

**VOLUNTARY CLEANUP CONTRACT
02-5295-RP**

**IN THE MATTER OF
SCE&G COLUMBIA FLEET MAINTENANCE SITE,
RICHLAND COUNTY
and
SOUTH CAROLINA ELECTRIC & GAS COMPANY**

This Contract is entered into by the South Carolina Department of Health and Environmental Control and South Carolina Electric & Gas Company (SCE&G), pursuant to the Brownfields/Voluntary Cleanup Program, S.C. Code Ann. § 44-56-710, *et seq.* (2002), and the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), 42 U.S.C., §§ 9601, *et seq.*, as adopted by reference in the South Carolina Hazardous Waste Management Act (HWMA), S.C. Code Ann. § 44-56-200 (2002), with respect to the facility located at 1409 Huger Street, Columbia, South Carolina. The Huger Street former Manufactured Gas Plant facility includes approximately 9.5 acres (the "Property") and is an active bus fleet maintenance facility. The Property is bounded generally by residential properties on the north along Hampton Street, commercial and industrial businesses on the east along Huger Street and south along Washington Street including offices, an abandoned former lumber company and a steel fabricating industry, and Hampton Street to the west. A legal description of the property is attached to the Contract as Appendix A.

1. Unless otherwise expressly provided, terms used in this Contract shall have the meaning assigned to them in CERCLA, 42 U.S.C., §§ 9601, *et seq.*, as adopted by reference in the HWMA, S.C. Code Ann. § 44-56-200 (2002), including any amendments, or in the regulations promulgated thereunder.

A. "Department" shall mean the South Carolina Department of Health and Environmental Control.

- B. "Contract" shall mean this Voluntary Cleanup Contract.
- C. "The Site" shall mean the facility located at 1409 Huger Street, Columbia, South Carolina, and all areas where a contaminant has been released, deposited, stored, disposed of, placed or otherwise comes to be located; "Site" does not include any consumer product in consumer use or any vessel, as defined in CERCLA Section 101 (28).
- D. "SCE&G" shall mean South Carolina Electric & Gas Company.
- E. "Work Plan" shall mean the Remedial Investigation/Feasibility Study Work Plan (RI/FS).
- F. "Responsible Party" shall mean:
 - a. The owner and operator of a vessel, as defined in CERCLA Section 101 (28), or a facility;
 - b. Any person who at the time of disposal of any hazardous substance owned or operated any facility at which such hazardous substances were disposed of;
 - c. Any person who by contract, settlement, or otherwise arranged for disposal or treatment, or arranged with a transporter for transport for disposal or treatment of hazardous substances owned or possessed by such person, by any other party or entity, at any facility or incineration vessel owned or operated by another party or entity and containing such hazardous substances; and
 - d. Any person who accepts or accepted any hazardous substances for transport to disposal or treatment facilities, incineration vessels, as defined in CERCLA Section 101 (38), or sites selected by such person from which there is a release, or a threatened release which causes the incurrence of response costs, of a hazardous substance.
- G. "Oversight Costs" shall mean those costs, both direct and indirect, incurred by the Department in implementing the Voluntary Cleanup Program.

- H. "Response Action" shall mean any assessment, cleanup, inspection, or closure of a site as necessary to remedy actual or potential damage to public health, public welfare, or the environment
- I. "Voluntary Cleanup" shall mean a response action taken under and in compliance with the Brownfields/Voluntary Cleanup Act, S.C. Code Ann. § 44-56-710, *et seq.* (2002).

2. Based on the information known by or provided to the Department, the following findings are asserted for purposes of this Contract:

- A. The Property was used as a Manufactured Gas Plant as early as 1906 and operated until approximately 1954. By 1910 the Property was occupied by Columbia Gas Light Company and Columbia Electric Street Railway Light and Power Company. Between 1910 and 1919, an additional facility was added to the property and listed as Columbia Granite Company. Columbia Gas Light Company and Columbia Electric Street Railway Light and Power Company merged to form the Columbia Railway Gas and Electric Company (predecessors to SCE&G). By 1950, the Property was listed as being owned by South Carolina Electric and Gas Company and several of the structures on the Property had been demolished. Demolition and disassembly of manufactured gas plant structures continued through the 1950's and 1960's, after which the Property's current use as a bus depot and maintenance facility began and has continued since.
- B. Previous work performed at the Site included a passive soil gas survey and an active soil gas survey.
- C. In 1996, SCE&G initiated a study in response to the anticipated turnover of the bus fleet and its operations to the City of Columbia. The study focused on delineating the nature and extent of soil and groundwater contamination at the Site as a result of a former manufactured gas plant

(MGP) and current fleet maintenance operations on the Property. META Environmental, Inc. (META) performed the Site investigation at the Site and adjacent properties (META1).

- D. The META1 characterization study revealed that on-site soils and groundwater contain both tar and petroleum compounds. However, the majority of the soil contamination is shallow, containing highly weathered source materials that are above the water table. The report indicates that institutional controls such as the asphalt cap that is present at the Site combined with the weathered source material, confining layer with high clay content underlain by saprolitic clays, and competent bedrock are significantly limiting vertical infiltration of water into the soils.
- E. Subsequent to SCE&G's performance of response actions at the Site, this Property is to be given in fee simple to the City of Columbia.

3. The terms and conditions of this Contract apply to and shall inure to the benefit of each signatory and its parents, successors, assigns, and subsidiaries, and upon any successor agency of the State of South Carolina that may have responsibility for and jurisdiction over the subject matter of this Contract.

4. Upon execution of this Contract, the Department agrees to review the existing soil, groundwater and hydrogeologic data for the Site included in META1. Within thirty (30) days of receipt of the Department's comments from the review of META1, SCE&G agrees to submit to the Department for review and written approval a Proposed Work Plan for the Site that is consistent with the technical intent of the National Contingency Plan and U.S. EPA guidance documents. The Proposed Work Plan and all other plans shall be prepared in accordance with industry standards and endorsed by a duly licensed Professional Engineer (P.E.) and/or Professional Geologist (P.G.) in South Carolina and shall set forth methods and schedules for accomplishing the following tasks:

- A. The Proposed Work Plan will include an implementation schedule for

additional assessment to delineate all potential sources of contamination as well as the nature and extent of the contamination if determined necessary by the Department. Because of the unknown nature of the Site and iterative nature of the Remedial Investigation/Feasibility Study (RI/FS), additional data requirements may be identified through the RI/FS process. SCE&G shall submit a technical memorandum documenting any need for additional data along with the proposed Data Quality Objectives (DQOs) whenever such requirements are identified. In any event, SCE&G is responsible for fulfilling additional data and analysis needs identified by the Department consistent with the general scope and objectives of the RI/FS and this Contract.

- B. Within forty-five (45) days of receipt of the Department's acceptance of SCE&G's assessment, SCE&G shall submit a Focused Feasibility Study (FFS) to evaluate alternatives for remedial action. SCE&G may propose its preferred alternative for remedial action in the cover letter accompanying the FFS but shall not include a recommendation in the FFS.
- C. Upon approval of the feasibility study, the Department shall propose a preferred final remedy. The preferred final remedy will be based at a minimum on protection of human health and the environment, as per specific site conditions, existing regulations and guidance.
- D. The Department shall provide a public comment period on the proposed final remedy, after which the Department will make a final remedy selection. SCE&G may submit comments on the preferred remedy to the Department during the public comment period. The selected remedy will be documented in a Record of Decision (ROD).
- E. Within forty-five (45) days of issuance of the ROD SCE&G shall submit to the Department for approval a Remedial Design/Remedial Action (RD/RA) Work Plan, including a schedule of implementation.
- F. Within forty-five (45) days of the Department's approval of the RD/RA

Work Plan, SCE&G shall submit to the Department the Remedial Design. SCE&G shall begin to implement the RD within forty-five (45) days of the Department's approval of the RD.

The Department recognizes that SCE&G plans to transfer ownership of the Property to the City of Columbia and that the City of Columbia will continue to operate the fleet maintenance facility for a period of up to five (5) years after the execution date of this Contract. The Department also recognizes that access to the Property for intrusive purposes may be limited during this time period; however, SCE&G agrees to make reasonable efforts to complete tasks 4.A. through 4.D. (above) as expeditiously as possible.

5. The Proposed Work Plan shall include the names, addresses, and telephone numbers of the consulting firm, the South Carolina certified analytical laboratory, and SCE&G's contact person for matters relating to this Contract. SCE&G will notify the Department in writing of changes in the contractor or laboratory. Attached to the Proposed Work Plan but under separate cover shall also be a Health and Safety Plan that is consistent with Occupational Safety and Health Administration regulations. The Department will review the Proposed Work Plan and will notify SCE&G in writing of any deficiencies in the Work Plan.

6. Within sixty (60) days of the execution date of this Contract and once a month thereafter, SCE&G shall submit to the Department a written progress report that must include the following: (a) actions taken under this Contract during the previous reporting period; (b) actions scheduled to be taken in the next reporting period; (c) sampling, test results, and any other data, in summary form, generated during the previous reporting period, whether generated pursuant to this Contract or not; and (d) a description of any environmental problems experienced during the previous reporting period and the actions taken to resolve them.

7. As provided for by S.C. Code Ann. § 44-56-740(c) (2002) and S.C. Code Ann. § 44-56-200 (2002), SCE&G shall, on a quarterly basis, to the extent so invoiced, reimburse the Department for oversight costs of activities required under this Contract. Oversight costs include but are not limited to the direct and indirect costs of negotiating the terms of this Contract, reviewing Work Plans and reports, supervising corresponding work, and public participation. Payments will be due within thirty (30) days of receipt of the Department's invoice and should be sent to:

**Ms. Rebecca Dotterer
SCDHEC – BLWM
2600 Bull Street
Columbia, SC 29201**

8. Subject to the provisions of Paragraph 14 of this Contract, nothing in this Contract is intended to be, or shall be construed as, a release or covenant not to sue for any claim or cause of action, administrative or judicial, civil or criminal, past or future, in law or equity, that the Department may have against any person, firm, corporation, potentially responsible party, or other entity not a signatory of this Contract.

9. Nothing in this Contract is intended to limit the right of the Department to undertake future response actions at the Site or to seek to compel parties to perform or pay for response actions at the Site. Nothing in this Contract shall in any way restrict or limit the nature or scope of response actions that may be taken or be required by the Department in exercising its authority under State and Federal law.

10. The Department, its authorized officers, employees, representatives, and all other persons performing response actions will not be denied access to the property during normal business hours or at any time work under this Contract is being performed or during any environmental emergency or imminent threat situation, as determined by the Department (or as allowed by applicable law). SCE&G shall ensure that a copy of this Contract is provided to any current lessee or sublessee on the property as of the execution

date of this Contract and shall ensure that any subsequent leases, subleases, assignments or transfers of the property are consistent with this Paragraph.

11. SCE&G shall make reasonable efforts to gain access to any property not owned by SCE&G to which SCE&G needs entry in order to perform the work required by this Contract. Such efforts shall include, but not be limited to, written requests to the property owner(s) requesting access that describe the activities for which access is requested and that state a commitment to return the property to the condition it was prior to entry by SCE&G. In the event that SCE&G is unable to gain access to any property to perform necessary work under the Work Plan after making reasonable efforts to do so, the Department will take reasonable steps to assist SCE&G in obtaining access to such property to perform any work necessary under this Contract. In the event that SCE&G is still unable to obtain access, SCE&G agrees to reimburse the Department for all costs associated with the Department's performance of the requested activities.

12. SCE&G shall inform the Department at least five (5) working days in advance of all field activities pursuant to this Contract and shall allow the Department and its authorized representatives, if so desired, to take duplicates of any samples collected by SCE&G pursuant to this Contract.

13. Upon execution of this Contract, the Department will seek public participation in accordance with S.C. Code Ann. § 44-56-740 (2002) and the technical intent of the National Contingency Plan. Costs associated with public participation, [e.g., public notices(s), building and equipment rental(s) for public meetings, etc.] will be paid by SCE&G.

14. Upon successful completion of the terms of this Contract and the approved Work Plan as referenced in Paragraph 4 above, SCE&G shall submit to the Department a written notice of completion. Once the Department acknowledges satisfactory completion of the Contract terms, the Department, pursuant to S.C. Code Ann. § 44-56-740(B)(1) (2002), will

give SCE&G a Certificate of Completion that provides a covenant not to sue SCE&G, its parents, affiliates, successors, subsidiaries, or assigns for the matters satisfactorily completed and specifically covered in this Contract.

15. If hazardous substances in excess of residential standards exist at the Site after SCE&G has completed the actions required under this Contract, land use restrictions shall be defined in the Certificate of Completion and the Department shall enter into a restrictive covenant with SCE&G prior to the issuance of the Certificate of Completion. Upon the Department's approval of the items outlined therein, SCE&G shall file this restrictive covenant with the Register of Deeds in Richland County, and a copy of the filed restrictive covenant shall be attached to the Certificate of Completion and shall be incorporated into this Contract as an appendix. With the approval of the Department, the restrictive covenant may be modified in the future if: (a) additional remedial activities are carried out that meet appropriate clean up standards at that time; (b) a significant change in law requiring remediation occurs; or (c) circumstances change such that the restrictive covenant would no longer be applicable. The restrictive covenant shall be signed by the Department and representatives of SCE&G and witnessed, signed, and sealed by a notary public.

16. Nothing in this Contract is intended to be or shall be construed as a release or covenant not to sue for any claim or cause of action that the Department may have against SCE&G for any matter not expressly included in this Contract. In consideration of the Department's covenant not to sue, SCE&G agrees not to assert any claims or causes of action against the Department arising out of activities undertaken at the Site or to seek other costs, damages, or attorney's fees from the Department arising out of activities undertaken at the Site, except for those claims or causes of action resulting from the Department's intentional or grossly negligent acts or omissions.

17. SCE&G and the Department each reserve the right to unilaterally terminate this Contract. Termination may be accomplished by giving a thirty (30) day advance written

notice of the election to terminate this Contract to the other party. Should SCE&G elect to terminate, it must submit to the Department all data generated pursuant to this Contract, and certify to the Department's satisfaction that no environmental or physical hazards exist at the Site as a result of SCE&G's actions. The Department may terminate this Contract only for cause, which may include but is not limited to the following: (a) events or circumstances at the Site that are inconsistent with the intent of this Contract; (b) failure by SCE&G to complete the terms of this Contract; or (c) further contamination of the Site by SCE&G.

18. If business activities on Site or use of the Site change such that they are inconsistent with the intent of this Contract, then the covenant not to sue [as provided by S.C. Code Ann. § 44-56-740(E)(4) (2002)] extended to South Carolina Electric & Gas Company, its parents, affiliates, successors, subsidiaries, or assigns, shall become null and void.

19. Upon execution of this Contract, all subsequent correspondence and documentation pertaining to the requirements of this Contract, including five (5) copies of all Work Plans and Reports, shall be submitted to the following: Mr. Lucas Berresford, State Remediation Section, Bureau of Land and Waste Management, South Carolina Department of Health and Environmental Control, 2600 Bull Street, Columbia, SC 29201.

**THE SOUTH CAROLINA DEPARTMENT OF HEALTH AND ENVIRONMENTAL
CONTROL**

BY: R. Lewis Shaw

R. Lewis Shaw, P.E.
Deputy Commissioner
Environmental Quality Control

DATE: 8/19/02

BY: Hartsill W. Truesdale

Hartsill W. Truesdale, P.E., Chief
Bureau of Land and Waste Management

DATE: 08/19/02

BY: *J. G. O. King* DATE: 8/15/02
Approved by Legal Office

SOUTH CAROLINA ELECTRIC & GAS COMPANY

BY: *Neville O. Lorick* DATE: 8-12-02
Neville O. Lorick, President

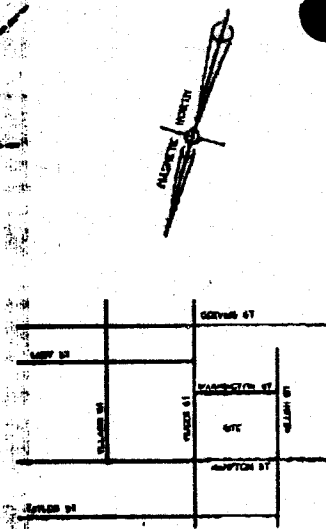
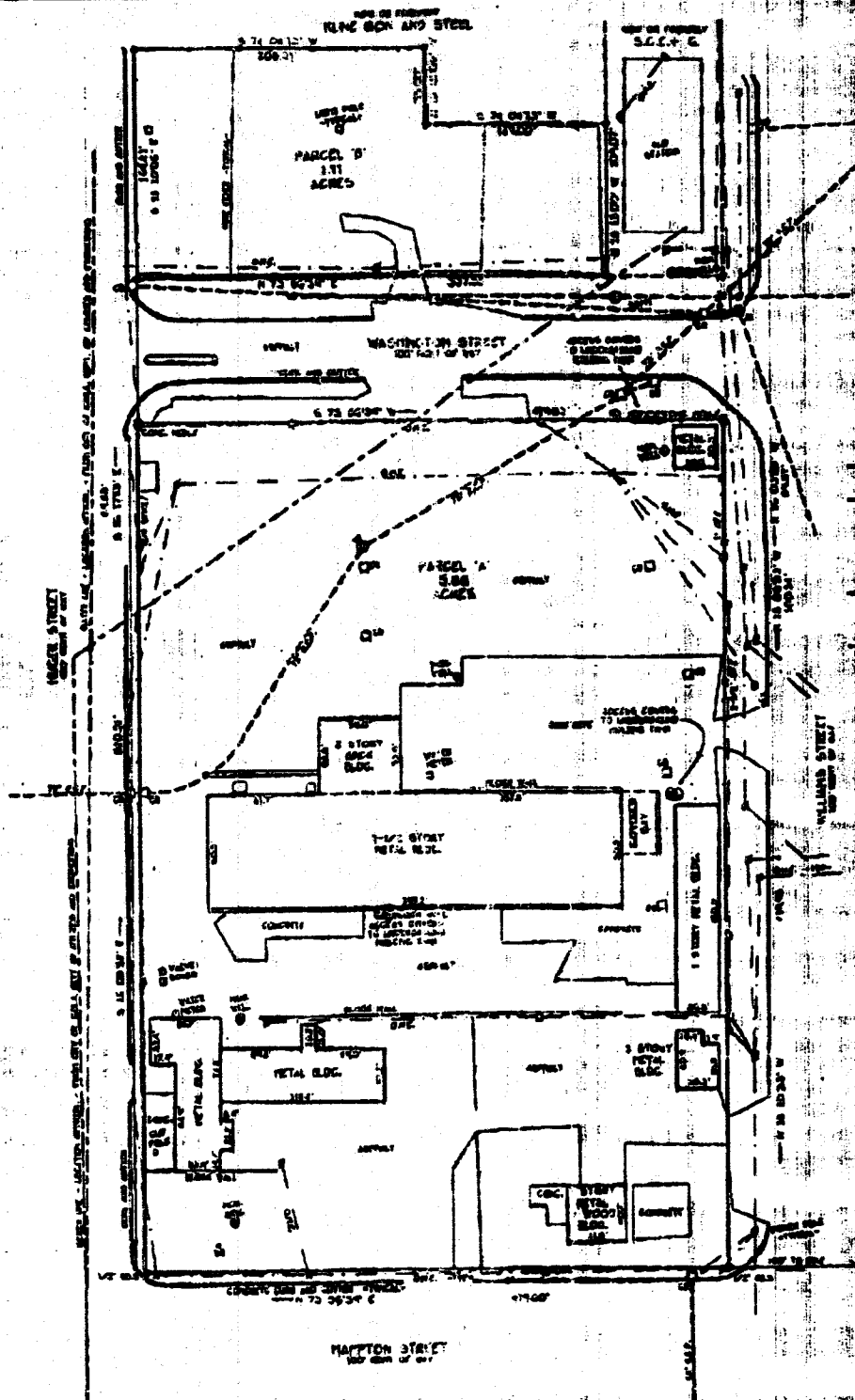
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APPENDIX A

**LEGAL DESCRIPTION
HUGER STREET PROPERTY**

That certain tract of real property, with all improvements thereon and all appurtenances thereto, (the "Tract" or the "Huger Street Property") described as follows:

All those certain pieces, parcels, or tracts of land containing an aggregate of 6.99 acres, more or less, bordered on the East by Huger Street, on the North by Hampton Street, on the West by Williams Street and on the North and South sides of Washington Street, in the City of Columbia, County of Richland, State of South Carolina, and being more fully shown and delineated as Parcel "A" and Parcel "B" on "Plat Prepared for South Carolina Electric and Gas Company" by Associated Engineers and Surveyors, Inc., Larry W. Smith, SC P.L.S. No. 3724, dated October 15, 1997, last revised February 25, 2002, which is hereto attached as Exhibit A and made a part hereof by reference. A full-size plat is maintained on file by SCE&G and may be accessed at any time upon request.



PLAN PREPARED FOR
**South Carolina
 Electric and Gas Company**

THIS IS TO CERTIFY THAT I HAVE CONSULTED THE FEDERAL BUREAU OF INVESTIGATION FLOOD HAZARD ZONING MAP AND FOUND THAT THE TERRAIN DESCRIBED IS NOT LOCATED IN A SPECIAL 100 YEAR FLOOD HAZARD AREA AS SHOWN ON MAPS. (FIRM NUMBER 15, DATED JANUARY 28, 1994).

NOTE: ALL UNDERGROUND UTILITIES NOT LOCATED, SHOWN AND VERIFIED BY ASSOCIATED ENGINEERS AND SURVEYORS, P.C. AS OF DATE SHOWN HEREON.

SITE LOCATED IN SCOTLAND COUNTY, SOUTH CAROLINA AND APPEARS ON THE ORDINANCE-13-01 AND THE ORDINANCE-10 - A PORTION OF SA.

SCALE: 1" = 60'
 DATE: OCTOBER 16, 1997
 REVISED FEBRUARY 28, 2002 - TO SHOW RECORDS TO MAP 'S' - SEE ATTACHED SHEET

REFERENCES:
 IN REFERENCE TO A BOUNDARY THAT WAS SUPERSEDED, MAP PREPARED FOR SOUTH CAROLINA ELECTRIC AND GAS COMPANY'S SUBMITTED ORDINANCES AND SUBMITTALS, P.C. DATED FEBRUARY 28, 2002.

CERTIFICATION:
 I HEREBY STATE THAT TO THE BEST OF MY KNOWLEDGE, INFORMATION AND BELIEF, THE SURVEY SHOWN HEREON WAS MADE IN ACCORDANCE WITH THE REQUIREMENTS OF THE RELEVANT STATUTES APPLICABLE FOR THE PRACTICE OF LAND SURVEYING IN SOUTH CAROLINA, AND MEETS OR EXCEEDS THE REQUIREMENTS FOR A CLASS 'C' SURVEY AS SPECIFIED THEREIN, AND THERE ARE NO UNRESOLVED DISCREPANCIES OR PROJECTIONS OTHER THAN SHOWN.



James W. Smith
 JAMES W. SMITH, P.E., P.L.S. NO. 5724
ASSOCIATED ENGINEERS AND SURVEYORS, INC.
 600 VOLET STREET, WEST COLUMBIA, SOUTH CAROLINA 29169 1-803-791-1250