

MICHIGAN DEPARTMENT OF ENVIRONMENTAL QUALITY

In the Matter of:

DEQ Reference No. AOC-RD-11-002

McLaren Family Care Center
Former Launderama Dry Cleaners
216 East Comstock Street, Owosso, Shiawassee County, Michigan
Facility ID No. 78000140

**MODIFICATION OF THE ADMINISTRATIVE ORDER BY CONSENT
FOR PAYMENT OF PAST AND FUTURE RESPONSE ACTIVITY COSTS**

This Modification of Administrative Order by Consent for Payment of Past and Future Response Activity (Modification) is executed by and between the Michigan Department of Environmental Quality (DEQ), Remediation Division; Attorney General Bill Schuette for the State of Michigan (collectively the "State"); and McLaren Medical Management, Inc., and McLaren Regional Medical Center (collectively McLaren). This Modification shall be effective upon the signature of the Chief of the Remediation Division, DEQ. This Modification shall be executed in two (2) duplicate counterparts, each of which shall be deemed an original. By execution of this Modification, the State and McLaren (collectively the "Parties") stipulate and agree to be bound by all its terms and conditions herein.

Unless otherwise defined herein, all terms used in this Modification shall have the same meaning as defined in the Administrative Order by Consent for Payment of Past and Future Response Activity Costs, DEQ Reference No. AOC-RD-11-002, which became effective on May 12, 2011 (AOC).

RECITALS

The Parties acknowledge the accuracy of the following facts and circumstances surrounding this Modification:

1. On May 12, 2011, McLaren and the State entered into the AOC pursuant to Section 20134(1) of Part 201 of the Natural Resources and Environmental Protection Act, 1994, PA 451, as amended.
2. On May 16, 2011, the DEQ was notified that the prime trade contractor, who was awarded the contract, withdrew their bid.
3. On July 28, 2011, the Parties met with new prime trade contractor at the pre-construction meeting. The Parties identified changes to the original scope of work.
4. August 1, 2011, McLaren requested that the AOC be modified to reflect the changes to the original scope of work.
5. In recognition of the changes, the Parties have determined that it is in their mutual interest to make the necessary changes to accurately reflect the changes in the scope work to assure compliance with the AOC.

TERMS OF AGREEMENT

Accordingly, in consideration of the recitals set forth above, the Parties hereby modify the AOC as follows:

1. In Paragraph 5(b) of the AOC, the word "port" will be replaced with "door."
2. In Attachment C of the AOC (Scope of Work), the paragraph entitled, "Building Preparation," will be eliminated in its entirety and replaced with the following paragraph:

Building Preparation – Prior to the installation of the System, a portion of the McLaren Family Care Center will require preparation. McLaren Medical Management, Inc., will conduct interior building demolition of the physical therapy room and western office space. The DEQ's contactor(s) will install a temporary exterior access door on the north side of the McLaren Family Care Center for the purpose of placing equipment inside. A temporary interior access door will also be installed in the western load bearing wall of the physical therapy room, and a temporary access port will be installed below grade in the western exterior wall of the McLaren Family Care Center.

3. Attachment D of the AOC (Grant of Easement) is replaced with attachment D-1 (Grant of Easement). D-1 is attached to this Modification.

Except as specifically modified or amended by this Modification, all other provisions of the AOC remain in full force and effect.

The Parties agree to the recitals and terms of agreement set forth in this Modification.

In the Matter of:

DEQ Reference No. AOC-RD-11-002

McLaren Family Care Center
Former Launderama Dry Cleaners
216 East Comstock Street, Owosso, Shiawassee County, Michigan
Facility ID No. 78000140

IT IS SO STIPULATED:

MICHIGAN DEPARTMENT OF ENVIRONMENTAL QUALITY

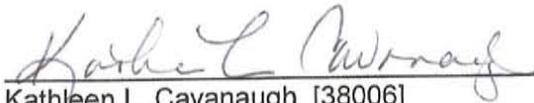


Lynelle Marolf, Chief
Remediation Division
Michigan Department of Environmental Quality

9/13/11

Date

MICHIGAN DEPARTMENT OF ATTORNEY GENERAL



Kathleen L. Cavanaugh [38006]
Assistant Attorney General
Natural Resources and Environmental Quality Division

9-13-11

Date

In the Matter of:

MDEQ Reference No. AOC-RD-11-002

McLaren Family Care Center
Former Launderama Dry Cleaners
216 East Comstock Street, Owosso, Shiawassee County, Michigan
Facility ID No. 78000140

IT IS SO AGREED BY:

McLaren Medical Management, INC.

Margaret Diamond
BY: _____

8/30/11
DATE: _____

ITS: CEO

McLaren Regional Medical Center

BY: _____

DATE: _____

ITS: _____

In the Matter of:

MDEQ Reference No. AOC-RD-11-002

McLaren Family Care Center
Former Launderama Dry Cleaners
216 East Comstock Street, Owosso, Shiawassee County, Michigan
Facility ID No. 78000140

IT IS SO AGREED BY:

McLaren Medical Management, INC.

BY: _____

DATE _____

ITS: _____

McLaren Regional Medical Center

BY:  _____

DATE:  _____

ITS: President and CEO

ATTACHMENT D-1

Grant of Easement

GRANT OF EASEMENT

STATE OF MICHIGAN DEPARTMENT OF ENVIRONMENTAL QUALITY

(This is exempt from County and State transfer taxes pursuant to MCL 207.505(a) and MCL 207.526(a), respectively.)

Pursuant to the agreement under the Administrative Order by Consent for Payment of Past and Future Response Activity Costs, AOC-RD-11-002 (the "AOC"), and no other consideration, the GRANTOR,

McLaren Medical Management, Inc.
401 South Ballenger Highway
Flint, Michigan 48532-3685

does hereby grant, convey, and release to the GRANTEE,

State of Michigan
Department of Environmental Quality
P.O. Box 30426
Lansing, Michigan 48909-7926

this GRANT OF EASEMENT (the "Easement"), for the performance of response activities at the property located at 216 East Comstock Street, City of Owosso, Shiawassee County, Michigan, and legally described in Attachment A (the "Property"). The Property was formerly used for dry cleaning operations and is part of the Launderama Dry Cleaners Facility, Facility ID No. 78000140 (the "Facility"). The McLaren Family Care Center (the "Building") is located on the Property.

The Facility, which includes all or portions of the Property, is a site of environmental contamination, and is a "facility" as defined by Part 201, Environmental Remediation (Part 201), of the Natural Resources and Environmental Protection Act (NREPA), 1994 PA 451, as amended, MCL 324.20101 *et seq.*

The Department of Environmental Quality (the "DEQ") is the agency charged with administering Part 201 of the NREPA. The Grantor conveys to the DEQ this Easement to provide for access to the Property for the implementation of response activities at the Property by the Grantee acting under authority set forth in Sections 20117 and 20118 of the NREPA. The response activities include, but are not limited to: installation, operation, maintenance, inspection, repair, and decommissioning of an *in situ* thermal remediation system; the installation of soil borings and/or monitoring wells and associated sampling; construct openings in the building, as described in the AOC; as amended; and soil, groundwater, soil gas, and indoor air sampling. Attachment B, the Building Floor Plan, identifies the areas where the response activities will be conducted. This Easement shall be recorded with the Register of Deeds in the county in which the Property is located by the Grantee.

Pursuant to this Easement, full right and authority is provided to the GRANTEE, its contractors, agents and employees, to enter at all times upon said premises for the purpose of performing response activities, subject to the following conditions:

- (1) The Grantor warrants that the Grantor has good and sufficient title to the Property.
- (2) The Grantor warrants that there are no existing interests or encumbrances in the Property that might interfere with the exercise of the DEQ's ability to pursue the response activities provided for within this Easement.
- (3) The Grantee accepts this Easement subject to all prior valid and recorded easements, permits, licenses, leases, or other rights existing or pending at the time of the issuance of this Easement, which may have been granted on the Property.
- (4) This Easement shall be binding upon the successors and assigns of the parties (the Grantor and the Grantee) and shall run with the land unless modified by written agreement of the parties or terminated by the Grantee on all or some portion of the Property. For any reference that pertains to an event or circumstance that will or may occur after the execution of this Easement, the term Grantor shall mean the Grantor or the legal successor or assign of the Grantor who holds fee title to the Property or some relevant sub-portion of the Property. For any reference that pertains to an event or circumstance that will or may occur after the execution of this Easement, the term Grantee shall mean the Grantee, or if legally applicable,

the successor of the Grantee.

- (5) The Grantee, to the fullest extent practicable, shall limit intrusive activities on the Property to those areas subject to response activities pursuant to state law.
- (6) Upon completion of the response activities performed under this Easement, the Grantee will undertake reasonable efforts to restore any property, vegetation, and structures damaged as a result of the Grantee's use. Grantee will reconstruct the following areas: the exterior wall on the north side of the Building where the temporary access door is installed, the western interior load bearing wall where the temporary access door is installed, and the western exterior wall where the below grade access port is installed. Grantee will repair the following areas: the concrete floor in the physical therapy room and western offices, and the underground plumbing fixtures, as needed. The Grantee will not restore any furniture, cabinets, counters, electrical, above ground plumbing fixtures, non-load bearing interior walls, suspended ceilings or floor coverings. The Grantee will also remove or properly abandon in place any sub-surface equipment used by the Grantee or its contractors, agents, and employees, following completion of response activities.
- (7) In granting this Easement, the Grantor accepts no liability for the actions of the Grantee and accepts no liability for injury or mishap sustained or caused by the Grantee unless attributable to the Grantor's actions, negligence, or violation of the law.
- (8) In granting this Easement, the Grantor agrees not to interfere with, interrupt, change, or otherwise disturb any systems, equipment, or signs installed or utilized by the Grantee. The Grantor also agrees not to use the Property in a manner that increases the cost of response activities, or otherwise exacerbates the existing contamination located on the Property. The term "exacerbation" as used in this Easement has the meaning as contained in Section 20101(1)(q) of the NREPA. The Grantor and any persons subject to this Easement shall consult with the Grantee prior to performing any construction activities on the Property to ensure that this Easement and its purpose of supporting the effective implementation of the response activities by the Grantee is not violated.
- (9) This Easement and the rights and obligations herein shall continue in full force and effect until such time as the response activities deemed necessary at the Property by the Grantee have been completed. The Grantee, for itself, its successors, and assigns, agrees to release and quitclaim all rights secured under this Easement to the then Grantor upon completion of response activities at the Property, but in any event, no later than December 31, 2014. A determination to release this Easement based upon a determination that response activities deemed necessary at the Property are complete is at the sole discretion of the Grantee. The terms of the Easement may be extended by mutual agreement.
- (10) Pursuant to this Easement, the Grantor agrees that in any lease, transfer, deed, mortgage, land contract, plat, conveyance, or assignment or any other legal instrument used to convey an interest in the Property and entered into by the Grantor, concerning all or any portion of the Property, the Grantor will provide notice of this Easement to any entity receiving an interest in the Property from the Grantor and shall assure that such person or entity receiving an interest in such portion is bound to comply with this Easement by including its terms in the legal instrument transferring or conveying any such interest.
- (11) The Grantor agrees to allow the Grantee the use of existing overhead lighting in the west office area and bathroom facilities in the physical therapy area at the Property. The Grantee will obtain its own power for use in conducting response activities at the Property, including the operation of the *in situ* thermal remediation system. Such allowance for overhead lighting and bathroom facilities shall continue until the response activities have been concluded, unless released sooner by the Grantee.
- (12) If any portion of this Easement is determined to be invalid by a court of law, the remaining provisions will remain in force.
- (13) This Easement will be construed in accordance with Michigan law. All legal action related to this Easement must be filed and pursued in Michigan state courts.
- (14) This Easement shall become effective on the date it is signed by the Grantor.

Unless otherwise stated herein, all terms used in this document, which are defined in Part 3, Definitions, of the NREPA, MCL 324.301 *et seq.*; Part 201 of the NREPA, MCL 324.20101 *et seq.*; or the Part 201 Administrative Rules (Part 201 Rules), 1990 AACS R 299.5101, *et seq.*, as amended by changes at 2002 Michigan Register 24 that became effective on December 21, 2002, and as later amended by the amendments to Part 201 of the NREPA that became effective on December 14, 2010, shall have the same meaning in this document as in Parts 3 and 201 of the NREPA and the Part 201 Rules.

Correspondence related to this Easement shall be made to the Grantee, Attention: Project Manager, Eric Van Riper, Launderama Dry Cleaners Facility - Shiawassee County, Lansing District Office, Remediation Division, Department of Environmental Quality, P.O. Box 30242, Lansing, Michigan 48909-7926, and to Carol L. Fossee, Payne Broder & Fossee, P.C., 32100 Telegraph, Suite 200, Bingham Farms, Michigan

IN WITNESS WHEREOF Margaret Dimond, President and Chief Executive Officer of McLaren Medical Management, Inc., has caused these presents to be signed in her name for McLaren Medical Management, Inc.

Dated this 30th day of August, 2011.

Signed by: Margaret Dimond
Margaret Dimond
President and Chief Executive Officer
McLaren Medical Management, Inc.

STATE OF WANDA JEAN CAMPBELL
Notary Public, State of Michigan
County of Genesee
COUNTY OF My Commission Expires 07-22-2016
Acting in the County of _____

Acknowledged before me in Genesee County, Michigan, on August 30, 2011, by Margaret Dimond, President and Chief Executive Officer of McLaren Medical Management, Inc., a Michigan corporation, for the corporation.

Wanda Jean Campbell

, Notary Public
State of Michigan, County of _____
Acting in the County of WANDA JEAN CAMPBELL
Notary Public, State of Michigan
My commission expires County of Genesee
My Commission Expires 07-22-2016
Acting in the County of _____

Prepared by: Joseph Cobe
Compliance and Enforcement Section
Remediation Division
Michigan Department of Environmental Quality
P.O. Box 30426
Lansing, Michigan 48909-7926

APPROVED AS TO FORM:

Andrew Prins

Andrew T. Prins (P70157)
Assistant Attorney General
Environment, Natural Resources, and Agriculture Division
Michigan Department of Attorney General

8/16/11
Date

ATTACHMENT A

Legal Description of Property

Property Address: 216 East Comstock Street, Owosso, Michigan 48867

PARCEL 1:

Beginning at the Northeast corner of lot 19 of the Plat of M.E. Holmes Subdivision of Lots 7, 8, and 9, Block 28 of the Original Plat of the City of Owosso, Shiawassee County, Michigan, according to the recorded plat thereof, as recorded in Liber 1, Page 115, Shiawassee County Records, thence East along the South line of Comstock Street 175.40 feet, thence South 01°00'00" West 105.00 feet, thence North 89°10'00" West 175.40 feet, thence North along the East line of said Lot 19 to the point of beginning, ALSO DESCRIBED AS: Lots 1 and 2 and the North ½ of the closed East and West alley adjoining these Lots of M.E. Holmes Subdivision of Lots 7, 8, and 9, Block 28 of the Original Plat of the City of Owosso, Shiawassee County, Michigan, according to the recorded plat thereof, as recorded in Liber 1, page 115, Shiawassee County Records; ALSO: the North 105 feet of the original 33 foot right of way of South Saginaw Street, now closed, South Comstock Street, ALSO: The West 10.4 feet of the North 105 feet of Lot 10, Block 28 of the original plat of the map of Owosso, Shiawassee County, Michigan, according to the recorded plat thereof, as recorded in Liber B, Page 411 of Deeds, Shiawassee County Records.

PARCEL 2:

Part of Lot 19 of the Plat of M.E. Holmes Subdivision of Lots 7, 8, and 9, Block 28 of the Original Plat of the City of Owosso, Shiawassee County, Michigan, according to the recorded plat thereof, as recorded in Liber 1, Page 115, Shiawassee County Records, described as beginning at the Northeast corner of said Lot 19, thence South 01°00'00" West on the East line of said Lot 19 a distance of 105.00 feet, thence North 89°10'00" West 2.26 feet, thence North 01°00'00" East 105.00 feet to the South line of Comstock Street, thence South 89°10'00" East 2.26 feet to the point of beginning.

NOTE: Parcel 1 and Parcel 2 above are combined for tax purposes under the following Local Parcel ID:
050-300-000-001-00

ATTACHMENT B

Building Floor Plan

