to approve to enter into an agreement with the Department of the Army for the development of a comprehensive plan to improve spill response procedures within the Drainage District, allocate \$204,760 for the in-kind match contribution, and authorize the Chairman to sign the agreement on behalf of the Drainage District as presented.

Adopted: YEAS – 3
NAYS – 0

8. Trial Balance.

Mr. Nichols presented the Trial Balance report dated May 9, 2023, indicating a cash available balance of \$1,191,696.58. Motion by Miller, supported by Vaara, to receive and file the updated Trial Balance as provided.

Adopted: YEAS – 3
NAYS – 0

9. Invoices and/or Reimbursement of the Drain Revolving Fund.

A request for approval of payment of invoices and/or reimbursement of the Drain Revolving Fund in the amount of \$1,543.75 was presented. Motion by Vaara, supported by Miller, to approve the payment of invoices and/or reimbursement of the Drain Revolving Fund as presented.

Adopted: YEAS – 3
NAYS – 0

10. Other Business.
None.

11. Adjourn.

Motion by Vaara, supported by Miller, to adjourn the April 19, 2023, meeting at 11:20 a.m.

Adopted: YEAS – 3
NAYS – 0

Next Regular Meeting: *Office of the Oakland County Water Resources Commissioner, One Public Works Drive, Building 95 West, Waterford, Michigan* and electronically at 10:30 a.m., Eastern Standard Time on June 21, 2023.



Anne Vaara, Acting Secretary
Red Run Intercounty Drain Drainage Board

STATE OF MICHIGAN)
)SS.
COUNTY OF OAKLAND)

I hereby certify that the foregoing is a true and complete copy of the minutes of the Red Run Intercounty Drain Drainage Board, at a meeting held on the 17th day of May 2023 and that the meeting was conducted and public notice was given in compliance with the Open Meetings Act being Act 267, Public Acts of Michigan, 1976, as may be amended from time to time and that the minutes were kept and will be or have been made available to the public as required by the Act.

IN WITNESS WHEREOF, I have hereunto affixed my official signature on this 17th day of May 2023.



Anne Vaara, Acting Secretary
Red Run Intercounty Drain Drainage Board

Agenda Item No. 4

Public Comment

Agenda Item No. 5

Red Run Freedom Hill

Account of Project Standing

APS #: 30

Time Period: May 01, 2023 thru June 30, 2023

Prepared By: Nancy Kolinski

Date Issued: July 07, 2023

Project Task Summary:

Construction Update:

- Plantings at base of amphitheater hill installed.

Focus of Efforts in Next Period /Spring:

- Failed B&B (balled & burlapped) at Schoenherr Rd trailhead, Metro Pkwy trailhead, and along Red Run, to be replaced (timeframe: Fall 2023).
- Native seeding of the area beneath the power transmission lines on the north side of Red Run remains to be completed (Fall 2023). Site preparation will need to be re-done (removal of existing vegetation, tilling of earth, etc.), prior to placement of Lo Prairie seed and mulch.
- Due to the amount of invasive species (Japanese Hops) treated in 2022, plantings are being postponed until Fall
 - Native shrub plantings in the Transition Side Slope along Sterling Relief remain to be planted (Fall 2023).
 - Bare-root tree plantings in the Transition Side Slope along Red Run remain to be planted (Fall 2023).
 - Planting of bare-root shrubs and herbaceous plugs along the south side of the amphitheater to be planted (Fall 2023).

Critical Decisions Made:

- N/A

Outstanding Critical Questions:

- N/A

Client Assistance Needed:

- Access concerns along Metro Parkway
- Trail flooding and possible seasonal closures.

Schedule Concerns

- Contract with LJ Construction will be extended thru Fall of 2023

Scope and/or Budget Concerns:

- None at this time

Account of Project Standing

Red Run Drain Supplemental Services

Project Task Summary:

Task 1 – Permitting- In Progress

- Submitted USACE Section 408 Certification – Full approval unknown.

Task 2 – Drainage District Assistance- In Progress

Task 3 – Monitoring Assistance- In Progress

Task 4– Grant Reporting- In Progress

- No work for this period

Task 5 – Meetings- No work requested under this task

Task 6 – USACE Phase 2 Coordination-. Red Run South bank (AEI): Design started. Biweekly meetings of the design team occur. 65% plans submitted.

Task 7 – Project Signage- No work requested under this task

Miscellaneous:

- GWK Outfall project (KZF): Final documents submitted to USACE. Funding for implementation is yet to be allocated by USACE.
- Invasive species – Coordination continues.
 - Treatments July 6th, and tentatively August 7th and September 9th
- Red Run Spill Response USACE Work Plan Agreement submitted for review and execution
- Red Run Resilience Study - Staff is working with the Office of Local Defense Community (OLDCC) and University of Michigan. Discussion ongoing with staff and OLDCC. The study is expected to have a 10% local match.

Critical Decisions Made:

- N/A

Outstanding Critical Questions:

- No at this time.

Client Assistance Needed:

- None at this time

Schedule Concerns

- N/A

Scope and/or Budget Concerns:

- N/A

Agenda Item No. 6

Litigation Update
7001 Chicago Rd., Warren, MI

**OAKLAND COUNTY
WATER RESOURCES COMMISSIONER****MEMORANDUM**

TO: Michael Gregg, Chairperson
Red Run Intercounty Drain Drainage Board

FROM: Sara Rubino, WRC Attorney

SUBJECT: Litigation Update

DATE: July 19, 2023

On November 22, 2022, Wariz Group, LLC filed a Complaint in the Macomb County Circuit Court to Quiet Title to real property commonly known as 7001 Chicago Road, Warren, Michigan. The Complaint sought to determine the legal owner to a certain area of the property. The Red Run Intercounty Drain Drainage District was named as a defendant because it is a party with interest in the property.

In prior communications with the Wariz Group and its predecessors, questions of title arose regarding a parking lot located on and abutting the property. The parking lot is partially encroaching on an easement held by the District. The District acquired this easement in 1955 to construct and maintain the Red Run Drain, as well as to provide ingress and egress. The Wariz Group sought to acquire legal title to the parking lot from the District. While the District has an easement, it does not own the parking lot.

The law firm of Aloia Law represented the District in these proceedings. After the firm filed a response to the Complaint, the terms of a Default Judgment were negotiated with opposing counsel. On April 25, 2023, those terms were approved by the Court. A copy of the Default Judgment is attached.

The terms of the Default Judgment protect the District's easement rights now and into the future. On June 5, 2023, a copy of the Default Judgment was recorded with the Macomb County Register of Deeds. The question regarding title to the property is now resolved and the legal proceedings in the Macomb County Circuit Court have been concluded.

Recommended Action: Receive and file this memo and the attached Default Judgment.

REC'D MACOMB CO 06/05/23 04:15 PM 1252

202300049358 L: 29156 P: 41

Total Pages: 5
06/05/2023 04:15 PM Fees: \$30.00
Anthony G. Forlini, Clerk/Register of Deeds
Macomb County, MI



STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF MACOMB

WARIZ GROUP, LLC
a Michigan limited liability company

Plaintiff,

v

Case No. 22-004431-CH
Hon. Julie Gatti

THE ESTATE OF MINNE KETTLE and
RED RUN DRAINAGE DISTRICT,
a Municipal entity

Defendant

DEFAULT JUDGMENT AWARDING OWNERSHIP OF PROPERTY

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STATE OF MICHIGAN JUDICIAL DISTRICT 16 TH JUDICIAL CIRCUIT COUNTY PROBATE	CERTIFICATION OF RECORDS ATTESTATION OF EXEMPLIFIED COPIES	CASE NO. 2022-004431-CH
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Court address
40 North Main, Mount Clemens, MI 48043

Court telephone no.
586-469-5351

WARIZ GROUP LLC vs. ESTATE OF MINNIE KETTLE et al

Juvenile In the matter of	
Probate In the matter of	

ATTESTATION OF CLERK/REGISTER

I am the clerk/register of the court and I attest that:

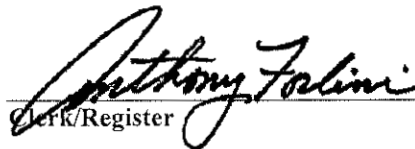
1. I am the custodian of the records of the 16th Circuit Court.
2. I have compared the annexed copies of:

DEFAULT JUDGMENT AWARDING OWNERSHIP OF PROPERTY DATED 4/24/23

from the above case with the originals on file and of record in this court, and I find the copies to be true copies of the whole of such originals.

May 3, 2023

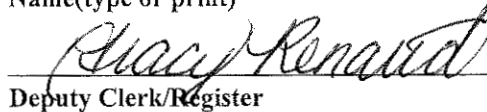
Date


Clerk/Register

ANTHONY G. FORLINI

Name(type or print)

By:


Deputy Clerk/Register

(SEAL)

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF MACOMB

WARIZ GROUP, LLC
a Michigan limited liability company

Plaintiff,

v

Case No. 22-004431-CH
Hon. Julie Gatti

THE ESTATE OF MINNE KETTLE and
RED RUN DRAINAGE DISTRICT,
a Municipal entity

Defendant

O'REILLY RANCILIO P.C.
James J. Sarconi (P66101)
Massimo F. Badalamenti (P83847)
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ALOIA LAW
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48 South main Street, Suite 3
Mt. Clemens, MI 48043
586.783.3300
aloia@aloia.law
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DEFAULT JUDGMENT AWARDING OWNERSHIP OF PROPERTY

At a session of Court held in the City of Mount
Clemens, County of Macomb, State of Michigan, on

Date: April 25, 2023

Julie Gatti

PRESENT: Honorable Circuit Judge

This matter having come before the Court on Plaintiff's Motion for Entry of Default Judgment and with the consent of Defendant Red Run Intercounty Drain Drainage District ("Red Run") acting through the Red Run Intercounty Drain Drainage Board; Defendant Estate of Minnie Kettle having been properly served by publication in accordance with the Order of this Court;

further, Defendant Estate of Minnie Kettle having failed to answer or take any legal action; and the Court being otherwise fully advised in the premises;

IT IS HEREBY ORDERED that the below described Subject Property located in the City of Warren, County of Macomb, Michigan is quieted in favor of Plaintiff, Wariz Group, LLC, a Michigan limited liability company, as its legal and equitable owner:

A parcel of land in Section 4, Town 1 North, Range 12 East, Lying Northerly of and between the Westerly line and the Easterly line of the following described parcel as extended to the centerline of Red Run Drain, the same being the Southerly line of Denton Industrial Subdivision as Recorded in Liber 78 of Plats, Pages 24, 25 and 26 of Macomb County Records: Beginning at a point on the centerline of Chicago Road, 66 feet wide distant South 82 Degrees 51 Minutes 30 Seconds East 829.0 Feet from the intersection of centerline of Chicago Road, and East right of way line of New York Central Railroad right of way being 50 feet wide; thence South 82 Degrees 51 Minutes 30 Seconds East, 457.54 feet; thence North 27 Degrees 27 Minutes 00 Seconds East, 269.76 feet; thence North 75 Degrees 40 Minutes 30 Seconds West, 42.78 feet; thence North 64 Degrees 45 Minutes 35 Seconds West, 589.49 feet; thence South 00 Degrees 28 Minutes 30 seconds West, 444.47 feet to the point of beginning, except that part deeded for road in Liber 2198, Page 264, Macomb County Records. (the "**Subject Property**")

IT IS FURTHER ORDERED that Plaintiff's ownership of the Subject Property described above shall in no way affect, and be subject to, the easement rights of Red Run in the Subject Property as created in the Easement Deed from Minnie Kettle to the United States of America, recorded on April 17, 1952, in Liber 860, Page 422, Macomb County Records, and as conveyed to Red Run in the Quit Claim Deed from the United States of America as recorded on July 26, 1955, in Book 1008, Page 262, Macomb County Records and on August 26, 1955, in Liber 3393, Page 9, Oakland County Records ("Easement"). Plaintiff shall not construct any new improvements, or reconstruct, change or modify any existing improvements located within the Easement without prior written approval from Red Run, which Red Run decision on approval shall not be unreasonably withheld. Any improvements and all related appurtenances currently existing or permitted by Red Run in the future shall be subject to the rights of Red Run pursuant to its

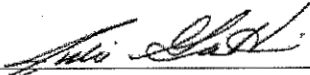
Easement. Plaintiff shall not change the grade or interfere with or impede the flow of surface drainage within the Easement. If it becomes necessary for Red Run, its agents or assigns to maintain, operate, repair, clean, enlarge, relocate, or otherwise improve the Red Run drainage system, and in doing so it requires the removal, disassembly, disturbance or destruction of any improvements located within the Easement, Plaintiff shall be solely responsible for any increased costs to Red Run in exercising its rights under the Easement and all costs associated with the repair, restoration or reconstruction of any improvements. Plaintiff shall indemnify Red Run against, and shall forever hold Red Run harmless from, any and all losses, liability, actions, claims, demands, costs, expenses, personal injuries or property damages of any kind whatsoever caused by or arising out of Plaintiff's use of or acts within the Easement by Plaintiff, its employees, contractors, agents, representatives, guests, visitors, invitees, licensees, or any other person coming upon the Easement. The terms, conditions, covenants and other provisions contained in this Default Judgment shall run with the land and be binding upon and inure to the benefit of each of the parties hereto and their respective agents, successors and assigns.

IT IS FURTHER ORDERED that a certified copy of this Default Judgment shall be recorded with the Macomb County Register of Deeds and shall act in place of a deed and with the same effect as if a deed were signed and executed.

IT IS SO ORDERED.

This is a final order that closes the case.





CIRCUIT COURT JUDGE
787 JULIE GATTI
CIRCUIT COURT JUDGE, P64848

Agenda Item No. 7

Change Order

CHANGE ORDER NO. 3

RED RUN INTERCOUNTY DRAIN DRAINAGE DISTRICT

For Construction of the Freedom Hill North Bank Stabilization Project
 Located in City of Sterling Heights, Macomb County, Michigan

CONTRACTOR: L.J. Construction, Inc. Authorization for: Changes and Extras to Contract
 Address: 5863 S. Kingston Road
Clifford, MI 48727 Change Order No: 3 Date: 07/11/23

Auth No.	Location-Description-Reason	Unit Used	Est. Quant.	Unit Price	Amount Increase	Amount Decrease
A	DESCRIPTION (EXTRAS/REDUCTIONS): Change in scope of restoration work.					
A-1	Restoration - Lo Prairie Mix (Bid Item #33)	Ac	-1.17	\$ 5,000.00		\$ 5,850.00
A-2	Native Pollinator Shrub and Plug Plantings	LS	1.00	\$ 4,710.00	\$ 4,710.00	
A-3	Lo Prairie Seed Mix Purchase (by MCPWO from Stantec)	Ac	1.17	\$ 1,513.75	\$ 1,771.09	
	LOCATION: Area of the project along the south side of the Freedom Hill amphitheater (area enclosed by the amphitheater wall and chain link fence).					
	REASON: Due to the steep grade of the land located within the chain-link fence along the south side of the amphitheater, there is a high risk of damage due to erosion from stormwater if the existing ground-cover vegetation is removed, and a high level of difficulty/low likelihood of success with establishing new groundcover vegetation in this area. The goal of establishing native pollinator species in this area will remain unchanged, but will be accomplished through the planting of shrubs and plugs instead of groundcover seeding.					
	<i>Attachment: Work Change Directive #5</i>					

CONTRACTOR: L.J. Construction, Inc.
 Address: 5863 S. Kingston Road
Clifford, MI 48727

Authorization for: Changes and Extras to Contract

Change Order No: 3

Date: 07/11/23

Auth No.	Location-Description-Reason	Unit Used	Est. Quant.	Unit Price	Amount Increase	Amount Decrease
B	DESCRIPTION (EXTRAS/REDUCTIONS): Change in scope of restoration work.					
B-1	Restoration - Lo Prairie Mix (Bid Item #33)	Ac	-0.86	\$ 5,000.00		\$ 4,300.00
B-2	Lo Prairie Seed Mix Purchase (by MCPWO from Stantec)	Ac	0.86	\$ 1,513.75	\$ 1,301.83	
	LOCATION: Area of the project to the southeast of the Freedom Hill amphitheater.					
	REASON: Per the Contractor's advisement, restoration of an area located to the southeast of the amphitheater with the proposed Lo Prairie seed mix would not perform well due to the presence of invasive species (the treatment of which remains to be completed) and stormwater (a ditch/swale is located in this area, that collects and conveys stormwater to the Red Run Drain).					
	<i>Attachment: Work Change Directive #6</i>					
Totals					\$7,782.91	\$10,150.00
Net						
Decrease					\$ -	\$ 2,367.09

CHANGE ORDER NO. 3

RED RUN INTERCOUNTY DRAIN DRAINAGE DISTRICT

For Construction of the Freedom Hill North Bank Stabilization Project

Prepared by: _____ Date: _____
Project Manager: Brent Tarpinian
Hubbell, Roth & Clark, Inc.

Recommended by: _____ Date: _____
Engineer: Jeffrey Bednar, P.E.
Macomb County Public Works Office

Recommended by: _____ Date: _____
Engineer: George P. Nichols, P.E.
Oakland County Water Resources Commissioner

The Contractor agrees to do the work described above and agrees to accept payment in full on the basis indicated.

Accepted by: _____ Date: _____
Title
of: L.J. Construction, Inc.

Approved by: _____ Date: _____
Manager: Gary Nigro, P.E.
Oakland County Water Resources Commissioner

The Contractor is hereby authorized and instructed to do the work described above in accordance with the terms of the Contract.

Approved by: Red Run Drain Board Date: _____

Agenda Item No. 8

Trial Balance



Trial Balance

Organization Oakland County
Periods FY2023 : Jul
Ledger Actuals
Accounting Worktag FND82902 Red Run Federal Drain Ch21
Book Operating
Company Currency USD
Translation Currency USD
Run 07/12/2023 05:28 PM

Consolidation Data

Ledger Account	Beginning Balance	Debit Amount	Credit Amount	Ending Balance
100100:Cash - Operating	1,215,629.59	809.28	36.75	1,216,402.12
101500:Undeposited Cash	0.00	0.00	0.00	0.00
104100:Accrued Interest on Investment	4,583.55	0.00	786.88	3,796.67
126100:Due from Municipalities	0.00	0.00	0.00	0.00
126105:Due from Municipalities-AR Con	0.00	0.00	0.00	0.00
201210:Vouchers Payable AP Cont	(13,238.18)	0.00	0.00	(13,238.18)
211100:Due to Primary Government	0.00	0.00	0.00	0.00
228100:Deposits Liability	(28,244.40)	0.00	0.00	(28,244.40)
230852:Accounts Payable	0.00	0.00	0.00	0.00
381350:FB Restricted Programs	(1,224,784.17)	0.00	0.00	(1,224,784.17)
450100:Cash Sweep	0.00	0.00	0.00	0.00
605000:Special Assessments	(202,596.00)	0.00	0.00	(202,596.00)
630000:Charges for Services	(2,009.25)	0.00	0.00	(2,009.25)
655000:Investment Income	(12,377.55)	823.63	809.28	(12,363.20)
730000:Contractual Services	241,216.65	0.00	0.00	241,216.65
770000:Internal Support Expenditures	21,819.76	0.00	0.00	21,819.76
Total	0.00	1,632.91	1,632.91	0.00

Cash	\$1,216,402.12
Permit Held	(28,244.40)
Voucher Payable	(13,238.18)
Cash Available	\$1,174,919.54

Agenda Item No. 9

Invoices

MEMO TO: Mr. Jim Nash, Chairman
of the Intercounty Drainage Board for the RED RUN FEDERAL DRAIN

FROM: Shawn Phelps, Chief of Fiscal Services
OCWRC Accounting



For Shawn Phelps

DATE: July 19, 2023

SUBJECT: Request for Approval of Invoices

Request for Board approval of payment of the following invoices:

Date	Ref No.	Paid To	For	Amount
	TBP	ALOIA Law	Inv # 28971 - Legal Services - 04/27/23 - Proj#1-2895	\$ 1,681.50
	TBP	ALOIA Law	Inv # 29103 - Legal Services - 06/02/23 - Proj#1-2895	1,776.50
	TBP	Hubbell, Roth, & Clark Inc	Inv # 0204748 - Contracted Services - 03/23/23	909.98
	TBP	Hubbell, Roth, & Clark Inc	Inv # 0207399 - Contracted Services - 05/27/23	2,420.37
	TBP	Macomb County Public Works	Inv # APR230139 - Annual Insurance	68,746.00
			Total	\$ 75,534.35

Agenda Item No. 10

Other Business

Agenda Item No. 11

Adjourn