

STATE OF MICHIGAN
CIRCUIT COURT FOR THE 30TH JUDICIAL CIRCUIT
INGHAM COUNTY

MICHIGAN DEPARTMENT OF
ENVIRONMENTAL QUALITY,

Plaintiff,

No. 18- 862 -CE

v

HON. VISITING JUDGE

CITY OF DETROIT, CITY OF DETROIT
BUILDING AUTHORITY, AND
DETROIT LAND BANK AUTHORITY,

Defendants.

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CONSENT JUDGMENT

The Plaintiff in this case is the Michigan Department of Environmental Quality (DEQ). The Defendants are the City of Detroit, the City of Detroit Building Authority (DBA), a Michigan public body corporate, and the Detroit Land Bank Authority (DLBA), a Michigan public body corporate (collectively, Defendants).

In the Complaint, the DEQ alleged that the City of Detroit and the DLBA own or control many buildings included in a demolition program to remove blighted and dangerous residential and commercial buildings in the City of Detroit through agreements between (1) the City of Detroit and the DBA, (2) the DLBA and the DBA, and (3) the DLBA and the City of Detroit. The DEQ also alleged that the DBA coordinates and implements the demolition program. In addition, the DEQ alleged that Defendants violated Michigan's air quality rule concerning asbestos promulgated under Part 55, Air Pollution Control, of Michigan's Natural Resources and Environmental Protection Act (Part 55 of the NREPA), MCL 324.5501 *et seq.*, and federal air quality regulations concerning asbestos promulgated under the Clean Air Act, 42 USC 7401 *et seq.* Specifically, the DEQ alleged that Defendants violated Rule 942 of Michigan's Air Pollution Control Rules, Mich Admin Code, R 336.1942 (Rule 942), 40 CFR 61.145, and 40 CFR 61.150, as the owners and operators of the demolition of residential buildings that contained regulated asbestos-containing material (RACM).

Between February 29, 2016 and May 25, 2017, the DEQ issued various notices to Defendants alleging violations of Michigan and federal laws related to the demolition of residential buildings that contain RACM in the City of Detroit. A complete list of these notices is attached hereto as Appendix A to this Consent Judgment.

In the violation notices, the DEQ also alleged that Defendants' contractors who performed the demolitions violated Michigan and federal laws. The DEQ has enforced those laws against Defendants' contractors and has entered into administrative consent orders with them to resolve their violations.

Defendants do not admit their demolition activities are subject to Rule 942 or the Asbestos NESHAP. In addition, Defendants do not admit they are liable for the violations alleged in the Complaint and maintain that their contractors are liable for them. Defendants are agreeing to this Consent Judgment solely to settle disputed claims without incurring the time and expense of contested litigation.

The DBA has implemented measures to prevent violations of Rule 942, 40 CFR 61.145, and 40 CFR 61.150, including: (1) creating and implementing a database that contains information on the activities of Defendants' contractors in the Demolition Program to help Defendants manage and oversee them; (2) providing Plaintiff access to information in the database through the Internet; (3) taking actions to ensure Defendants' contractors in the Demolition Program have the appropriate asbestos-related certifications from the Michigan Occupational Safety and Health Administration; (4) performing inspections after the completion

of asbestos removal activities but before facilities are demolished to evaluate compliance with the requirements of Rule 942, 40 CFR 61.145, and 40 CFR 61.150; and (5) taking actions to ensure Defendants' contractors in the Demolition Program comply with Rule 942, 40 CFR 61.145, and 40 CFR 61.150, including preventing contractors from bidding on additional contracts if they do not comply with those requirements.

NOW, THEREFORE, before the taking of any testimony, and without trial of any issue of fact or law, and upon the consent of the parties, by their attorneys in this case, it is ORDERED:

I. JURISDICTION AND VENUE

1.1 This Court has jurisdiction over the subject matter of this action pursuant to Section 605 of the Revised Judicature Act (RJA), MCL 600.605, and Section 5530(5) of Part 55 of the NREPA, MCL 324.5530(5). The Court has personal jurisdiction over Defendants pursuant to Section 711 of the RJA, MCL 600.711.

1.2 Venue in this Court is proper pursuant to MCL 14.102 and MCL 324.5530(5).

1.3 The Court has determined that the terms and conditions of this Consent Judgment are reasonable, adequately resolve the environmental issues raised herein, and properly protect the interests of the people of the State of Michigan.

II. APPLICATION

2.1 The provisions of this Consent Judgment shall be binding on the parties to this action and their successors and assigns. No change or changes in the ownership or corporate status or other legal status of Defendants, including, but not limited to, any transfer of assets or of real or personal property, shall in any way alter Defendants' responsibilities under this Consent Judgment.

2.2 The signatories to this Consent Judgment certify that they are authorized to execute this Consent Judgment and to legally bind the parties they represent.

III. OBJECTIVES OF THIS CONSENT JUDGMENT

3.1. The parties' objectives of this Consent Judgment are to settle the violations alleged in the Complaint in a manner and under terms satisfactory to the parties and to ensure that, when the compliance requirements specified in this Consent Judgment have been implemented, the demolition of residential and commercial buildings in the City of Detroit that contain RACM will be operated to prevent violations of Rule 942.

IV. DEFINITIONS

4.1 Terms used in this Consent Judgment that are defined in the Asbestos NESHAP, Part 55 of the NREPA, or in the administrative rules promulgated pursuant to Part 55 of the NREPA shall have the meaning assigned to them in Part 55 of the NREPA and those regulations and administrative rules, unless otherwise provided in this Consent Judgment.

4.2 Whenever the terms set forth below are used in this Consent Decree, including attached appendices, the following definitions shall apply:

- a. "Asbestos Inspection" means the inspection described in Paragraph 5.5(a).
- b. "Asbestos Inspection Report" means the written report described in Paragraph 5.5(b).
- c. "Asbestos Inspector" means the person(s) described in Paragraph 5.4.
- d. "Asbestos NESHAP" means the National Emission Standard for Asbestos, 40 CFR 61.140 *et seq.*
- e. "DBA" means the City of Detroit Building Authority.
- f. "DBA Project Liaison" means a person employed by the DBA to, among other things, observe Demolitions performed under the Demolition Program.
- g. "Demolition" means the wrecking or taking out of any load-supporting structural member of a facility together with any related handling operations or the intentional burning of any residential or commercial building.
- h. "Demolition Personnel" means the persons performing a Demolition.

i. “Demolition Program” means the City of Detroit’s plan for the demolition of blighted and dangerous residential and commercial buildings located in the City of Detroit that the DBA coordinates and implements through agreements with the City of Detroit and the Detroit Land Bank Authority.

j. “DEQ” means the Michigan Department of Environmental Quality.

k. “DLBA” means the Detroit Land Bank Authority.

l. “Effective Date” means the date of entry of this Consent Judgment by the Court as recorded on the Court docket or, if the Court instead issues an order approving this Consent Judgment, the date such order is recorded on the Court docket, whichever occurs first.

m. “Financial Stake” shall be given its ordinary meaning but shall not include compensation paid to an Asbestos Inspector to perform an additional inspection due to the outcome of an initial inspection.

n. “Paragraph” means a portion of this Consent Judgment identified by an Arabic number.

o. “Part 55 of the NREPA” means Part 55, Air Pollution Control, of the Natural Resources and Environmental Protection Act, MCL 324.5501 *et seq.*

p. “Parties” mean the Michigan Department of Environmental Quality, the City of Detroit, the City of Detroit Building Authority, and the Detroit Land Bank Authority.

q. “RACM” means regulated asbestos-containing material as defined in the Asbestos NESHAP.

r. “Rule 942” means Rule 942 of the Michigan Air Pollution Control Rules, Mich Admin Code, R 336.1942.

s. “Section” means a portion of this Consent Judgment identified by a Roman numeral.

t. “Working Day” means Monday through Friday and excludes state and federal holidays.

V. COMPLIANCE REQUIREMENTS

5.1. On and after the Effective Date of this Consent Judgment, Defendants shall comply with the requirements of 40 CFR 61.145 and 40 CFR 61.150 at all of the facilities to be demolished under the Demolition Program except facilities for which the City of Detroit has issued an emergency demolition order, including but not limited to:

a. 40 CFR 61.145(a), including the requirement that the “operator of a demolition or renovation activity and prior to the commencement of the demolition or renovation, thoroughly inspect the affected facility or part of the facility where the demolition or renovation operation will occur for the presence of asbestos”

b. 40 CFR 61.145(b)(1), including the requirement to provide the DEQ “with written notice of intention to demolish or renovate.”

c. 40 CFR 61.145(b)(2), including the requirement to “[u]pdate notice, as necessary, including when the amount of asbestos affected changes by at least 20 percent.”

d. 40 CFR 61.145(b)(3), including the requirement to postmark or deliver the written notice of intention to demolish or renovate “[a]t least 10 working days before asbestos stripping or removal work or any other activity begins”

e. 40 CFR 61.145(b)(3)(iv)(A)(2), including the requirement to provide “notice of the new start date . . . [w]hen the asbestos stripping or removal operation or demolition operation covered by this paragraph will begin after the date” contained in the original notice.

f. 40 CFR 61.145(b)(4)(vi), including the requirement to include in the written notice of intention to demolish an estimate of “the approximate amount of RACM to be removed from the facility”

g. 40 CFR 41.145(c)(1), including the requirement to remove “all RACM from a facility being demolished before any activity begins that would break up, dislodge or similarly disturb the material”

h. 40 CFR 61.145(c)(4), including the requirement to contain “a facility component covered with, coated with, or containing RACM . . . in leak-tight wrapping” after the facility component was taken out of the facility.

i. 40 CFR 61.145(c)(6)(i), including the requirement to “adequately wet [RACM] and ensure that it remains wet until collected and contained or treated in preparation for disposal”

j. 40 CFR 61.145(c)(8), including the requirement to have present while removing RACM at a facility “at least one on-site representative, such as a foreman or management-level person or other authorized representative, trained in the provisions of this regulation and the means of complying with them”

k. 40 CFR 61.150(a)(1)(iii), including the requirement to “seal all asbestos-containing waste material in leak-tight containers while wet”

l. 40 CFR 61.150(a)(1)(v), including the requirement to “label containers or wrapped materials with the name of the waste generator and the location at which the waste was generated.”

m. 40 CFR 61.150(b)(1), including the requirement to deposit all asbestos-containing waste material as soon as is practical by the waste generator at . . . [a] waste disposal site operated in accordance with the provisions of § 61.155.”

n. 40 CFR 61.150(c), including the requirement to “mark vehicles used to transport asbestos-containing waste material during the loading and unloading of waste so that the signs are visible.”

5.2. On and after the Effective Date of this Consent Judgment, at all of the facilities to be demolished under the Demolition Program for which the City of Detroit has issued an emergency demolition order, Defendants shall comply with the requirements of 40 CFR 61.150 and 40 CFR 61.145(b)(1), (b)(2), (b)(3(iii)), and (b)(4) (except (b)(4)(viii)), (b)(5), and (c)(4) through (c)(9).

5.3 The DBA shall, within thirty Working Days after the Effective Date of this Consent Judgment, retain Asbestos Inspectors to perform Asbestos Inspections pursuant to Paragraph 5.6. The DBA shall bear all costs associated with the Asbestos Inspectors, cooperate fully with the Asbestos Inspectors, and provide the Asbestos Inspectors with access to all records, employees, contractors, and property that the Asbestos Inspectors deem reasonably necessary to effectively perform the duties described in Paragraph 5.6.

5.4 Each Asbestos Inspector shall be an independent third party who has a certificate of accreditation as an asbestos inspector from the Michigan Occupational Safety and Health Administration, who has no financial relationship to any of the persons participating in the Demolition Program, and who has no Financial Stake in the outcome of Asbestos Inspections. An Asbestos Inspector may be an employee or independent contractor of a qualified environmental inspection firm contracted by the DBA.

5.5 Within seven Working Days after hiring any Asbestos Inspector, the DBA shall notify the DEQ by email of the identity of the Asbestos Inspector and the Asbestos Inspector's mailing address and phone number.

5.6 The DBA shall direct the Asbestos Inspectors to perform the following duties by no later than sixty Working Days after the Effective Date of this Consent Judgment:

a. The Asbestos Inspectors shall perform Asbestos Inspections at a minimum of 50 percent of the facilities to be demolished each month under the Demolition Program except at facilities for which the City of Detroit has issued an emergency demolition order. Each Asbestos Inspection shall occur before the facility is demolished and after the DBA has taken actions to comply with the requirements of 40 CFR 61.145 for that facility. Each inspection shall evaluate compliance with the requirements of 40 CFR 61.145(c)(1) and shall include identifying, as of the date of the inspection, the requirements that have been met, the requirements that have allegedly not been met, and any areas of potential concern.

b. Within seven Working Days after each Asbestos Inspection, the Asbestos Inspector shall prepare a written Asbestos Inspection Report for each inspection and provide it to the DBA. Each Asbestos Inspection Report shall contain: (i) a summary of the inspection process; (ii) detailed findings of all instances of compliance and potential noncompliance with the requirements of 40 CFR 61.145(c)(1), including the basis for each finding, and

each area of potential concern identified; and (iii) recommendations for resolving any areas of potential concern or otherwise complying with 40 CFR 61.145(c)(1).

5.7 Within seven Working Days after receiving each Asbestos Inspection Report and at least three days prior to the Demolition of the property that is the subject of each Asbestos Inspection Report, the DBA shall make publicly available each Asbestos Inspection Report on the City of Detroit's website for the Demolition Program at <http://www.detroitmi.gov/demolition> or another website that is acceptable to the DBA and the DEQ.

5.8 On and after the Effective Date of this Consent Judgment, the DBA shall require that each DBA Project Liaison and at least one person of the Demolition Personnel performing a Demolition has:

- a. Attended a workshop on asbestos and lead awareness presented by the Michigan Occupational Safety and Health Administration;
- b. A certificate of accreditation as an asbestos abatement contractor or supervisor from the Michigan Occupational Safety and Health Administration;
- c. A certificate of accreditation as an asbestos abatement worker from the Michigan Occupational Safety and Health Administration; or
- d. A certificate of accreditation as an asbestos inspector from the Michigan Occupational Safety and Health Administration.

5.9 Within seven Working Days after the Effective Date of this Consent Judgment, the DBA shall submit to the DEQ documents verifying that each DBA Project Liaison and at least one person of the Demolition Personnel performing a Demolition have one or more of the qualifications identified in Paragraph 5.8(a) through Paragraph 5.8(d).

5.10 On and after the Effective Date of this Consent Judgment, except with respect to facilities for which the City of Detroit has issued an emergency demolition order, the DBA shall direct all Demolition Personnel to cease performing a Demolition if they observe RACM at a facility at any time during the Demolition of that facility, provided, however, that this requirement shall not apply to the portion of a facility that the DBA previously determined is unsafe for RACM to be removed.

5.11 On and after the Effective Date of this Consent Judgment, except with respect to facilities for which the City of Detroit has issued an emergency demolition order, the DBA shall direct all DBA Project Liaisons to order Demolition Personnel to cease performing a Demolition if a DBA Project Liaison observes RACM at any time during a Demolition of that facility, provided, however, that this requirement shall not apply to the portion of a facility that the DBA previously determined is unsafe for RACM to be removed.

5.12 Beginning sixty Working Days after the Effective Date of this Consent Judgment, the DBA shall make publicly available the waste shipment records for each Demolition required by 40 CFR 61.150(d)(1). The DBA shall make such waste shipment records publicly available on the City of Detroit's website for the

Demolition Program at <http://www.detroitmi.gov/demolition> or another website that is acceptable to the DBA and the DEQ within seven Working Days after the waste shipment records are received by the DBA.

5.13 If, after the DBA has performed Asbestos Inspections pursuant to Paragraph 5.6 for six months after the Effective Date of this Consent Judgment, the DBA has not violated the requirements of 40 CFR 61.145 and 40 CFR 61.150, then the DBA may request that the DEQ reduce the percentage of facilities at which the DBA shall perform Asbestos Inspections. The DEQ shall review the request and establish the percentage of facilities at which the DBA shall perform Asbestos Inspections. The DBA shall perform Asbestos Inspections at the percentage of facilities established by the DEQ.

5.14 If, after the DBA has performed Asbestos Inspections pursuant to Paragraph 5.6 for six months after the Effective Date of this Consent Judgment, the DBA has violated the requirements of 40 CFR 61.145 and 40 CFR 61.150, then the DEQ may increase the percentage of facilities at which the DBA shall perform Asbestos Inspections. The DBA shall perform Asbestos Inspections at the percentage of facilities established by the DEQ.

VI. SETTLEMENT AMOUNT

6.1 Defendants shall pay a settlement amount of \$100,000 to the DEQ pursuant to the following schedule: (a) Defendants shall pay \$10,000 to the DEQ within thirty days after the Effective Date of this Consent Judgment; (b) Defendants shall pay \$45,000 to the DEQ within one year after the Effective Date of

this Consent Judgment; and (c) Defendants shall pay \$45,000 to the DEQ within two years after the Effective Date of this Consent Judgment. Each payment shall be made in the form of a certified check or cashier's check and made payable to the "State of Michigan." Payment shall be sent to:

Michigan Department of Environmental Quality
Accounting Services Division, Cashier's Office
P.O. Box 30657
Lansing, MI 48909-8157

To ensure proper credit, each check shall reference *Michigan Department of Environmental Quality v Detroit Building Authority*, and Payment Identification Number **AQD40205**.

6.2 Interest. If any portion of the settlement amount due to the DEQ is not paid when due, then Defendants shall pay interest on the amount past due, accruing from the Effective Date through the date of payment, at the rate specified in MCL 600.6013(8).

6.3 Within twelve months after the Effective Date of this Consent Judgment, Defendants may submit to the DEQ a proposal for a supplemental environmental project pursuant to the DEQ's Policy and Procedures for Supplemental Environmental Projects for Penalty Mitigation. If the DEQ approves the proposal, then the Parties shall modify this Consent Judgment pursuant to Paragraph 13.3.

VII. NOTICES

7.1 Any submittal, notice, report, or documentation required by this Consent Judgment shall be submitted to the attention of:

For the DEQ: NESHAP Program Manager
Michigan Department of Environmental Quality
Air Quality Division
Constitution Hall
P.O. Box 30473
Lansing, MI 48909
deq-asbestos-neshap@michigan.gov

For the City of Detroit: Chief Operating Officer
City of Detroit
CAYMC – Suite 1100
2 Woodward Avenue
Detroit, MI 48226

For the DLBA: Executive Director
Detroit Land Bank Authority
500 Griswold, Suite 1200
Detroit, MI 48226

For the DBA: Director
Detroit Building Authority
1301 Third Street
Detroit, MI 48226

Either party may substitute for those designated to receive such notices by providing prior written notice to the other party.

VIII. FORCE MAJEURE

8.1 Defendants shall perform the requirements of this Consent Judgment within the time limits established herein, unless performance is prevented or delayed by events which constitute a “Force Majeure” event. Any delay in the performance attributable to “Force Majeure” shall not be deemed a violation of

Defendants' obligations under this Consent Judgment in accordance with this Section VIII (Force Majeure).

8.2 For the purpose of this Consent Judgment, "Force Majeure" means an occurrence or non-occurrence arising from causes not foreseeable, beyond the control of, and without the fault of Defendants, such as: an Act of God; untimely review of permit applications or submissions by the DEQ or other applicable authority; and acts or omissions of third parties that could not have been avoided or overcome by Defendants' due diligence and that delay the performance of an obligation under this Consent Judgment. "Force Majeure" does not include, among other things, unanticipated or increased costs, changed financial circumstances, or failure to obtain a permit or license as a result of Defendants' actions or omissions, or acts or omissions of a subcontractor that delay or prevent the performance of an obligation required under this Consent Judgment.

8.3 Defendants shall notify the DEQ by telephone within forty-eight hours of discovering any event which causes a delay in its compliance with any provision of this Consent Judgment. Verbal notice shall be followed by written notice within ten calendar days and shall describe in detail the anticipated length of delay, the precise cause or causes of delay, the measures taken by Defendants to prevent or minimize the delay, and the timetable by which those measures shall be implemented. Defendants shall adopt all reasonable measures to avoid or minimize any such delay.

8.4 Failure of Defendants to comply with the notice requirements of Paragraph 8.3, above, shall render this Section VIII (Force Majeure) void and of no force and effect as to the particular incident involved. The DEQ may, at its sole discretion and in appropriate circumstances, waive the notice requirements of Paragraph 8.3.

8.5 If the parties agree that the delay or anticipated delay was beyond the control of Defendants, this may be so stipulated and the parties to this Consent Judgment may petition the Court for an appropriate modification of this Consent Judgment. If the parties to this Consent Judgment are unable to reach such agreement, the dispute shall be resolved in accordance with Section IX (Dispute Resolution) of this Consent Judgment. The burden of proving that any delay was beyond the reasonable control of Defendants, and that all the requirements of this Section VIII (Force Majeure) have been met by Defendants, is on Defendants.

8.6 An extension of one compliance date based upon a particular incident does not necessarily mean that Defendants qualify for an extension of a subsequent compliance date without providing proof regarding each incremental step or other requirement for which an extension is sought.

IX. DISPUTE RESOLUTION

9.1 The dispute resolution procedures of this Section IX shall be the exclusive mechanism to resolve disputes arising under this Consent Judgment and shall apply to all provisions of this Consent Judgment. Any dispute that arises under this Consent Judgment shall in the first instance be the subject of informal

negotiations between the parties. The period of negotiations shall not exceed ten days from the date of written notice by any party that a dispute has arisen, but it may be extended by an agreement of the parties. The period for informal negotiations shall end when the DEQ provides a written statement setting forth its proposed resolution of the dispute to Defendants.

9.2 If the parties cannot resolve a dispute by informal negotiations, then the dispute shall be resolved in accordance with the resolution proposed by the DEQ unless, within ten days after receipt of the DEQ's proposed resolution, Defendants file a petition for resolution with this Court setting forth the matter in dispute, the efforts made by the parties to resolve it, the relief requested, and the schedule, if any, within which the dispute must be resolved to insure orderly implementation of this Consent Judgment. Any judicial review shall be limited to the administrative record. In proceedings on any dispute, Defendants shall bear the burden of proof.

9.3 The filing of a petition for resolution of a dispute with this Court shall not of itself extend or postpone any obligation of Defendants under this Consent Judgment. Notwithstanding the invocation of the dispute resolution, stipulated fines, with any applicable interest, shall accrue from the first day of any failure or refusal to comply with any term or condition of this Consent Judgment. In the event, and to the extent, that Defendants do not prevail on the disputed issue, stipulated fines and any applicable interest shall be paid within ten calendar days in the manner provided for in Paragraph 10.5 of this Consent Judgment. Defendants shall not be assessed stipulated fines for disputes resolved in its favor.

9.4 Notwithstanding this Section IX (Dispute Resolution), Defendants shall pay that portion of a demand for reimbursement of costs or payment of stipulated penalties that is not subject to good faith resolution in accordance with and in the manner provided in Section X (Stipulated Penalties), as appropriate.

X. STIPULATED PENALTIES

10.1 Defendants shall pay a stipulated fine of \$3500 per violation for each failure to comply with Paragraph 5.1 or 5.2.

10.2 Defendants shall pay a stipulated fine of \$2000 per violation per calendar day for each failure to comply with Paragraph 5.3, 5.5, 5.6(b), 5.7, 5.9, or 5.12.

10.3 Defendants shall pay a stipulated fine of \$2000 per violation for each failure to comply with Paragraph 5.4, 5.6(a), 5.8, 5.10, 5.11, 5.13, or 5.14.

10.4 The DBA shall pay a stipulated fine of \$500 per violation per calendar day for failure to comply with any other provision of this Consent Judgment.

10.5 All accrued stipulated fines shall be paid by Defendants within thirty calendar days, after written demand by the DEQ, in the form of a check made payable to the "State of Michigan" and delivered to the Michigan Department of Environmental Quality, Financial & Business Services Division, Revenue Control, P.O. Box 30657, Lansing, Michigan 48909. To ensure proper credit, all payments made pursuant to this Consent Judgment shall include the Agreement Identification Number **AQD40205-S** on the face of the check.

10.6 The provisions of this Section X (Stipulated Penalties) shall not bar the DEQ from seeking any additional remedies or sanctions available to them for any violation of this Consent Judgment, or any other provision of applicable law.

10.7 The DEQ, at its discretion, may seek stipulated fines or statutory civil fines for any violation of this Consent Judgment which is also a violation of any provision of applicable federal and state law, rule, regulation, permit, or the DEQ Administrative Order. However, the DEQ is precluded from seeking both a stipulated fine under this Consent Judgment and a statutory civil fine for the same violation.

10.8 To insure timely payment of any stipulated fines that become due pursuant to Paragraph 10.1 through Paragraph 10.4 above, Defendants shall pay an interest penalty to the DEQ each time they fail to make a complete or timely payment. This interest penalty shall be based on a rate that is one percent plus the average interest rate paid at auctions of five-year United States treasury notes during the six months immediately preceding July 1 and January 1, as certified by the state treasurer, compounded annually, and using the full increment of the amount due as principal, calculated from the due date specified in this Consent Judgment until the date that the delinquent payment is finally paid in full. Payment of an interest penalty by Defendants shall be made to the "State of Michigan" in accordance with Paragraph 10.5 above. Interest payments shall be applied first towards the most overdue amounts or outstanding interest penalty

owed by Defendants before any remaining balance is applied to a subsequent payment amount or interest penalty.

10.9 Defendants agree not to contest the legality of any stipulated penalties assessed pursuant to this Section X, but otherwise reserve the right to dispute the factual basis upon which the application of stipulated penalties is made.

XI. RECORD RETENTION

11.1 Until five years after the termination of this Consent Judgment, Defendants shall retain, and shall instruct their contractors, agents, and representatives to preserve, all non-identical copies of records, documents, or other information (including records, documents or other information in electronic form) in their or their contractors', agents', or representatives' possession or control that relate in any manner to Defendants' performance of its obligations under this Consent Judgment.

XII. EFFECT OF SETTLEMENT

12.1 This Consent Judgment resolves the civil claims of the DEQ for the violations alleged in the Complaint filed in this action. This Consent Judgment also resolves any administrative or civil judicial actions that could be brought by the DEQ regarding violations alleged in the notices listed in Appendix A.

XIII. GENERAL PROVISIONS

13.1 Third Parties. This Consent Judgment does not limit or affect the rights of Defendants or the DEQ against any third parties.

13.2 Severability. Should any provision of this Consent Judgment be declared by a court of competent jurisdiction to be inconsistent with state or federal law and, therefore, unenforceable, the remaining provisions shall remain in full force and effect.

13.3 Modification. Any party to this Consent Judgment may petition the Court for modification of this Consent Judgment prior to its termination. Any modification must be in writing and approved by the Court. No party may petition the Court for a modification of this Consent Judgment without first having made a good faith effort to reach agreement with the other party on the terms of any such modification.

13.4 Other Laws. This Consent Judgment in no way affects Defendants responsibility to comply with any other applicable state, federal, or local laws or regulations, or with any order of this or any other court, including without limitation, any amendments to Part 55 of the NREPA, its rules, or the Asbestos NESHAP.

XIV. TERMINATION

14.1 This Consent Judgment shall terminate three years after its Effective Date provided that Defendants submit to the DEQ a written request to terminate the Consent Judgment. This written request shall include a summary of the activities performed to comply with the provisions of the Consent Judgment, certify that the civil fine and any stipulated penalties owed to the DEQ under Section VI and Section IX of this Consent Judgment have been paid in full and that

Defendants have fully complied with all other provisions of the Consent Judgment. Thereafter, provided full compliance with the provisions of the Consent Judgment has been achieved, the DEQ shall file with the clerk a Satisfaction of Judgment pursuant to MCR 2.620(1).

XV. RETENTION OF JURISDICTION

15.1 Prior to the termination of this Consent Judgment under Paragraph 14.1, this Court shall retain jurisdiction over this action to modify or enforce the terms of this Consent Judgment, to assess stipulated fines, to resolve disputes arising under its terms, or to take any action necessary or appropriate for construction or implementation of this Consent Judgment.

XVI. APPENDIX

16.1 The following appendix is attached to and part of this Consent Judgment: Appendix A – List of Violation Notices and street addresses for the alleged violations.

IT IS SO ORDERED THIS 19th day of December, 2018

JUDGE RICHARD J. GARCIA
JUDGE OF PROBATE

Honorable _____
Circuit Court Judge

STIPULATION

The parties hereby stipulate to the entry of this Consent Judgment.

FOR PLAINTIFF Michigan Department of Environmental Quality:

By: C. Heidi Grether Dated: 12.19.18, 2018
C. Heidi Grether, Director
Michigan Department of Environmental Quality

By: Neil D. Gordon Dated: Dec. 19, 2018
Neil D. Gordon (P56374)
Assistant Attorney General
Environment, Natural Resources
and Agriculture Division,
Michigan Department of Attorney General

FOR DEFENDANT City of Detroit:

By: Bryan L. Amann Dated: 12-18-, 2018
Bryan L. Amann
Chief Legal Counsel for Capital and Infrastructure

FOR DEFENDANT City of Detroit Building Authority:

By: Floyd E. Allen Dated: Dec 15,, 2018
Floyd E. Allen
Attorney for City of Detroit Building Authority

FOR DEFENDANT Detroit Land Bank Authority:

By: Saskia Thompson Dated: 12/18, 2018
Saskia Thompson, Executive Director
Detroit Land Bank Authority

By: Sharon R. Newlon Dated: Dec. 18,, 2018
Sharon R. Newlon
Attorney for Detroit Land Bank Authority

Appendix A

| Date of Violation Notice | Street Address in City of Detroit |
|---------------------------------|--|
| 03/22/2016 | 5816-18 Beechwood, 14558 Griggs, and 15736 West Parkway |
| 04/15/2016 | 5816-18 Beechwood, 14558 Griggs, and 15736 West Parkway |
| 06/13/2016 | 14220 Glenfield |
| 06/22/2016 | 12649 Glenfield |
| 06/22/2016 | 14854 Glenfield, 17468 Jos. Campau, 12618 Glenfield, 13618 Dean, 17154 Syracuse, and 13843 Shields |
| 06/22/2016 | 585 Smith, 17172 Caldwell, 8777 Epworth, 12919 Gable, and 6593 Stanford |
| 07/27/2016 | 14220 Glenfield |
| 08/02/2016 | 12811 and 12826 Lauder |
| 08/03/2016 | 8242 and 8269 Faust |
| 08/04/2016 | 3986 Humboldt |
| 08/05/2016 | 5753 and 6070 15th Street |
| 08/05/2016 | 14854 Glenfield, 17468 Jos. Campau, 12618 Glenfield, 13618 Dean, 17154 Syracuse, and 13843 Shields |
| 08/05/2016 | 585 Smith, 17172 Caldwell, 8777 Epworth, 12919 Gable, and 6593 Stanford |
| 08/05/2016 | 12649 Glenfield |
| 08/15/2016 | 1979 McLean |
| 08/16/2016 | 101 Margaret, 24501 Florence, and 16180 Salem |
| 08/16/2016 | 78 E. Euclid |
| 08/17/2016 | 6620-30 Van Dyke |
| 08/29/2016 | 15870 Bayliss |
| 09/16/2016 | 11719 Camden Ave |
| 09/16/2016 | 15000 Ward Ave |
| 09/16/2016 | 2011 McLean |
| 09/21/2016 | 16835 Prairie |
| 10/18/2016 | 16835 Prairie |
| 04/04/2017 | 8040 Smart |
| 05/19/2017 | 4508 Crane |
| 05/23/2017 | 5544 McDougall |
| 05/25/2017 | 1072 Manistique and 233 Ashland |