

# TOWNSHIP OF MACOMB COUNTY OF MACOMB

## **INSTRUCTIONS TO BIDDERS**

### **1. General**

The Township of Macomb is the owner of real property ("Property") more fully described as:

Unit 69, Huntcliff Village Condominium according to the master deed recorded in Liber 3768, pages 667-710, as amended.

Parcel ID# 08-31-329-069  
Address: 45603 Bristol Bay, Macomb, MI

The Township is seeking proposals from bidders to purchase the Property in accordance with the terms set forth herein. This bid package includes the following documents:

1. Instructions to Bidders
2. Agreement to Purchase Real Estate

### **2. As Is Condition**

The property is being sold in "as is" condition. The Township makes no representations regarding the condition of the property, the Township has not had the property inspected and therefore, is not aware as to the condition of the property. The Purchaser must comply with the Township's foreclosed property maintenance ordinance.

### **3. Inspection of Property**

The property will be available for inspection on July 30, 2010 from the hours of 2:00 p.m. to 7:00 p.m.

### **4. Submittal of Bids**

Bids shall be enclosed in a sealed and opaque envelope directed to the Township Clerk, Township of Macomb, 54111 Broughton Road, Macomb, MI 48042. The notation "**BID FOR PURCHASE OF TOWNSHIP PROPERTY**" shall appear on the outside of the envelope containing the bid, together with the name, address and telephone number of

the bidder. The bid package, properly labeled, must be received by the Township Clerk by 10:00 a.m. on August 6, 2010.

The bid opening is scheduled for August 6, 2010, at 10:30 a.m. in the Board Room located at the Township Offices at 54111 Broughton Road, Macomb, MI 48042.

Bids shall be submitted on the Agreement to Purchase Real Estate contained in these Instructions. The minimum bid price is Eighty Thousand and 00/100 (\$80,000.00) Dollars. The Agreement to Purchase Real Estate shall be accompanied by a cashier's check in the amount of Five Thousand and 00/100 (\$5,000.00) Dollars made payable to the Township of Macomb. The Five Thousand and 00/100 (\$5,000.00) Dollars deposit shall be utilized in accordance with paragraph two (2) of the Agreement to Purchase Real Estate. Checks shall be returned promptly after the Township and successful bidder have both executed the Agreement to Purchase Real Estate. The Agreement to Purchase Real Estate shall be signed with the full name and address of the bidder. In the case of an individual, sole proprietorship, limited partnership or co-partnership, the name of each registered individual or any partner(s) shall be given together with a certified copy of its Certificate of Assumed Name, Certificate of Limited Partnership, or Co-Partnership, as the case may be. In the case of a corporation or limited liability company, the corporate name, state of incorporation and copy of the Articles of Incorporation, or Organization, Certificate of Good Standing issued by the State of Michigan and its authorization to do business in the State of Michigan and the right of the individual to sign the Agreement to Purchase Real Estate on behalf of the bidder.

All bids must be submitted by filling in the proper blanks on the Agreement to Purchase Real Estate. Bidders are directed to submit their bids in the precise format displayed in the Agreement to Purchase Real Estate without any modifications.

Each bid must include a fully-executed Agreement to Purchase Real Estate, completed in accordance with these Instructions with no pages removed or altered and signed by an individual authorized to commit the bidder to the Agreement to Purchase Real Estate. To that end, a properly certified resolution of the board of directors of corporate bidders, or a sworn statement by the general partner of a limited or co-partnership or managing partner of a limited liability company must be attached to the bid attesting to the signor's authority to commit the bidder to the Agreement to Purchase Real Estate.

## **5. Inquiries**

Questions or clarifications of these Instructions to Bidders should be directed to: Mark Grabow, Supervisor. Bid packages may be picked up at the Clerk's Office or downloaded from the Macomb Township Web site: [www.macomb-mi.gov](http://www.macomb-mi.gov).

## **6. Withdrawal of Proposal**

If no Agreement to Purchase Real Estate has been accepted by the Township by August 12, 2010, any bidder may withdraw the bid and receive a return of the deposit.

## **7. Award of Contract**

The Township reserves the right to reject any and all bids and to select a bidder on the basis of all relevant factors. The Township anticipates accepting the Agreement to Purchase Real Estate on August 11, 2010, at its regular Township Board meeting.

## **8. Multiple Bidding Prohibited**

More than one (1) bid -under the same name or different names, from any individual, proprietorship, partnership, co-partnership, firm, company, corporation, association or limited liability company shall not be considered. Reasonable grounds for believing that any bidder is interested in more than one bid will cause the rejection of all bids in which the bidder is interested. If there is cause for believing that collusion exists among the bidders, none of the participants in such collusion will be considered in this or future proposals. Bidders must submit with their bid a signed and notarized statement of non-collusion on the form attached to these bid documents.

## **9. Familiarity with Contract Documents**

The submission of a proposal shall be considered as a representation that the bidder has inspected the Property on July 30, 2010, and that the bidder is satisfied with the character and quality of the Property. The bidder is cautioned to carefully read and become thoroughly familiar with the Agreement to Purchase Real Estate. The Agreement to Purchase Real Estate shall be controlling as to the obligations of the bidder, and, in the event of any ambiguity or inconsistency, shall control and supersede any of the statements made in the Notice of Sale of Township Property or Instructions to Bidders.

Michael D. Koehs, CMC  
Township of Macomb

## Huntcliff Condo Unit #69 Pictures











**BID FORM**  
**AGREEMENT TO PURCHASE REAL ESTATE**

**1. THE UNDERSIGNED** ("Purchaser") hereby offers to purchase land ("Premises") situated in the Township of Macomb, Macomb County, Michigan, described as follows:

Unit 69, Huntcliff Village Condominium according to the master deed recorded in Liber 3768, pages 667-710, as amended.

Parcel ID No. 08-31-329-069

Common Address: 45603 Bristol Bay, Macomb, MI

The purchase price is \_\_\_\_\_ (\$\_\_\_\_\_) Dollars. The purchase price includes all fixtures and appurtenances in or on the Premises including, by way of example, but not limited to lighting fixtures, shades blinds, drapery hardware, curtain rods, ventilating fixtures, screens, garage door openers, water softener, built-in kitchen equipment, attached mirrors, attached humidifiers and incinerators, awnings, all TV antennas, landscaping, fuel tank, attached carpeting, and personal property including washer, dryer, refrigerator and microwave. The sale is to be consummated by delivery of the usual Warranty Deed conveying marketable title.

**2. EARNEST MONEY DEPOSIT.** Immediately after both parties sign this Agreement, the Seller shall deliver to Philip F. Greco at 118 Cass Avenue, Mount Clemens, Michigan 48043, the depository, the earnest money deposit of Five Thousand (\$5,000.00) Dollars previously submitted to Seller by Purchaser as part of the bid package. The depository shall hold the deposit in an escrow account as earnest money for the transaction described in this Agreement to evidence the Purchaser's good-faith intention to consummate the Agreement. The depository agrees to be bound by this paragraph by accepting the amount tendered. If this Agreement is not consummated because the Purchaser fails to perform any of its obligations under this Agreement, The Seller shall notify the depository in writing to give the deposit and any interest to the Seller as liquidated damages for the Purchaser's failure to complete this Agreement. If the transaction contemplated by this Agreement is not consummated because the Seller breaches a warranty or fails to perform any of its obligations under this Agreement, the Purchaser shall notify the depository in writing to return the deposit and any interest to the Purchaser. If the transaction contemplated by this Agreement is consummated, the depository shall give the deposit to the Seller at the closing to be applied to the purchase price of the Property. After receiving written notice from either party that the deposit and interest should be given to that party, the depository shall notify the other party of the demand. If a written objection is not received within five days, the depository may forward the amount pursuant to the notice.

If a written objection is received within five days, the depository shall hold the amount until the parties resolve their dispute and each notifies the depository in writing of the resolution or the depository shall file an interpleaded action and pay the money to the court.

**3. WARRANTIES BY THE SELLER.** The Seller warrants to the Purchaser and shall certify to the Purchaser at the closing as follows:

a. The Seller has full authority to enter into and perform this Agreement in accordance with its conditions, without breaching or defaulting on any obligation or commitment that the Seller has to any partners or third parties.

b. Except as disclosed in this Agreement, the Seller is not a party to any Agreement or otherwise bound under any obligation with any other party who has any interest in the Premises or the right to purchase or lease the Premises.

c. Except as otherwise stated in this Agreement, the Seller's interest in the Premises will be transferred to the Purchaser at the closing, free and clear of all liens, encumbrances, charges, and adverse claims, contractual or other.

d. There are no suits, actions, or proceedings pending or, to the best of the Seller's knowledge, threatened by any party, including governmental authorities or agencies, against or involving the Premises or to which the Seller is or may become a party in connection with the Premises.

e. Seller has, or will obtain by closing, good and marketable title to the subject Premises, free and clear of all mortgages, liens, security interests, pledges, charges or other encumbrances, except for beneficial utility easements.

f. Seller has received no official or written notice of any condemnation proceedings against the whole or any part of the Premises and has no reason to believe that any agency is contemplating condemnation proceedings against the whole or any part of the Premises.

g. Neither this Agreement nor any Exhibit hereto or other written material furnished by or on behalf of Seller contain any untrue statement of a fact or omit to state a fact necessary in order to make the statements contained herein not misleading.

h. Seller has no knowledge of (i) any agreements of sale other than this Offer, options or other rights of third parties, to acquire the Premises; (ii) any

unrecorded lease, claim, restriction, covenant, agreement, or encumbrance affecting all or any portion of the Premises; or (iii) any other agreements which would otherwise affect the Premises.

**4. SURVIVAL OF THE WARRANTIES.** The warranties of the parties in this Agreement shall survive the closing. The act of closing shall not bar either party from bringing an action based on a warranty of the other party.

**5. INDEMNIFICATION AND THE RIGHT TO SET OFF.**

a. The Purchaser agrees to indemnify the Seller for all damages, including actions, suits, judgments, costs, charges, expenses, fines, penalties, reasonable attorney fees, and the consequences of any liabilities, that are asserted against or affect the Premises because of the Purchaser's actions or failure to act after the closing.

**6. TITLE INSURANCE & OBJECTIONS TO TITLE.**

a. Evidence of Title. Within ten (10) days from Seller's acceptance of this Agreement, as evidence of title, Seller shall obtain a commitment for a policy of title insurance from the Philip F. Greco Title Company bearing a date subsequent to the Agreement Date in an amount not less than the purchase price herein and offering to guarantee marketability of the title of the Premises. The commitment shall be delivered to Purchaser immediately upon issuance thereof. In the event Seller does not order the commitment as required herein, Purchaser may do so. Failure to order the commitment does not constitute a breach of this Agreement. Seller shall pay for the policy of title insurance issued pursuant to said commitment.

b. Title Objections. If Purchaser objects to title he/she must notify Seller of the same within 10 days of receipt of evidence of title. Notice shall be by a written opinion of Purchaser's attorney specifying the particular defects claimed. Seller may, but shall not be obligated, to either (1) remedy the title defect claimed or (2) obtain title insurance as required herein either of which must be done within thirty (30) days of the notice of defects. If Seller eliminates the defects claimed within the time specified Purchaser agrees to complete the sale within ten (10) days of written notice thereof. If Seller elects not, or is unable, to remedy the defects claimed, Purchaser may either close and accept such title as Seller is able to convey in full satisfaction of Seller's obligations herein, or receive a return of all monies deposited hereunder in full termination of this Agreement.

**7. CHANGES IN THE CONDITION OF THE PREMISES.** In the event of loss or damage to the Premises because of fire or some other casualty between the effective

date of this Agreement and the date of the closing, the Seller shall immediately provide the Purchaser notice of the loss or damage. The Purchaser shall have the right to terminate this Agreement within ten (10) days after receiving notice from the Seller if the damage exceeds \$5,000. If the Purchaser does not terminate this Agreement or the damage is less than \$5,000, the Purchaser may have the Seller repair the damage before the closing or assign any insurance proceeds to the Purchaser at the closing by giving a notice of election to the Seller. If the Purchaser elects to take the insurance proceeds, the Seller shall also pay an amount equal to the Seller's deductible for the loss to the Purchaser at the closing.

**8. CONDITIONS PRECEDENT FOR PERFORMANCE BY THE PURCHASER.** The obligation of the Purchaser to consummate the sale contemplated by this Agreement is subject to the fulfillment of the following conditions before the closing. The Purchaser may waive these conditions in writing.

a. Each of the Seller's warranties shall be true as though made again on the closing date, and no warranty shall be breached before the closing.

b. The Seller shall perform and comply with all its obligations under this Agreement by the closing.

c. There shall be no material adverse change in the Premises and no encumbrance on the title to the Premises from the date of this Agreement to the date of the closing.

d. No action or proceeding to restrain, prohibit, or declare illegal the transaction contemplated by this Agreement shall be pending or threatened. No order restraining or prohibiting the transaction contemplated by this Agreement shall be issued by any public authority, governmental agency, or court. No attachments, garnishments, levies, or liens shall be filed or in effect regarding the transaction contemplated by this Agreement or the Premises.

e. All bills and expenses that the Seller has incurred for utilities, services, supplies, or other related items for the Premises shall be paid by Seller at or prior to closing.

**9. CONDITIONS PRECEDENT TO PERFORMANCE BY THE SELLER.** The obligation of the Seller to consummate the sale contemplated by this Agreement shall be subject to the fulfillment of the following conditions before the closing. The Seller may waive these conditions in writing.

a. Each of the Purchaser's warranties shall be true as though made again on the closing date, and no warranty shall be breached before the closing.

b. The Purchaser shall perform and comply with all its obligations under this Agreement by the closing.

**10. TERMINATION.** If either the Purchaser or the Seller is not obligated to complete this Agreement because a Condition Precedent is not met, that party may terminate this Agreement by notifying the other party of the intention to terminate this Agreement and the reason. The Purchaser or the Seller may waive any obligations of the other party without prejudicing the right to subsequently assert other conditions or to make a claim against the other party for the breach of a condition or warranty.

**11. CLOSING DATE AND PLACE.** If this Offer is accepted by Seller and if title can be conveyed in the condition required hereunder, this sale shall close within fifteen (15) days after Purchaser's receipt of title insurance as required in Paragraph 6. The closing shall take place at the Philip F. Greco Title Company in Mount Clemens, Michigan.

**12. ENCUMBRANCE REMOVAL.** Any existing encumbrance on the premises which Seller is required to remove hereunder may be paid and discharged with the purchase money at the time of closing or, at the election of Purchaser and with the consent of Seller, assumed by Purchaser and the amount thereof deducted from the proceeds due to Seller.

**13. CONDITION OF PROPERTY.** Purchase has been given the opportunity to inspect the property, and knows the condition of the Premises and is purchasing the same "as is". The Township has not had the property inspected and therefore, is not aware as to the condition of the property. The Purchaser must comply with the Township's foreclosed property maintenance ordinance.

**14. PRORATIONS.** All taxes on the Premises which are due and payable on or before the date of closing shall be paid by Purchaser. At closing all taxes covering the current taxing period shall be adjusted from the date upon which each of said taxes become due and not the fiscal year of the taxing authority, and Purchaser shall reimburse Seller for such proportion thereof as the number of days from the date of closing to the next date upon which said tax shall become due bears to 365. Taxes shall be considered as paid in advance. Special assessments for public improvements which have been confirmed by public authority at the date of this Agreement shall be the sole obligation of Purchaser. All taxes of any kind levied upon the transfer of real property imposed as a consequence of this transaction or documentary stamps to be affixed to any document executed pursuant to this Agreement shall be paid by Purchaser.

**15. DEFAULT.** In the event of default by Purchaser, Seller may, at his option, elect to enforce the terms hereof or declare a forfeiture hereunder and retain the deposit as liquidated damages. In the event of default by Seller, Purchaser may, at its option, elect to enforce the terms hereof or demand, and be entitled to, an immediate refund of its entire deposit in full termination of this Agreement. If two or more persons execute this Agreement as Purchaser, their obligations shall be joint and several.

**16. CONSTRUCTION.** Whenever the singular number is used, the same shall include the plural and the neuter, masculine and feminine genders shall include each other. If any language is stricken or deleted from this Agreement, such language shall be deemed never to have appeared herein and no other implications shall be drawn therefrom.

**17. ENTIRE AGREEMENT.** Time is of the essence of this Agreement. Seller and Purchaser acknowledge that they have read the entire contents hereof and are familiar with the provisions contained herein. This Agreement constitutes the entire agreement of the parties with respect to the subject matter hereof. All prior agreements between the parties with respect to the subject matter hereof, whether written or oral, are merged herein and shall be of no force or effect. This Agreement may only be changed, modified or discharged by an agreement in writing signed by the party against whom enforcement thereof is sought.

**18. BINDING EFFECT.** The covenants herein shall be binding upon and shall ensure to the benefit of Purchaser and Seller and their respective executors, heirs, legal representatives, successors, administrators and assigns. These covenants shall survive the closing for the sale of the Premises.

**19. SUCCESSORS AND ASSIGNS.** This Agreement shall bind and benefit the parties and their successors and assigns.

**20. GOVERNING LAW AND VENUE.** This Agreement shall be construed in accordance with and governed by Michigan laws. Any actions concerning this Agreement shall be brought in Macomb County, Michigan.

**21. NOTICES.** Any notices required by this Agreement shall be served personally or by registered mail, certified receipt requested, to the party for whom it is intended at the address listed at the beginning of this Agreement.

**22. EFFECTIVE DATE.** This Agreement shall be effective when all the parties listed below have signed this Agreement.

WITNESS:

PURCHASER:

\_\_\_\_\_

Dated \_\_\_\_\_

WITNESS:

SELLER:

TOWNSHIP OF MACOMB  
A Michigan Municipal Corporation

\_\_\_\_\_

BY: \_\_\_\_\_

Mark Grabow,  
Its Supervisor

Dated \_\_\_\_\_

BY: \_\_\_\_\_

Michael D. Koehs, CMC  
Its Clerk

Seller acknowledges receipt of Purchaser's deposit which will be applied pursuant to Paragraph 2.

Dated: \_\_\_\_\_

Purchaser acknowledges receipt of Seller's signed acceptance of this Agreement.

Dated: \_\_\_\_\_