

ACCESS AGREEMENT – ROSE TOWNSHIP PROPERTY

1. **Division/Department:** Finance and Administration, Facilities Management

2. **Introduction:** Oakland University (“University”) owns approximately 121 acres of real property in Rose Township, Michigan (the “Property”) that it received as a gift on August 29, 1984.

The Property is undeveloped except for one single-family home located on the Property’s western boundary, which the University has rented to the same tenant for many years.

The northern border of the Property abuts the Rose Township Superfund Site (“Superfund Site”), an area designated by the United States Environmental Protection Agency (“USEPA”) as a superfund site.

On October 1, 1992, the Board authorized a three (3) year access agreement with the Chrysler Corporation (“Chrysler”) granting Chrysler access to a twenty-one (21) acre parcel of the Property (the “Access Site”) to perform testing, monitoring and cleanup activities relating to the Superfund Site. Chrysler, as permitted by the access agreement, erected a fence and installed ten (10) monitoring wells on the Access Site. A diagram of the Access Site is attached.

The access agreement was subsequently extended in 1995 for six (6) months and, on April 11, 1996, the Board extended the term for an additional two (2) years.

At the request of USEPA, a new group of companies known as the Rose Township Group (collectively, the “Group”) assumed responsibility for cleanup activities at the Superfund Site after Chrysler entered bankruptcy. The Group is seeking a new access agreement (“Access Agreement”) that will allow them continued access to the Access Site.

The Access Agreement provides, in part, that the Group:

- (i) Can maintain the existing fence, and inspect, sample and monitor the existing monitoring wells, on the Access Site;
- (ii) May, with the prior written approval of the University’s President or his/her designee, (a) conduct additional limited soil and groundwater investigations on the Access Site; (b) remove trees from the Access Site; (c) use/access the Property beyond the existing Access Site boundaries; and/or (d) place additional monitoring wells on the Access Site;

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- (iii) Will maintain appropriate insurance coverage for, and defend, indemnify and hold the University harmless from claims arising out of, its use of the Access Site;
- (iii) Will maintain the Access Site in good repair and fix, or pay the University for, damage caused by its use of the Access Site; and,
- (iv) Close and remove the monitoring wells, and remove the fence, when the cleanup activities end.

The Access Agreement will terminate after USEPA determines that no further cleanup activities are required or, upon prior written notice, if the Group fails to timely cure a violation of the Access Agreement.

The Access Agreement has been reviewed and approved by the Office of the Vice President for Legal Affairs and General Counsel, complies with the law and University policies and regulations, and conforms to the legal standards and policies of the Vice President for Legal Affairs and General Counsel.

3. Previous Board Action: On October 1, 1992, the Board authorized a three (3) year Access Agreement with Chrysler for the purpose of performing remediation activities at the Superfund Site, which was subsequently extended for six (6) months. On April 11, 1996, the Board extended the term of that Access Agreement for an additional two (2) years, which ended in May, 1998.

On April 7, 2010, the Board authorized the Vice President for Finance and Administration to execute an Agreement Regarding Easement with Consumers Energy Company (“Consumers”) expanding an existing utility easement on the Property held by Consumers.

4. Budget Implications: None.

5. Educational Implications: None.

6. Personnel Implications: None.

7. University Reviews/Approvals: This recommendation was formulated by the Associate Vice President for Facilities Management, and reviewed by the Vice President for Finance and Administration, the President, and the Board's Finance, Audit and Investment Committee at their December 2, 2010 meeting.

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8. Recommendation:

RESOLVED, that the Vice President for Finance and Administration be authorized to execute the Access Agreement on the University's behalf.

9. Attachments:

A. Diagram of the Property and the Access Site

Submitted to the President
on 11/29, 2010 by



John W. Beaghan
Vice President for Finance and Administration
and Treasurer to the Board of Trustees

Recommended on 11/29, 2010
to the Board for approval by



Gary D. Russi, President



SALMER

ACCESS SITE

FISHLAKE

ATTACHMENT A

