



State of New Jersey

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Site Remediation and Waste Management Program

401 East State Street

P.O. Box 420, Mail Code 401-05

Trenton, NJ 08625-0420

Tel: (609) 984-2991

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PHILIP D. MURPHY
Governor

SHEILA Y. OLIVER
Lt. Governor

CATHERINE R. McCABE
Commissioner

SITE ACCESS AGREEMENT

In the Matter of the:
Mill Brook Oil Spill
PI #750951

AND

Property Owner:
One Ninety M, L.L.C.
c/o Heller Industrial Parks, Inc.

RECITALS

One Ninety M, L.L.C. ("Property Owner") grants the New Jersey Department of Environmental Protection, its contractors and subcontractors (collectively "DEP") permission to enter upon certain property located at 75-77 Executive Ave., Edison, Middlesex County ("the Site"), this property being also known and designated as Block 375Q, Lot 1, on the Tax Map of Edison.

PURPOSE

1. DEP and the Property Owner are entering into this Agreement so DEP may enter upon the Site to perform a preliminary assessment/site investigation, remedial investigation, and remedial action as more particularly described on the Scope of Work attached hereto as Attachment 1. DEP shall perform the preliminary assessment/site investigation, remedial investigation, and remedial action in accordance with all applicable statutes and regulations, including the Technical Requirements for Site Remediation, N.J.A.C. 7:26E.

DEP COMMITMENTS

2. In return for the Property Owner granting DEP access to the Site to complete the preliminary assessment/site investigation, remedial investigation, and remedial action, DEP agrees to the following:

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- a. DEP will give the Property Owner reasonable notice before commencing the on-site portion of the preliminary assessment/site investigation, remedial investigation, and remedial action. Anticipated start date is on or about October 1, 2018.
- b. DEP will, to the greatest practicable extent, complete the preliminary assessment/site investigation, remedial investigation, and remedial action in a way that minimizes interference with the Property Owner's ongoing business operations. If DEP determines, in its sole discretion, that any on-site activity may interfere with the Property Owner's business operations, DEP will first notify, and consult with, the Property Owner before commencing the activity. DEP will, however, decide, in its sole discretion, how to perform the activity. DEP shall enter onto and park vehicles on the property at a location mutually agreed upon between the DEP and the Property Owner. Overnight parking or material/equipment storage on the property shall be permitted only with expressed permission from the property owner.
- c. The Property Owner shall have the opportunity to be present at any on-site sampling event, and to split any sample DEP takes to the extent the sample can be split. The Property Owner shall do so only when he agrees to:
 - i. Provide DEP with notice of its intention to be present when DEP performs the sampling, and his intent to split the samples;
 - ii. Not in any way interfere with the timing or performance of the sampling;
 - iii. Supply, at its own cost and expense, any equipment DEP requires for splitting the sample(s); and
 - iv. Perform, or arrange for the performance of, the analysis of each split sample it obtains, at its own cost and expense.
- d. DEP shall, as practicable, return the Site to the general condition that existed before DEP's use or occupancy of the Site.
- e. DEP shall, at the Property Owner's request, provide the Property Owner with a copy of any final report concerning the preliminary assessment/site investigation, remedial investigation, and remedial action to the extent the report does not contain any confidential or otherwise privileged information.

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TERM OF AGREEMENT

3. The Property Owner shall promptly sign, date and return this Agreement to DEP. This Agreement shall take effect as of the date DEP's authorized representative signs and dates it.
4. Unless terminated sooner by mutual agreement of the parties, this Agreement shall expire upon DEP giving the Property Owner written notice that use of the Site, or the completion of the stated Scope of Work is completed. Any additional remedial work to be undertaken by DEP shall require a separate Agreement.

GENERAL CONDITIONS

5. The Property Owner agrees to notify DEP, in writing, no later than 30 calendar days before transferring title to some or all of the Property. The Property Owner shall submit this notice to the Assistant Director, Division of Publicly Funded Site Remediation, New Jersey Department of Environmental Protection, 401 East State Street, PO Box 420, 401-05Q, Trenton, New Jersey 08625-0420.
6. DEP represents that it shall retain ACV Enviro as its contractor. A Certificate of Insurance coverage is attached hereto as Attachment 2. DEP will cause any other contractors to provide a certificate of insurance evidencing commercial general liability insurance in the amount of \$1 million per occurrence and \$2 million in the aggregate and the same automobile liability and workers compensation coverages, property description and additional insureds set forth on Attachment 2. Certificates to be provided at least one (1) business day prior to entry onto the Site
7. The undersigned representative of the Property Owner and DEP certifies that he or she is authorized to enter into this Site Access Agreement and to execute and legally bind each party to this Site Access Agreement.
8. This Agreement, including the Attachments, represents the entire agreement between the parties concerning site access, and supersedes all prior negotiations, representations, or agreements, either written or oral, unless otherwise expressly stated.
9. This Agreement may only be modified by the mutual agreement of the Parties. Further, any modification to this Agreement shall be in writing unless DEP, in its sole discretion, determines circumstances allow otherwise. Where any modification is verbal, DEP will document the modification, in writing, as soon as practicable.




10. This Agreement applies to and is binding upon DEP, the Property Owner, their successors and assigns.
11. The execution of this Agreement by the Property Owner shall not be deemed an admission of liability or responsibility regarding the presence of any hazardous substances or remediation of the site or any other property.
12. At this time, all work performed hereunder shall be at no cost to the Property Owner or any tenant, employee, member, agent, or manager of the Property Owner, unless it is determined that the aforementioned are in any way responsible for the contamination.

New Jersey Department of Environmental Protection

Name: Ed Putnam

Title: Assistant Director

Publicly Funded Response Element

Signature: 

Dated: 8/29/18

One Ninety M, L.L.C., Property Owner

By: Heller Industrial Parks, Inc.

Name: 

Title: Brian Banazyński

Signature: President

Dated: 8/27/18

Attachment 1 – Scope of Work
Attachment 2 – Certificate of Insurance
Attachment 3 – Site Map

Attachment 1

SCOPE OF WORK

The primary purpose of the remedial measure is to mitigate the free product discharging into the Mill Brook, and to determine the point of entry into the storm sewer. Aspects of the SOW include the following:

1. MITIGATE THE SEPARATE PHASE PETROLEUM IMPACTING THE SURFACE WATER BODY

Oil-absorbent containment booms will be immediately deployed and maintained on a periodic basis. Used and spent absorbent materials will be replaced and drummed for off-site disposal. If necessary, when a heavy discharge is discovered, a vac truck may be used to remove free product for off-site disposal.

2. INVESTIGATE THE POINT OF ENTRY OF PRODUCT INTO THE STORM SEWER

The storm sewer conveyance system is in the parking lot of United Stationers Supply Company at 75-77 Executive Ave. in Edison. The impacted portion of the system is approximately 1000 linear feet and is fed generally from storm water runoff from the parking lot by way of four catch basins. It is believed, however, the LNAPL is infiltrating the piping, possibly through separated joints or by other means. The entire length of the storm water system will be jet cleaned and then investigated via digital TV inspection to pinpoint the location(s) of LNAPL infiltration. If the point of entry is identified, the area will be addressed, if possible, under a separate action.

3. COLLECT SAMPLES TO IDENTIFY SOIL CONTAMINATION

Based on visual observation, the banks along Mill Brook have been impacted by the discharge, as evidenced by the black, stained soils. Grab soil samples will be collected to identify and assess any impact. Up to 10 soil samples within the drainage ditch shown on Attachment 3 will be collected.

4. OPERATION AND MAINTENANCE

The containment absorbent booms and pads placed at the outfall will be maintained on a periodic basis for an initial six-month period. This includes the disposal of drums and liquids.

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Attachment 2



CERTIFICATE OF LIABILITY INSURANCE

11/1/2018

DATE (MM/DD/YYYY)

11/1/2017

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an **ADDITIONAL INSURED**, the policy(ies) must have **ADDITIONAL INSURED** provisions or be endorsed. If **SUBROGATION IS WAIVED**, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER LOCKTON COMPANIES 500 West Monroe, Suite 3400 CHICAGO IL 60661 (312) 669-6900		CONTACT NAME: _____ PHONE (A/C, No, Ext): _____ FAX (A/C, No): _____ E-MAIL: _____ ADDRESS: _____	
INSURED 1404189 Allstate Power Vac, Inc. Allstate Power Vac, Inc. dba ACV Enviro APV 928 E Hazelwood Ave Rahway, NJ 07065-5634		INSURER(S) AFFORDING COVERAGE INSURER A: Zurich American Insurance Company NAIC # 16535 INSURER B: Steadfast Insurance Company 26387 INSURER C: _____ INSURER D: _____ INSURER E: _____ INSURER F: _____	

COVERAGES

CERTIFICATE NUMBER: 15462026

REVISION NUMBER: XXXXXXXX

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL SUBH INSD WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
B	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER: _____	Y	N	GPL 0160671-01	11/1/2017	11/1/2018	EACH OCCURRENCE \$ 2,000,000 DAMAGE TO RENTED PREMISES (Per occurrence) \$ 100,000 MED EXP (Any one person) \$ 15,000 PERSONAL & ADV INJURY \$ 2,000,000 GENERAL AGGREGATE \$ 6,000,000 PRODUCTS - COM/OP AGG \$ 4,000,000 \$
A	AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> NON-OWNED AUTOS ONLY	N	N	BAP 0160669-01	11/1/2017	11/1/2018	COMBINED SINGLE LIMIT (Per accident) \$ 1,000,000 BODILY INJURY (Per person) \$ XXXXXXXX BODILY INJURY (Per accident) \$ XXXXXXXX PROPERTY DAMAGE (Per accident) \$ XXXXXXXX \$
B	UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR EXCESS LIAB <input checked="" type="checkbox"/> CLAIMS-MADE DED <input type="checkbox"/> RETENTION \$	N	N	SXS 01 60706-01	11/1/2017	11/1/2018	EACH OCCURRENCE \$ 10,000,000 AGGREGATE \$ 10,000,000 \$ XXXXXXXX
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N	N/A	WC 0160662-01	11/1/2017	11/1/2018	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000
B	Poll/Prof Liab	N	N	GPL 0160671-01	11/1/2017	11/1/2018	SEE ATTACHMENT FOR LIMITS OF INSURANCE
B	Railroad Protective Liability			SCO 1166650-00	6/5/2018	6/5/2021	\$2M Occ/\$6M Agg

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

RE: Property Address: 77 Executive Avenue, Edison, NJ. One Ninety M, LLC and Heller Industrial Parks, Inc. are included as additional insured as required by written contract with respect to general liability per the terms and conditions of the policy.

CERTIFICATE HOLDER

CANCELLATION See Attachment

15462026

New Jersey Dept. of Env. Protection
 Div. of Solid &
 Hazardous Waste
 P.O. Box 421
 Trenton NJ 86250421

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

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2017-2018 Professional and Contracting Services Proposal

Policy Number: GPL 0160671-01			
Coverage	Each Occurrence Limit	Coverage Aggregate	Self-Insured Retention
Professional Liability	\$5,000,000	\$10,000,000	\$50,000
Transporters Auto Pollution Liability	\$5,000,000	\$10,000,000	\$50,000
Remediation Legal Liability	\$5,000,000	\$10,000,000	\$50,000
Contractor's Pollution Liability	\$5,000,000	\$10,000,000	\$50,000

Policy Number: EPC 0160703-01			
Coverage	Each Pollution Condition Limit	Coverage Aggregate	Self-Insured Retention
Pollution Legal Liability	\$5,000,000	\$10,000,000	\$50,000
Non-Owned Disposal Site	\$5,000,000	\$10,000,000	\$50,000
In-Bound and Out-Bound Contingent Transportation	\$5,000,000	\$10,000,000	\$50,000

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PI 632481 (USS Figures)
Attachment - 4/23/18 email

