

F1906260  
June 27, 2019

**TO THE HONORABLE BERRIEN COUNTY BOARD OF COMMISSIONERS:** Your County Finance Committee respectfully recommends the approval of the following:

**R E S O L U T I O N**

**PLEDGING THE FULL FAITH AND CREDIT  
OF THE COUNTY OF BERRIEN, WITHIN CONSTITUTIONAL  
LIMITATIONS, FOR THE PAYMENT OF THE \$551,000 DRAIN NOTE  
(RENEWAL SERIES) OF THE  
SCHWARK DRAIN #455 DRAINAGE DISTRICT  
(Three Oaks Township, Village of Three Oaks and  
Berrien County, Michigan)**

**WHEREAS**, the Schwark Drain #455 Drainage District (the "Drainage District") was created under the provisions of Act No. 40, Public Acts of Michigan, 1956, as amended (the "Drain Code"), for the purpose of constructing the Schwark Drain #455 (the "Drain") which lies wholly within the Three Oaks Township (the "Township") and the Village of Three Oaks (the "Village"), County of Berrien (the "County"), Michigan (the "Project"); and

**WHEREAS**, pursuant to Act No. 40, Public Acts of Michigan, 1956, as amended ("Act 40") and an order dated September 21, 2010, the District has previously issued its Schwark Drain #455 Drainage District, Drain Bonds, Series 2010, dated as of April 1, 2010 (the "Prior Bonds"), in the original principal amount of \$1,760,000 to defray the cost of acquiring and constructing the Project; and

**WHEREAS**, the Drainage District owed \$454,095.99 for amounts which were unpaid on property number 11-47-0010-0080-03-8, which is located at 7080 U.S. 12 West, Three Oaks, Michigan for unpaid drain taxes assessed in 2013, 2014, 2015 and 2016 which amount was paid from the Berrien County Delinquent Tax Revolving Fund covering bond payments through May 1, 2017, and

**WHEREAS**, the Drain Commissioner as a part of the refunding of the Prior Bonds maturing in the years 2018 through 2030 issued the \$470,000 Schwark Drain #455 Drainage District 2017 Drain Note (the "Prior Note"); and

**WHEREAS**, to extend the maturity date of the \$470,000 Prior Note and to raise money to pay for the creation of a wetlands district, the Drain Commissioner, on behalf of the District, proposes to issue the Schwark Drain #455 Drainage District Drain Note (Renewal Series) in an amount not to exceed \$551,000 (the "2019 Drain Note (Renewal Series)"), to pledge the full faith and credit of the District and the County toward the repayment of principal and interest on the Drain Note; and

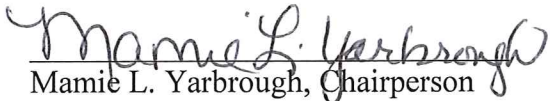
**WHEREAS**, the Board of Commissioners, pursuant to said Drain Code, is authorized by vote of two-thirds of its members to pledge its full faith and credit of the County for the payment of the 2019 Drain Note (Renewal Series), within constitutional limitations; and

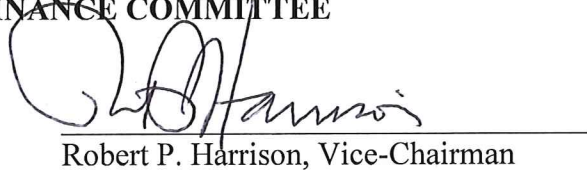
**WHEREAS**, the 2019 Drain Note (Renewal Series) is not a private activity bond for purposes of Section 141 of the Internal Revenue Code of 1986 (the "Code").

**NOW, THEREFORE, BE IT HEREBY RESOLVED** as follows:

1. The limited tax full faith and credit of the County is hereby pledged for the prompt payment of the principal of and interest on the 2019 Drain Note (Renewal Series). In case of any deficiency in the assessments to be made to pay the principal of and interest on the Bonds as and when due, the County shall pay the amount of such deficiency out of its general funds as a first budget obligation and, if necessary, shall levy ad valorem taxes for such purpose against all taxable property within its limits, subject to constitutional and statutory limitations provided, however, that if it is necessary to reimburse the County for money, it is obligated to advance, it shall be the duty of the Commissioner to at once levy an additional assessment as hereinbefore provided as such an amount as will make up the deficiency pursuant to the Drain Code, Section 280, M.C.L. 280.280.
2. The Drain Commissioner may establish the years and maturities in an order to be signed by him prior to the sale of the 2019 Drain Note (Renewal Series), so long as the total 2019 Drain Note Renewal Series does not exceed \$551,000.
3. This Resolution shall not take effect until the Order Authorizing the Issuance of Notes, in the form attached as Appendix A is executed and filed in the office of the Drain Commissioner and a certified copy is filed with the Berrien County Clerk.
4. All previous resolutions of the Board of Commissioners of the County, or parts thereof, that are inconsistent with this resolution are hereby rescinded.

**RESPECTFULLY SUBMITTED,  
BERRIEN COUNTY FINANCE COMMITTEE**

  
Mamie L. Yarbrough, Chairperson

  
Robert P. Harrison, Vice-Chairman

  
Jon Hinkelman

  
Ezra A. Scott

RESOLUTION APPROVED AS TO FORM	
Administrator 	Date 6/20/19
Comments Attached	
Corporate Counsel 	Date 6.19.19
Comments Attached	