

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
DEQ Facility ID No. 78000140

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

A. This Administrative Order by Consent (Order) is entered into voluntarily by and between the Michigan Department of Environmental Quality (DEQ); the Michigan Department of Attorney General (DAG), (collectively hereinafter, the State), and McLaren Medical Management, Inc.(MMMI), and McLaren Regional Medical Center (MRMC), (collectively hereinafter, the Settling Parties) pursuant to the authority vested in the Attorney General and the DEQ by Part 201, Environmental Remediation, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (NREPA), MCL 324.20101, *et seq.*; and the Comprehensive Environmental Response, Compensation and Liability Act, 1980 PL 96-510, as amended (CERCLA), 42 USC Section 9601 *et seq.* Except as otherwise defined herein, all terms used in this Order that are defined in Part 201 of the NREPA or the Part 201 Administrative Rules shall have the same meaning in this Order as in Part 201 of the NREPA and the Part 201 Rules.

B. This Order concerns the settlement between the State and the Settling Parties for the State's claims against the Settling Parties under Section 20126(1)(c) of the NREPA related to Existing Contamination at and emanating from the property located at 216 East Comstock Street, City of Owosso, Shiawassee County, Michigan (Property), and legally described in Attachment A. For the purpose of this Order, the

term "Existing Contamination" means releases of hazardous substances that have occurred prior to the effective date of this Order, as defined in Paragraph 17 of this Order. Settlement of these claims is in the public interest and will minimize litigation.

C. The Property is currently owned by MMMI and is commonly referred to as the McLaren Family Care Center. The Property is also referred to by the State as the former Launderama Dry Cleaners, Facility ID No. 78000140. Any area of the Property where a hazardous substance, in concentrations that exceed the cleanup for unrestricted residential use, has been released, deposited, or disposed of, or otherwise comes to be located; and any other area, place, or property where a hazardous substance in concentrations that exceed these requirements or criteria, has come to be located as a result of the migration of the hazardous substance from the Property, including, but not limited to, the property of Roma's Backdoor Restaurant (Roma's Property), which is located west of and adjacent to the Property (the Facility) is a facility as defined by Part 201 and is subject to regulation under Part 201.

D. The State asserts that there have been releases or threats of releases of hazardous substances at the Property, and as a result of the releases and threats of releases, the State has undertaken response activities pursuant to Part 201 and is planning to undertake additional response activities that otherwise are the alleged responsibility of the Settling Parties. Pursuant to Section 20126a(1)(a) of the NREPA, a person who is liable under Section 20126 is liable for all response activity costs lawfully incurred by the State.

E. The execution of this Order by the Settling Parties is neither an admission of liability with respect to any issue covered under this Order nor an admission or denial of any findings of fact or legal determinations stated or implied herein.

F. This Order shall apply to and be binding upon the Settling Parties and their successors and assigns. The Settling Parties are jointly and severally responsible for performing all of the obligations required under this Order. No change or changes in

the ownership or corporate status of the Settling Parties shall alter in any way their obligations under this Order. The signatories to this Order certify that they are authorized to execute this Order and legally bind the parties they represent.

BASED UPON THE FOREGOING FACTS AND DETERMINATIONS, THE DEQ AND THE ATTORNEY GENERAL HEREBY ORDER, AND THE SETTTLING PARTIES HEREBY AGREE TO, THE FOLLOWING:

1. Within thirty (30) days of the effective date of this Order, as defined in Paragraph 17 of this Order, the Settling Parties shall send, by overnight delivery service, a payment to the DEQ in the amount of \$300,000 to resolve all claims by the State against the Settling Parties under Section 20126(1)(c) of the NREPA arising from Existing Contamination. The Settling Parties make this payment in consideration of the covenant not to sue, contained in Paragraph 8 of this Order.

Payment shall be made by check, payable to the "State of Michigan - Environmental Response Fund," and sent to:

Revenue Control Unit
Finance Section
Administration Division
Department of Environmental Quality
P.O. Box 30657
Lansing, Michigan 48909-8157

Via Courier:
Constitution Hall, 5th Floor, South Tower
525 West Allegan Street
Lansing, MI 48933-2125

To ensure proper credit, the payment made pursuant to this Order must be in the form of a check, referencing the following information: Former Launderama Dry Cleaners Facility; DEQ Reference No. AOC-RD-11-002; Remediation Division Account No. RRD2263. Copies of the transmittal letter and the check shall be provided simultaneously to:

The DEQ Project Coordinator:
Eric Van Riper
Lansing District Office, Remediation Division
Department of Environmental Quality
Constitution Hall
525 West Allegan Street
P.O. Box 30242
Lansing, Michigan 48909-7742
517-335-6248
Facsimile 517-241-3571

and to:
S. Peter Manning, Chief
Environment, Natural Resources, and Agriculture Division
Department of Attorney General
G. Mennen Williams Building, 6th Floor
525 West Ottawa Street
P.O. Box 30755
Lansing, MI 48909
517-373-7540
Facsimile 517-373-1610

Payments made pursuant to this Order shall be deposited by the DEQ in the Environmental Response Fund in accordance with the provisions of Section 20108(3) of the NREPA.

2. The DEQ intends to conduct the response activities as generally described in the Scope of Work, Attachment C. The State makes no warranty that the response activities performed at the Facility will achieve any remedial cleanup criteria established by law. The DEQ agrees to notify the Settling Parties upon completion of the response activities, and of any future DEQ monitoring activities at the Property as well as the results of those monitoring activities. If any unexpected event occurs as a result of the DEQ's implementation of response activities, the DEQ agrees to notify the Settling Parties to enable the Settling Parties to take action to protect its employees and persons present at the Property.

3. In the event of a change of circumstance imposed by any of the following: the legislature; a reduction in appropriations; elimination of funding; Executive Order; or

Order of the Director of the DEQ or the Michigan Department of Technology, Management and Budget; the DEQ may, at its sole discretion, reduce, temporarily suspend, or terminate the performance of the response activities described in the Scope of Work, Attachment C.

4. The Settling Parties agree to perform the deconstruction activities identified in this paragraph in the three west side offices and the center physical therapy area of the McLaren Family Care Center located on the Property. The Settling Parties shall complete the following activities by May 15, 2011:

- (a) Remove all moveable items, such as furniture, cabinets, and counters.
- (b) Remove plumbing fixtures, including sinks and toilets.
- (c) Remove non-load-bearing interior walls; remove floor coverings, such as carpeting and padding, down to the concrete slab of the floor of the building.

5. The DEQ agrees to conduct the following activities to repair or reconstruct those structures that were impaired or damaged during the DEQ's implementation of response activities:

- (a) Reconstruct exterior wall on north side of building where temporary access door is installed.
- (b) Reconstruct western interior load bearing wall where temporary access port is installed.
- (c) Reconstruct western exterior wall where access port is installed.
- (d) Repair concrete floor in physical therapy room and western offices.
- (e) Repair underground plumbing fixtures as needed.

Further restoration of the west side offices and the center physical therapy area of the McLaren Family Care Center will be at the Settling Parties' discretion and sole expense.

6. If the Settling Parties fail to pay the amount indicated in Paragraph 1 of this Order pursuant to the schedule set forth herein, the Settling Parties shall pay the

State interest on the unpaid balance at the rate provided in Section 20126a(3) of the NREPA. If the Settling Parties' payment is more than thirty (30) days past due, the Settling Parties shall also pay the State stipulated penalties of \$500 per day for every day of their noncompliance with Paragraph 1 of this Order. If the Settling Parties fail to perform the deconstruction activities identified in Paragraph 4 of this Order within the time frame specified, the Settling Parties shall pay the State stipulated penalties of \$500 per day for every day of their noncompliance with Paragraph 4 of this Order.

7. Within fifteen (15) days of the effective date of this Order, as defined in Paragraph 17 of this Order, MMMI shall provide the DEQ and its employees, contractors, or authorized representatives, with irrevocable access to perform response activities on the Property. The access shall be granted to the DEQ in the form of an easement consistent with the form of Attachment D, Grant of Easement, and executed by MMMI. In granting this easement, MMMI warrants that this Grant of Easement is not subject to or limited by any existing encumbrances on the Property that may restrict or impede the ability of the DEQ to implement response activities on the Property. MMMI shall send the DEQ the executed easement, and the DEQ shall record the easement with the Shiawassee Register of Deeds. The DEQ shall provide MMMI a true copy of the recorded easement within five (5) days of the DEQ's receipt of a copy from the Register of Deeds. The DEQ agrees to provide the Settling Parties with a written release of such easement, in a recordable form, upon completion of the DEQ response activities at the Property, but in any event, no later than December 31, 2014. The terms of the easement may be extended by mutual agreement.

The executed easement shall be submitted to:

Acting Chief, Compliance and Enforcement Section
Karen Kligman
Remediation Division, Compliance and Enforcement Section
Department of Environmental Quality
P.O. Box 30426
Lansing, Michigan 48906-7926
Telephone 517-335-6526
Facsimile 517-241-9581

Via courier:

Chief, Compliance and Enforcement Section
Remediation Division
Department of Environmental Quality
Constitution Hall, 4th Floor, South Tower
525 West Allegan Street
Lansing, MI 48933-2125

Provide a copy of the transmittal and easement to the DEQ Project Coordinator previously listed.

8. In consideration of the payment to be made and other actions to be undertaken by the Settling Parties under the terms of this Order, and except as otherwise provided in this Order, the State covenants not to sue or to take further administrative action against the Settling Parties for liability, injunctive relief, Past Response Activity Costs, and Future Response Activity Costs under CERCLA and Section 20126(1)(c) of the NREPA. For the purpose of this Order, "Past Response Activity Costs" means all the response activity costs lawfully incurred by the State through the dates set forth in the attached Cost Summary Report, Attachment B. Additionally, for the purpose of this Order, "Future Response Activity Costs" means all response activity costs that have been or will be incurred by the State subsequent to the dates set forth in Attachment B in performing the response activities to address Existing Contamination, except for costs incurred by the State resulting from the Settling Parties' violation of Section 20107a of the NREPA. The State's covenant not to sue shall become effective upon the later date of completion of all of the following:

(a) The State's receipt of full payment of costs in the amount specified in Paragraph 1 of this Order, including any associated interest and penalties that may have accrued pursuant to Paragraph 6 of this Order;

(b) The State's receipt of a legally executed easement to the Property as set forth in Paragraph 7 of this Order;

(c) The deconstruction activities identified in Paragraph 4 of this Order have been completed. The State covenant not to sue shall extend only to the Settling Parties and their legal successors, and does not extend to any other party.

9. Nothing in this Order shall be construed as releasing or discharging any liability of any person to the Settling Parties, and the Settling Parties specifically reserve its rights against such persons.

10. Nothing in this Order shall prevent the Settling Parties, together or separately, from transferring ownership or control of part of or all of the Property.

11. The State reserves all of its rights under state and federal law to perform response activities at the Facility and to take enforcement action, including the action to seek injunctive relief, to recover response activity costs for releases that occur after the effective date of this Order, as defined in Paragraph 17 of this Order, for which the Settling Parties are liable for pursuant to Section 20126(1)(a) or (b) of the NREPA; the Settling Parties' violation of an applicable provision of Section 20107a or 20116 of the NREPA; monetary penalties, punitive damages for any violation of law or this Order, and liability for criminal acts. The State expressly reserves all of its rights and defenses pursuant to any available legal authority to enforce this Order.

12. The Settling Parties hereby covenant not to sue or to take any civil, judicial, or administrative action against the State, its agencies, the DEQ or their authorized representatives, for any claims arising from or connected with the DEQ's implementation of its response activities.

13. The Settling Parties reserve all rights and defenses available to them pursuant to Part 201 or any other legal authority.

14. Nothing in this Order shall limit the power and authority of the DEQ or the State of Michigan, pursuant to Section 20132(8) or Part 213 of the NREPA, to direct or order all appropriate action to protect the public health, safety, or welfare, or the environment; or to prevent, abate or minimize a release or threatened release of hazardous substances, pollutants or contaminants on, at, or from the Facility.

15. If the DEQ determines upon completion of the response activities that the concentration of hazardous substances in the soil or groundwater on the Property exceed residential cleanup criteria as established by the DEQ pursuant to Section 20120a(1)(a), the DEQ shall notify MMMI in a written request to place land use and resource use restrictions, mutually agreed upon, on the Property in the form of the attached DEQ model Restrictive Covenant document (Attachment E). MMMI shall have ninety (90) days from the receipt of DEQ's request to file for recording, or arrange to have filed for recording, a DEQ approved restrictive covenant with the Shiawassee County Register of Deeds. MMMI shall provide a true copy of the restrictive covenant to the DEQ within twenty-one (21) days of MMM's receipt of the recorded restrictive covenant.

16. Pursuant to Section 20129(5) of the NREPA and to the extent provided in Paragraph 8, the Settling Parties shall not be liable for claims for contribution for the matters addressed in this Order, to the extent allowable by law. The Settling Parties and the State agree that entry of this Order constitutes an administrative settlement for purposes of Sections 113(f)(2) and 122(h)(4) of CERCLA, 42 USC 9613(f)(2) and 122(h)(4), and that the Settling Parties are entitled as of the effective date of this Order, as defined in Paragraph 17 of this Order, to protection from contribution actions or claims as provided by Sections 113(f)(2) and 122(h)(4) of CERCLA, to the extent allowable by law. Entry of this Order does not discharge the liability of any other person that may be liable under Section 20126 of the NREPA, or Sections 107 and 113 of the CERCLA, 42 USC § 9607 and § 9613. Pursuant to Section 20129(9) of the NREPA, any action by the Settling Parties for contribution from any person not a party to this Order shall be subordinate to the rights of the State if the State files an action pursuant to Part 201 or other applicable federal or state law.

17. This Order shall become effective upon the date that the Chief of the DEQ's Remediation Division executes this Order. For the purposes of this Order, the term "day" shall mean a calendar day unless otherwise noted.

18. This Order shall be executed in two or more duplicate counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

McLaren Family Care Center
Former Launderama Dry Cleaners Facility
DEQ Reference No. AOC-RD-11-002

IT IS SO AGREED AND ORDERED BY THE STATE:



Lynelle Marolf, Chief
Remediation Division
Michigan Department of Environmental Quality

5/12/11

Date



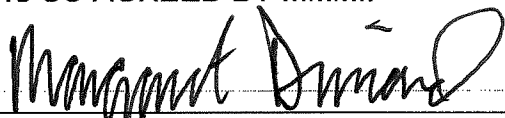
Kathleen L. Cavanaugh (38096)
Assistant Attorney General
Environment, Natural Resources, and Agriculture Division
Michigan Department of Attorney General

5-11-11

Date

McLaren Family Care Center
Former Launderama Dry Cleaners Facility
DEQ Reference No. AOC-RD-11-002

IT IS SO AGREED BY MMMI:



Margaret Diamond, President & Chief Executive Officer
McLaren Medical Management, Inc.

5/2/11
Date

IT IS SO AGREED BY MRMC:

Donald C. Kooy, President & Chief Executive Officer
McLaren Regional Medical Center

Date

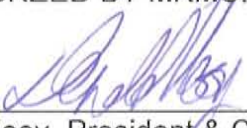
McLaren Family Care Center
Former Launderama Dry Cleaners Facility
DEQ Reference No. AOC-RD-11-002

IT IS SO AGREED BY MMMI:

Margaret Diamond, President & Chief Executive Officer
McLaren Medical Management, Inc.

Date

IT IS SO AGREED BY MRMC:



Donald C. Kooy, President & Chief Executive Officer
McLaren Regional Medical Center



Date

ATTACHMENT A

Legal Description of the 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

Cost Recovery Summary Report

MICHIGAN DEPARTMENT OF ENVIRONMENTAL QUALITY
REMEDIATION DIVISION
SUMMARY REPORT

Site Name: Magnetek and Former Launderama Cleaners

County: Shiawassee

Site ID Number: 78000056 and 78000140
Computer Generated Report

	Project Numbers and Phases	
	455657-00	456357-00
Total for Employee Salaries and Wages		
Period Covered: 10/15/99 - 2/19/11	\$91,096.30	\$151,301.37
Indirect Dollars	\$14,908.95	\$21,158.12
Sub-Total	<u>\$106,005.25</u>	<u>\$172,459.49</u>
 Total for Employee Travel Expenses		
Period Covered: 2/01/02 - 12/13/10	\$1,591.11	\$563.44
 Total for Contractual Expenses		
Mactec (Frmr Harding ESE)(LOE-State)(P1001685)		
Period Covered: 10/01/00-5/5/06	\$329,593.00	\$0.00
RTI Lab Inc./former AAC Trinity (Y03134)		
Period Covered: 8/19/04 -8/8/06	\$19,928.00	\$0.00
Mactec (Frmr Harding ESE) (LOE-State) (P5201048)		
Period Covered 7/2/05-1/28/11	\$346,706.86	\$0.00
TestAmerica (firmly Severn Trent)(Y03133)		
Period Covered: 7/7/05-7/22/05	\$1,104.00	\$0.00
Trace Analytical Laboratories, Inc. (Y03088)		
Period Covered: 8/5/05-8/19/05	\$2,664.00	\$0.00
Contract Sub-Total	<u>\$699,995.86</u>	<u>\$0.00</u>
 Total for Miscellaneous Expenses		
Period Covered: 9/1/05-5/13/09	\$82.00	\$15.35
 MDNR/MDEQ Lab		
Period Covered: 10/29/04-2/19/11	\$36,998.95	\$0.00
 Total for MDPH/Community Health Expenses		
Alternate Water Supply	\$0.00	\$0.00
Bottled Water	\$0.00	\$0.00
MDPH/MDCH Lab	\$0.00	\$0.00
MDPH/Community Health Sub-Total	<u>\$0.00</u>	<u>\$0.00</u>
 Attorney General Expenses		
Period Covered:	\$0.00	\$0.00
 Total Combined Expenses by Project Number	<u>\$844,673.17</u>	<u>\$173,038.28</u>
Grand Total Combined Project Numbers		<u>\$1,017,711.45</u>

Run Date 3/29/2011

ATTACHMENT C

Scope of Work

In Situ Thermal Remediation System
Former Launderama Dry Cleaners
216 East Comstock Street
Owosso, Michigan 48867, Shiawassee County
Facility ID No. 78000140

The following Scope of Work (SOW) provides a general overview of response activities that will be conducted by the Michigan Department of Environmental Quality (DEQ) and its contractors at the property located at 216 E. Comstock Street, Owosso, Shiawassee County (Property). The McLaren Family Care Center is currently located on the Property. The response activities are being conducted as a source control measure to mitigate highly contaminated soil at the Property.

Background – The Property is the location of the former Launderama Dry Cleaners. Remedial investigations conducted at the Property revealed levels of tetrachloroethylene (PCE) and its breakdown products above criteria on the Property. The DEQ has installed and operated portable air purifying units in the McLaren Family Care Center to reduce indoor air concentrations to acceptable levels as a temporary interim response measure.

Proposed Remedial Action – The DEQ has selected an *in situ* thermal remediation system (System) as the most effective technology as a source control measure to reduce contaminant concentrations. The DEQ, through the procurement of a contractor and/or subcontractors, will provide installation, operation and maintenance, and decommissioning of the System at the Property.

Site Access – The DEQ will obtain access to the Property for the purpose of performing response actions through the recording of an easement with the Shiawassee County Register of Deeds.

Contract Procurement – The DEQ will contract with a thermal remediation contractor for the installation and operation and maintenance of the System. As part of the contract procurement process, the DEQ will hold a pre-bid meeting with prospective bidders at the Property prior to the selection of a contractor.

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 contractor(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 port will also be installed in the western load bearing wall of the physical therapy room, and a temporary access port will be installed in the western exterior wall of the McLaren Family Care Center.

Operation and Maintenance – The DEQ's contractor will provide operation and maintenance activities associated with the System.

Monitoring – The DEQ's contractor will provide groundwater, indoor air, and soil gas monitoring during the implementation of the System. Monitoring will include the sampling and analysis of groundwater from monitoring wells, indoor air sampling within the McLaren Family Care Center, and soil gas sampling to monitor the effectiveness of the System.

Post-Remediation Sampling – Upon completion of the operation of the System, the DEQ will conduct post-remediation verification sampling. Sampling will be conducted by the installation of soil borings through the floor of the McLaren Family Care Center in the physical therapy room and western offices.

Site Restoration – Upon completion of response actions, the DEQ will reconstruct the McLaren Family Care Center where the temporary exterior access door was installed on the north side of the building; reconstruct the interior wall where the temporary access port was installed; and reconstruct the temporary access port that was installed in the western exterior wall of the McLaren Family Care Center. In addition, repair the concrete floor in the physical therapy room and western offices. Repair of the underground plumbing fixtures will be conducted as needed.

Project Schedule – It is anticipated that the installation, and operation and maintenance of the System, will take approximately eight months to complete. Post-remediation sampling and analysis will take approximately three additional months.

ATTACHMENT D

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 Lauderama 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; construction of an exterior access entrance on the north side of the Building; construction of an interior access port in the load bearing wall west of the physical therapy area of the Building; construction of an access port in the western exterior wall of the Building for the purpose of installing piping and associated electrical connections; 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 temporary access door is installed, the western interior load bearing wall where temporary access port is installed, and the western exterior wall where 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, 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 AACSR 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, Lauderama 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. Fosse, Payne Broder & Fosse, P.C., 32100 Telegraph, Suite 200, Bingham Farms, Michigan 48025.

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 _____ day of _____, 2011.

Signed by:

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

STATE OF _____)
COUNTY OF _____)ss

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

_____, Notary Public
State of Michigan, County of _____
Acting in the County of _____
My commission expires: _____

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

4 - 18 - 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.

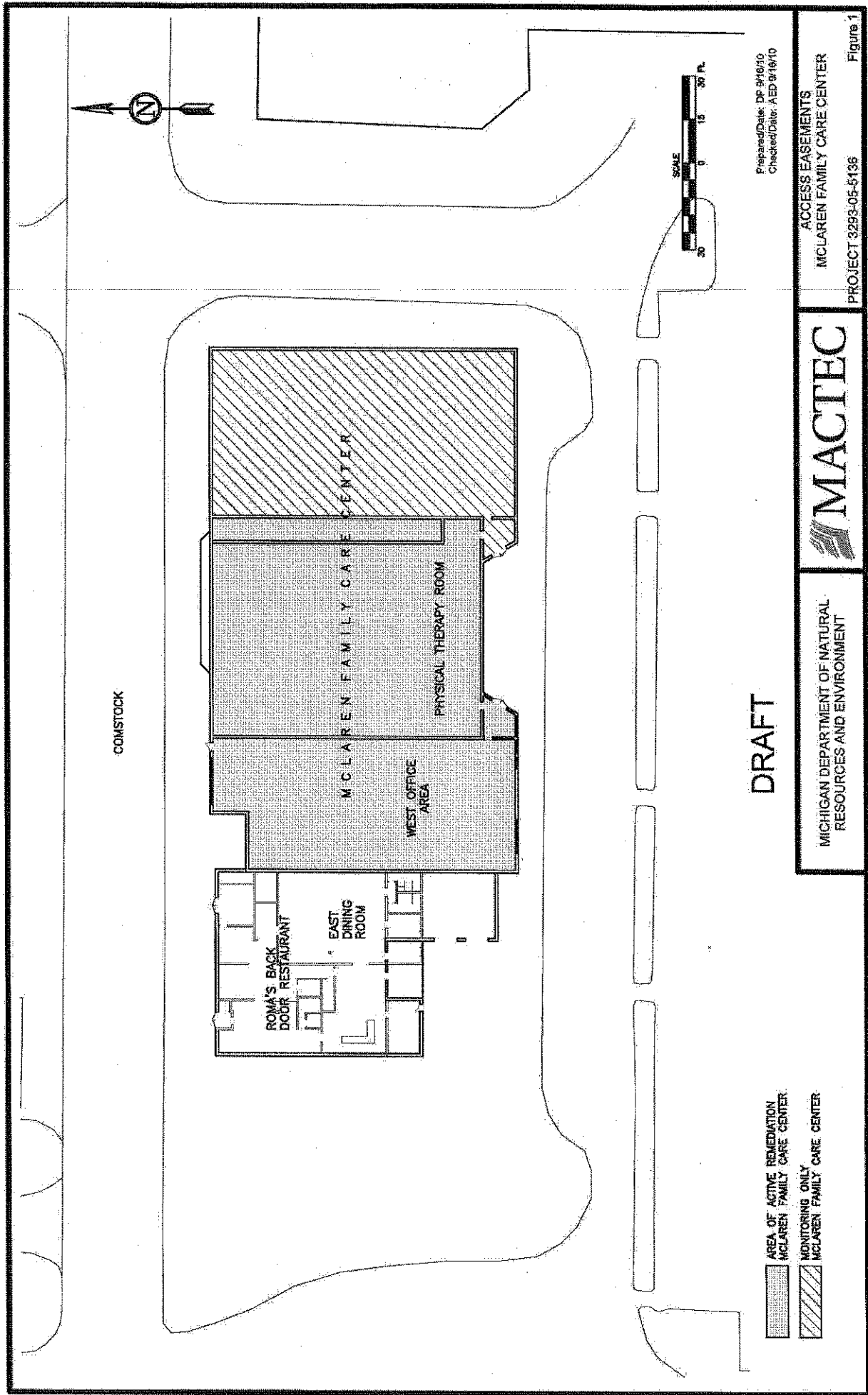
PARCEL 2:

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



ATTACHMENT B OF EASEMENT

ATTACHMENT E

Restrictive Covenant



Remediation Division

Michigan Department of Environmental Quality

DECLARATION OF RESTRICTIVE COVENANT INSTRUCTIONS

This document provides instruction for the model Declaration of Restrictive Covenant to be used to place land use or resource use restrictions pursuant to Section 20114c(3) of Part 201, Environmental Remediation, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (NREPA), MCL 324.20101 *et seq.*

Pursuant to Section 20114c(5) of Part 201, a copy of the recorded Declaration of Restrictive Covenant shall be provided to the Michigan Department of Environmental Quality within 30 days after recording with the appropriate Register of Deeds. The recording requirements for instruments filed with Michigan County Register of Deeds offices are contained in Section 1 of the Recording Requirements Act, 1937 PA 103, as amended (Act 103), MCL 565.201 et seq.

The lettered instructions below explain what information should be inserted into the corresponding blanks identified by letter in the Declaration of Restrictive Covenant Model. Drafting notes, examples, and insertion directions appear as ***bold italicized print***.

- A. DEQ Reference No: RC-RRD-201-[year]-[number]. ***This Reference Number ensures the protectiveness, enforcement, and tracking of land use and resource use restrictions. All restrictive covenants must have a Reference Number assigned and prominently displayed on the first page of the document. The DEQ Reference Number will be assigned by DEQ Remediation Division staff. The DEQ Reference Number can be obtained by contacting the Remediation Division at deq-rrd@michigan.gov or by calling 517-373-4805.***
- B. ***Enter the name of the county where the property is located.***
- C. ***Enter the address location of the property including city or township and county.***
- D. ***Select one of the following options as appropriate:***

OPTION 1: If the DEQ reviewed and approved a Response Activity Plan to address the environmental contamination at the Property, insert the following paragraph:

Response activities ***[insert as appropriate: are being OR were]*** implemented to address environmental contamination at the Property pursuant to Part 201, Environmental Remediation, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (NREPA), MCL 324.20101 *et seq.* The response activities that ***[insert as appropriate: are being OR were]*** implemented to address environmental contamination are fully described in the Response Activity Plan titled ***[insert the title of plan]*** dated ***[Insert date]***, and prepared by ***[insert the name of the entity that prepared the plan]***. The Michigan Department of Environmental Quality

(DEQ) approved the Response Activity Plan on ***[insert the date the DEQ approved the plan]***, pursuant to Part 201 of the NREPA.

OPTION 2: If the DEQ did not review and approve a Response Activity Plan to address the environmental contamination at the Property, insert the following paragraph:

Response activities ***[insert as appropriate: are being OR were]*** implemented to address environmental contamination at the Property pursuant to Part 201, Environmental Remediation, of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (NREPA), MCL 324.20101 *et seq.* The adequacy of the response activities implemented at the Property has not been subject to a facility-specific review by the Michigan Department of Environmental Quality (DEQ) nor has the DEQ determined that the response activities comply with Part 201 of the NREPA.

E. *Insert as appropriate:*

- Residential cleanup criteria under Section 20120a(1)(a)
- Nonresidential cleanup criteria under Section 20120a(1)(b)
- Site-specific cleanup criteria under Sections 20120a(2) and 20120b

F. *Insert the following sentence if there is a long-term physical component of the response activity (e.g., exposure barrier, permanent marker, or monitoring wells):* and 3) to prevent damage or disturbance of any element of the response activity constructed on the Property.

If there is no long-term physical component of the response activity, remove the semi-colon and end the sentence.

G. *Select one of the following options as appropriate:*

OPTION 1: If the entire Property will be subject to all of the land or resource use restrictions provided in the restrictive covenant, insert the following:

Exhibit 2 provides a survey of the Property that is subject to the land use or resource use restrictions specified herein.

OPTION 2: If not all of the Property is to be subject to all of the land or resource use restrictions provided in the restrictive covenant, insert the following:

The "Survey of Property and Limits of Land or Resource Use Restrictions," attached as Exhibit 2, provides a survey of the Property that depicts the area or areas subject to restriction and contains legal descriptions that distinguish those portions of the Property that are subject to land use or resource use restrictions specified in this Restrictive Covenant.

H. *Insert a paragraph similar to the following that briefly describes the nature of the hazardous substances, the affected media, and how the response activities implemented, including the land or resource use restrictions, will be effective to address risks for all relevant pathways that require restrictions.*

Example: Hazardous substances including lead, trichloroethylene (TCE), cyanide and phenols have been released and/or disposed of on the Property. Prior to the recording of this Restrictive Covenant, response activities have been undertaken to remove or treat in-place some of the hazardous substances. Lead and TCE remain present at levels that require controls to prevent unacceptable exposures. An exposure barrier, consisting of six (6) inches of clean soil and vegetation, has been placed, as described below, to prevent direct contact with the lead impacted soils. A vapor barrier has been placed under Building B (identified in Exhibit 2) to prevent migration of TCE into the building at levels that would result in unacceptable exposures through inhalation.

- I. ***If the Restrictive Covenant is being recorded in association with response activities that do not address all areas of the Property that contain hazardous substances, insert the following paragraph and attach an exhibit which provides a survey and legal description of the areas of the Property or general description of the specific media (i.e., groundwater, soils, etc.) that are not being addressed pursuant to the response activities:***

Areas of the Property described in Exhibit ***[insert appropriate Exhibit #]*** have not been addressed through the response activities undertaken at the Property and may contain hazardous substances in excess of the concentrations developed as the unrestricted residential criteria under Section 20120a(1)(a) or (17) of the NREPA.

- J. ***Enter the name of the owner of the property or the name of the person proposing to file the Restrictive Covenant.***

- K. ***Insert as appropriate:***

- as the Owner of the Property
- with the express written permission of the Owner of the Property

- L. ***Select one of the following options as appropriate to describe the restrictions on land use necessary to comply with the appropriate cleanup criteria:***

OPTION 1: If the property is subject to land use restrictions required to satisfy the nonresidential cleanup criteria, insert the following paragraph below:

a. ***Prohibited Land Uses:*** The Owner shall prohibit all uses of ***[insert as appropriate: the Property OR portions of the Property as described in Exhibit 2]*** that are not compatible with or are inconsistent with the assumptions and basis for the nonresidential cleanup criteria established pursuant to Section 20120a(1)(b) of the NREPA. Uses that are compatible with nonresidential cleanup criteria are generally described in Exhibit 3 (Allowable Uses). ***[If the local zoning ordinance allows for residential uses within the Property's current zoning, insert the following: The following uses allowed under the [insert name of local zoning authority and zoning code designation] zoning code designation are prohibited: [list prohibited uses.]*** Cleanup criteria for land-use based response activities are located in the Government Documents Section of the State of Michigan Library.

OPTION 2: If the property is subject to land use restrictions required to satisfy site-specific cleanup criteria, insert the following paragraph below:

a. Prohibited Land Uses: The Owner shall prohibit all uses of **[insert as appropriate: the Property OR portions of the Property as described in Exhibit 2]** that are not compatible with or are inconsistent with the assumptions and basis for the site-specific cleanup criteria developed for the Property pursuant to Section 20120a(2) and 20120b of the NREPA. Uses that are compatible with the site-specific criteria developed for the Property are generally described in Exhibit 3 (Allowable Uses).

OPTION 3: If the property does not require any restrictions on land use because hazardous substances left in place would allow for a limited or restricted residential cleanup with the appropriate resource use restrictions, there is no need to insert any restriction language under "Prohibited Land Uses." Therefore this paragraph should be excluded from the restrictive covenant and the remainder of the paragraphs should be renumbered accordingly.

M. Insert as appropriate:

- on the Property
- within the portions of the Property designated in Exhibit 2 as **[insert designation]**.

N. Enter additional paragraphs, as appropriate, to describe the prohibited activities necessary to reliably restrict exposure to hazardous substances located on the Property or within the portions of the Property designated in Exhibit 2.

Example exposure restriction for use of groundwater:

The construction and use of wells or other devices on the Property to extract groundwater for consumption, irrigation, or any other purpose, except as provided below:

(a) Wells and other devices constructed as part of a response activity for the purpose of evaluating groundwater quality or to remediate subsurface contamination associated with a release of hazardous substances into the environment are permitted provided the construction of the wells or devices complies with all applicable local, state, and federal laws and regulations and does not cause or result in a new release, exacerbation of existing contamination, or any other violation of local, state, or federal laws or regulations.

(b) Short-term dewatering for construction purposes is permitted provided the dewatering, including management and disposal of the groundwater, is conducted in accordance with all applicable local, state, and federal laws and regulations and does not cause or result in a new release, exacerbation of existing contamination, or any other violation of local, state, and federal environmental laws and regulations.

Example direct contact exposure barrier restriction:

The **[insert thickness and material of barrier]** that has a base elevation of **[insert reproducible benchmark]** at the locations shown in Exhibit 2 serves to prevent exposures to contaminated soils at the Property. Any excavation or other intrusive activity that could affect the integrity of the **[insert material of barrier]** is prohibited, except during short-term construction or repair projects or for purposes of further treating or remediating the subject contamination. Any

excavation or other intrusive activity, including removing, altering, or disturbing the *[insert material of barrier]*, that could affect the integrity of the barrier, must be replaced with a cover that provides at least an equivalent degree of protection as the original barrier within 14 days of completion of the work. Repair and/or replacement of the barrier must be completed unless additional sampling is conducted that demonstrates that a barrier in the area is no longer necessary in accordance with the applicable provisions and requirements of Part 201 of the NREPA.

Example vapor intrusion exposure restriction (no buildings):

The construction of new structures, unless such construction incorporates engineering controls designed to eliminate the potential for subsurface vapor phase hazardous substances to migrate into the new structure at concentrations greater than applicable criteria; or, unless prior to construction of any structure, an evaluation of the potential for any hazardous substances to volatilize into indoor air assures the protection of persons who may be present in the buildings and is in compliance with Section 20107a of the NREPA.

- O. Enter additional paragraphs, as appropriate, to describe the prohibited activities necessary to maintain the effectiveness and integrity of the response activity implemented at the Property.

Example infiltration barrier restriction:

The *[insert thickness and material of barrier]* that has a base elevation of *[insert reproducible benchmark]* at the locations shown in Exhibit 2 serves to prevent infiltration of water through contaminated soil at the Property. Any excavation or other intrusive activity that could affect the integrity of the *[insert material of barrier]* is prohibited, except during short-term construction or repair projects or for purposes of further treating or remediating the subject contamination. Any excavation or other intrusive activity, including removing, altering, or disturbing the *[insert material of barrier]*, that could affect the integrity of the barrier, must include the use of engineering controls to prevent the infiltration of water into the contaminated soil underlying the barrier until the barrier is repaired or replaced. The barrier must be repaired or replaced with a cover that provides at least an equivalent degree of protection as the original barrier within 14 days of completion of the work. Repair and/or replacement of the barrier must be completed unless additional sampling is conducted which demonstrates that a barrier in the area is no longer necessary in accordance with the applicable provisions and requirements of Part 201 of the NREPA.

Example monitoring well disturbance restriction:

Any activity that would interfere with the function of or obstruct access to any monitoring wells and devices located on the Property. This includes, but is not limited to, removing, destroying, or altering any well or device in any way that renders it inoperable or incapable of functioning as intended.

Example treatment system restriction:

Any activity that could affect the integrity, effectiveness, and operation of the groundwater interception trench and treatment system depicted in Exhibit 2.

Example containment and treatment system restriction:

Any excavation or other intrusive activity that could affect the integrity, effectiveness, and operation of the slurry wall and Light Non-Aqueous Phase Liquid (LNAPL) collection system as designated in Exhibit 2, and any activities that would interfere with access to the slurry wall and LNAPL collection system.

P. Insert as appropriate:

- on the Property
- within the portions of the Property designated in Exhibit 2 as **[insert designation]**.

Q. ***Insert the following paragraph if permanent markers are required; if not, renumber the paragraphs as appropriate:***

Permanent Markers. The Owner shall not remove, cover, obscure, or otherwise alter or interfere with the permanent markers placed at the locations noted in Exhibit 2. The Owner shall keep vegetation and other materials clear of the permanent markers to assure that the markers are readily visible.

R. ***Enter the name of the owner of the entity responsible for assuring compliance with the Restrictive Covenant.***

S. ***Insert the following if portions of the property subject to land use or resource use restrictions overlap and affect any easement holders' property interests:***

- and all other holders of a legal interest whose interest is materially affected by this Restrictive Covenant as documented and attached hereto as Exhibit **[insert number of the exhibit that contains the Consent of Easement Holder documentation]**.

T. ***Enter the name of the person proposing to file the Restrictive Covenant.***

U. ***Insert the day of the month.***

V. ***Insert the month and year.***

W. Insert Notary Public information as:

Name of state
County

X. Insert the appropriate form of acknowledgement from the following:

OPTION 1: For an individual:

The foregoing instrument was acknowledged before me this **[date]** by **[name of individual]**.

OPTION 2: For a corporation:

The foregoing instrument was acknowledged before me this **[date]** by **[name of officer or agent, title of officer or agent]** of **[name of corporation]**, a **[state or place of incorporation]**, on behalf of the corporation.

OPTION 3: For a partnership:

The foregoing instrument was acknowledged before me this **[date]** by **[name of partnership or agent]**, partner **[or agent]** on behalf of **[name of partnership]**, a partnership.

OPTION 4: For an individual acting as principal by an attorney in fact (power of attorney):

The foregoing instrument was acknowledged before me this **[date]** by **[name of attorney in fact]** as attorney in fact on behalf of **[name of principal]**.

- Y. Print, Type, or Stamp name of Notary Public.
- Z. Insert name of the person who prepared the restrictive covenant.
- AA. Insert the address of the person who prepared the restrictive covenant.

CONSENT OF OWNER ATTACHMENT:

This form is only necessary if the current property owner and the person signing the restrictive covenant are not the same person. This document provides the express written permission of the current property owner for recording.

- A. Enter the name of the current property owner.
- B. Insert the year and number of the DEQ assigned reference number.
- C. Enter the name of the person recording the restrictive covenant.
- D. Enter the name of the county where the property is located.
- E. Insert Notary Public information as:
Name of state
County
- F. Insert the appropriate form of acknowledgement from the following:

OPTION 1: For an individual:

The foregoing instrument was acknowledged before me this **[date]** by **[name of individual]**.

OPTION 2: For a corporation:

The foregoing instrument was acknowledged before me this **[date]** by **[name of officer or agent, title of officer or agent]** of **[name of corporation]**, a **[state or place of incorporation corporation]**, on behalf of the corporation.

OPTION 3: For a partnership:

The foregoing instrument was acknowledged before me this **[date]** by **[name of partnership or agent]**, partner **[or agent]** on behalf of **[name of partnership]**, a partnership.

OPTION 4: For an individual acting as principal by an attorney in fact (power of attorney):

The foregoing instrument was acknowledged before me this [date] by [name of attorney in fact] as attorney in fact on behalf of [name of principal].

G. Print, Type, or Stamp name of Notary Public.

EXHIBIT 1 LEGAL DESCRIPTION OF PROPERTY:

This exhibit must provide the legal description of the property, including parcel identification number(s) of the property.

EXHIBIT 2 SURVEY OF PROPERTY OR SURVEY OF THE PROPERTY AND LIMITS OF LAND AND RESOURCE USE RESTRICTIONS.

This exhibit must be titled as appropriate for the restricted area. All surveys must be conducted by a licensed surveyor; identify, clearly delineate, and graphically depict the spatial extent of all restricted areas in relation to the Property boundaries and the key features of the response activities, including permanent markers if required; and provide a legal description of the restricted areas of the Property if not all areas of the Property are subject to the same restrictions.

EXHIBIT 3 DESCRIPTION OF ALLOWABLE USES

This exhibit is only necessary when the property is restricted to nonresidential or site-specific land uses. It must be consistent with the zoning of the property and with the generic exposure assumptions used to develop the cleanup criteria established pursuant to Section 20120a(1)(b) of the NREPA or the alternative exposure assumptions used to develop site-specific criteria pursuant to Section 20120a(2) and 20120b of the NREPA.

OPTION 1: Insert the following if the property is restricted to the nonresidential land use category:

Nonresidential Land Use: This land use is characterized by any use which is not residential in nature and is primarily characterized by industrial and commercial uses. Industrial uses typically involve manufacturing operations engaged in processing and manufacturing of materials or products. Other examples of industrial uses are utility companies, industrial research and development, and petroleum bulk storage. Commercial uses include any business or income-producing use such as commercial warehouses, lumber yards, retail gas stations, auto dealerships and service stations, as well as office buildings, banks, and medical/dental offices (not including hospitals). Commercial uses also include retail businesses whose principal activity is the sale of food or merchandise within an enclosed building and personal service establishments which perform services indoors such as health clubs, barber/beauty salons, photographic studios, etc.

Any residential use is specifically prohibited from the non-residential land use category. This would include the primary use of the property for human habitation and includes structures such as single family dwellings, multiple family structures, mobile homes, condominiums, and apartment buildings. Residential use is also characterized by any use which is intended to house, educate, or provide care for children, the elderly, the

infirm, or other sensitive populations, and therefore could include day care centers, educational facilities, hospitals, elder care facilities, and nursing homes. The use of any accessory building or portion of an existing building as a dwelling unit permitted for a proprietor or storekeeper and their families, located in the same building as their place of occupation, or for a watchman or caretaker is also prohibited. Any authority that allows for residential use of the Property as a legal non-conforming is also restricted per the prohibitions contained in this restrictive covenant.

OPTION 2: *If the property is restricted to the site-specific land use category, insert a paragraph that describes those uses that are consistent with assumptions used to develop site-specific criteria pursuant to Section 20120a(2) and 20120b of the NREPA as approved by the DEQ.*

EXHIBIT 4 CONSENT OF EASEMENT HOLDERS

This Exhibit is only necessary if easement holders on the property have their rights materially impacted by the restrictions set forth in the Restrictive Covenant. This document provides the express written permission of the easement holder to record the restrictive covenant and have their property rights subject to and subordinate to the terms of the restrictive covenant. Insert additional pages if multiple easement holders exist for the Property.

A. *Insert name of the easement holder.*

B. *Insert Notary Public information as:*
Name of state
County

C. *Insert the appropriate form of acknowledgement from the following:*

OPTION 1: *For an individual:*

The foregoing instrument was acknowledged before me this **[date]** by **[name of individual]**.

OPTION 2: *For a corporation:*

The foregoing instrument was acknowledged before me this **[date]** by **[name of officer or agent, title of officer or agent]** of **[name of corporation]**, a **[state or place of incorporation]**, on behalf of the corporation.

OPTION 3: *For a partnership:*

The foregoing instrument was acknowledged before me this **[date]** by **[name of partnership or agent]**, partner **[or agent]** on behalf of **[name of partnership]**, a partnership.

OPTION 4: *For an individual acting as principal by an attorney in fact (power of attorney):*

The foregoing instrument was acknowledged before me this **[date]** by **[name of attorney in fact]** as attorney in fact on behalf of **[name of principal]**.

D. *Print, Type, or Stamp name of Notary Public.*

**EXHIBIT [] AREAS OF THE PROPERTY NOT ADDRESSED BY THE RESPONSE
ACTIVITIES**

This Exhibit is to be used when certain areas of the Property will not be addressed by the response activities implemented at the Property. The survey must be conducted by a licensed surveyor. The survey shall include the legal descriptions of those areas on the Property that are not addressed by the response activities and clearly delineate and graphically depict those areas in relation to the Property boundaries.

-- END OF INSTRUCTIONS --



Michigan Department of Environmental Quality
Remediation Division

Restrictive_Covenant.doc
2/18/11

THE ATTACHED MODEL DOCUMENT ENTITLED:

DECLARATION OF RESTRICTIVE COVENANT

IS A DRAFT DOCUMENT WHICH IS SUBJECT TO REVISION. IT IS PROVIDED TO THE PUBLIC AS PRELIMINARY GUIDANCE AS TO THE CONTENT, FORMAT AND TERMS OF THIS COVENANT. IT IS NOT INTENDED, NOR CAN IT BE RELIED UPON, TO CREATE ANY RIGHTS, SUBSTANTIVE OR PROCEDURAL, BY ANY OTHER PARTY.

PLEASE CONTACT THE COMPLIANCE AND ENFORCEMENT SECTION, REMEDIATION DIVISION, MICHIGAN DEPARTMENT ENVIRONMENTAL QUALITY, AT 517-373-7818 TO RECEIVE THE MOST RECENT DRAFT OF THIS DOCUMENT.

NOTE: There are recording requirements for instruments filed with Michigan county register of deeds offices are contained in Section 1 of the Recording Requirements Act, 1937 PA 103, as amended (Act 103), MCL 565.201, [link to Act 103](#).

The Michigan Department of Environmental Quality (DEQ) will not discriminate against any individual or group on the basis of race, sex, religion, age, national origin, color, marital status, disability or political beliefs. Questions or concerns should be directed to the DEQ Office of Human Resources, P.O. Box 30473, Lansing, MI 48909.

DECLARATION OF RESTRICTIVE COVENANT

DEQ Reference No: RC-RRD-201-____(A)____

This Declaration of Restrictive Covenant ("Restrictive Covenant") has been recorded with the ____ (B) ____ County Register of Deeds for the purpose of protecting public health, safety, and welfare, and the environment by prohibiting or restricting activities that could result in unacceptable exposure to environmental contamination present at the property located at ____ (C) ____ and legally described in Exhibit 1 attached hereto ("Property").

____ (D) ____

The Property described contains hazardous substances in excess of the concentrations developed as the unrestricted residential criteria under Section 20120a(1)(a) or (17) of the NREPA. The DEQ recommends that prospective purchasers or users of the Property undertake appropriate due diligence prior to acquiring or using this Property, and undertake appropriate actions to comply with the requirements of Section 20107a of the NREPA.

The response activities required the recording of this Restrictive Covenant with the ____ (B) ____ County Register of Deeds to: 1) restrict unacceptable exposures to hazardous substances located on the Property; 2) assure that the use of Property is consistent with the exposure assumptions used to develop the ____ (E) ____ of the NREPA and the exposure control measures relied upon at the Property; ____ (F) ____.

The restrictions contained in this Restrictive Covenant are based upon information available at the time the response activities were implemented. Failure of the response activities to achieve and maintain the criteria, exposure controls, and any requirements specified by the response activities; future changes in the environmental condition of the Property or changes in the ____ (E) ____ of the NREPA; the discovery of environmental conditions at the Property that were not accounted for during implementation of the response activities; or use of the Property in a manner inconsistent with the restrictions described herein, may result in this Restrictive Covenant not being protective of public health, safety, and welfare, and the environment.

____ (G) ____

Definitions

For the purposes of this Restrictive Covenant, the following definitions shall apply:

"DEQ" means the Michigan Department of Environmental Quality, its successor entities, and those persons or entities acting on its behalf.

"Owner" means at any given time the then current title holder of the Property or any portion thereof.

All other terms used in this document which are defined in Part 3, Definitions, of the NREPA; Part 201 of the NREPA; or the Part 201 Administrative Rules, 2002 Michigan Register; Effective December 21, 2002, shall have the same meaning in this document as in Parts 3 and 201 of the NREPA and the Part 201 Administrative Rules, as of the date of filing of this Restrictive Covenant.

Summary of Response Activities

____(H)____

____(I)____

NOW THEREFORE,

1. Declaration of Land Use or Resource Use Restrictions

____(J)____, ____ (K)____, hereby declares and covenants that the Property shall be subject to the following restrictions and conditions:

a. ____ (L)____

b. Prohibited Activities to Eliminate Unacceptable Exposure to Hazardous Substances.
The Owner shall prohibit activities ____ (M)____ that may result in exposures to hazardous substances at the Property. These prohibited activities include:

____(N)____

c. Prohibited Activities to Ensure the Effectiveness and Integrity of the Response Activity.
The Owner shall prohibit activities on the Property that may interfere with any element of the response activities, including the performance of operation and maintenance activities, monitoring, or other measures necessary to ensure the effectiveness and integrity of the response activities implemented at the Property. These prohibited activities include:

____(O)____

d. Contaminated Soil Management. The Owner shall manage all soils, media and/or debris located ____ (P)____ in accordance with the applicable requirements of Section 20120c of the NREPA; Part 111, Hazardous Waste Management, of the NREPA; Subtitle C of the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901 *et seq.*; the administrative rules promulgated thereunder; and all other relevant state and federal laws.

2. ____ (Q)____

3. Access. The Owner grants to the DEQ and its designated representatives the right to enter the Property at reasonable times for the purpose of determining and monitoring compliance with the response activities, including the right to take samples, inspect the operation of the response activities and inspect any records relating thereto, and to perform any actions necessary to maintain compliance with Part 201.

4. Conveyance of Property Interest. The Owner shall provide notice to the DEQ of the Owner's intent to transfer any interest in the Property at least fourteen (14) business days prior to consummating the conveyance. A conveyance of title, easement, or other interest in the Property shall not be consummated by the Owner without adequate and complete provision for compliance with the applicable provisions of Section 20116 of the NREPA. The notice required to be made to the DEQ under this Paragraph shall be made to: Chief, Remediation Division, Michigan DEQ, P.O. Box 30426, Lansing, Michigan 48909-7926; and shall include a statement that the notice is being made pursuant to the requirements of this Restrictive Covenant, DEQ Reference Number RC-RRD-201-____(A)____. A copy of this Restrictive Covenant shall be provided to all future owners, heirs, successors, lessees, easement holders, assigns, and transferees by the person transferring the interest.

5. Term of Restrictive Covenant. This Restrictive Covenant shall run with the Property and shall be binding on the Owner; future owners; and their successors and assigns, lessees, easement holders, and any authorized agents, employees, or persons acting under their direction and control. This Restrictive Covenant shall continue in effect until the DEQ or its successor determines that hazardous substances no longer present an unacceptable risk to the public health, safety, or welfare, or the environment. This Restrictive Covenant may only be modified or rescinded with the written approval of the DEQ.

6. Enforcement of Restrictive Covenant. The State of Michigan, through the DEQ, and ____ (R) ____ may individually enforce the restrictions set forth in this Restrictive Covenant by legal action in a court of competent jurisdiction.

7. Severability. If any provision of this Restrictive Covenant is held to be invalid by any court of competent jurisdiction, the invalidity of such provision shall not affect the validity of any other provisions hereof, and all such other provisions shall continue unimpaired and in full force and effect.

8. Authority to Execute Restrictive Covenant. The undersigned person executing this Restrictive Covenant is the Owner, or has the express written permission of the Owner ____ (S) ____, and represents and certifies that he or she is duly authorized and has been empowered to execute and deliver this Restrictive Covenant

IN WITNESS WHEREOF, ____ (T) ____ has caused this Restrictive Covenant, RC-RRD-201-____ (A) ____, to be executed on this ____ (U) ____ day of ____ (V) ____.

____ (T) ____

By: _____
Signature

Name: _____
Print or Type Name

Its: _____
Title

STATE OF ____ (W) ____
COUNTY OF ____ (W) ____

____ (X) ____

Notary Public Signature

____ (Y) ____
Notary Public, State of _____
County of _____
My Commission Expires: _____
Acting in the County of _____

Prepared by and when recorded return to:

____ (Z) ____
____ (AA) ____

CONSENT OF OWNER

I, (A) , the current and legal Owner of the Property, do hereby consent to the recording of this Restrictive Covenant, RC-RRD-201- (B) , and authorize (C) to file the Restrictive Covenant with the (D) County Register of Deeds for recording.

 (A)

By: _____
Signature

Name: _____
Print or Type Name

Its: _____
Title

STATE OF (E)
COUNTY OF (E)

 (F)

Notary Public Signature

 (G)
Notary Public, State of _____
County of _____
My Commission Expires: _____
Acting in the County of _____

EXHIBIT 1

LEGAL DESCRIPTION OF PROPERTY

EXHIBIT 2

SURVEY OF THE PROPERTY

OR

SURVEY OF THE PROPERTY AND LIMITS OF LAND OR RESOURCE USE RESTRICTIONS

EXHIBIT 3

DESCRIPTION OF ALLOWABLE USES

EXHIBIT 4

CONSENT OF EASEMENT HOLDERS

As evidenced below by my signature, I agree and consent to the recording of the land use and resource use restrictions specified in this Restrictive Covenant and hereby agree that my property interest shall be subject to and subordinate to the terms of the Restrictive Covenant.

_____(A)_____

By: _____
Signature

Name: _____
Print or Type Name

Its: _____
Title

STATE OF _____(B)_____
COUNTY OF _____(B)_____

_____(C)_____

Notary Public Signature

_____(D)_____
Notary Public, State of _____
County of _____
My Commission Expires: _____
Acting in the County of _____

EXHIBIT []

AREAS OF THE PROPERTY NOT ADDRESSED BY THE RESPONSE ACTIVITIES
