



October 31, 2024

John Wesley McAdams, II
AC Hampton Station Owner, LLC
1200 East Morehead Street, Suite 280
Charlotte, North Carolina 28204

**Re: Proposed Voluntary Cleanup Contract 24-7468-NRP
Oceana Rapids Site
Greenville County**

Dear Mr. McAdams:

Enclosed please find proposed Voluntary Cleanup Contract 24-7468-NRP. This contract contains the terms we negotiated. Please review this document and if acceptable, sign and date the contract, and return it to my attention. If you are unable to sign the document as written, please contact me so that we can discuss the matter further.

Upon your execution of this contract, it will be public noticed for thirty (30) days. Following the public notice period and assuming there are no adverse comments that would cause the South Carolina Department of Environmental Services not to execute the contract, the Department will sign it and forward a certified copy to you.

Thank you for your interest in South Carolina's Voluntary Cleanup Program. If you have questions or if I can be of further assistance, please contact me at Jerry.Stamps@des.sc.gov or 803-898-0927.

Sincerely,

A handwritten signature in black ink, appearing to read 'Jerry Stamps'.

Jerry Stamps, Project Manager
Brownfields/Voluntary Cleanup Program
Site Assessment, Remediation, and Revitalization
Bureau of Land and Waste Management

Enclosure: Voluntary Cleanup Contract 24-7468-NRP

cc: BLWM File # 58500

**VOLUNTARY CLEANUP CONTRACT
24-7468-NRP**

**IN THE MATTER OF
OCEANA RAPID SITE, GREENVILLE COUNTY
and
AC HAMPTON STATION OWNER, LLC**

This Contract is entered into by the South Carolina Department of Environmental Services and AC Hampton Station Owner, LLC, with respect to the Property located at 1320 and 1326 Hampton Avenue, Greenville, South Carolina. The Property includes approximately 9.4 acres identified by Tax Map Serial Numbers 0139000100100 (Parcel A, 5.55 acres), 0149000800200 (Parcel B, 3.16 acres), and 0139000100300 (Parcel C, 0.70 acres). In entering this Contract, the Department relies on the representations contained in the "Non Responsible Party Application for Voluntary Cleanup Contract" of August 14, 2024, and any amendments thereto, by AC Hampton Station Owner, LLC, which is incorporated into this Contract and attached as Appendix A.

AUTHORITY

This Contract is entered into pursuant to the Brownfields/Voluntary Cleanup Program, S.C. Code Ann. §§ 44-56-710 et seq.; the South Carolina Hazardous Waste Management Act (SCHWMA), S.C. Code Ann. §§ 44-56-10 et seq.; the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), 42 U.S.C. §§ 9601 et seq.; the State Underground Petroleum Environmental Response Bank Act, (SUPERB Act), S.C. Code Ann. §§ 44-2-10 et seq.; and the Pollution Control Act (PCA), S.C. Code Ann. §§ 48-1-10 et seq.

DEFINITIONS

1. Unless otherwise expressly provided in this Contract, terms used herein shall have the meaning assigned to them pursuant to the Brownfields/Voluntary Cleanup Program, and if not set forth therein, shall have the meaning assigned to them pursuant to the SCHWMA, the PCA, the SUPERB Act, or CERCLA.
 - A. "AC Hampton" means AC Hampton Station Owner, LLC.
 - B. "Beneficiaries" means AC Hampton's Non-Responsible Party lenders, signatories, parents, subsidiaries, and successors, including new purchasers, lessees, and other parties acquiring an interest in any portion of the Property, but only to the extent that such parties have never been a Responsible Party at the Site.
 - C. "Contamination" means the presence of a contaminant, pollutant, hazardous substance, petroleum, or petroleum product.
 - D. "Contract" means this Voluntary Cleanup Contract.
 - E. "Department" means the South Carolina Department of Environmental Services, or a successor agency of the State of South Carolina that has responsibility for and jurisdiction over the subject matter of this Contract.

- F. "Existing Contamination" shall mean any Contamination present on, or under, the Site as of the execution date of this Contract.
- G. "Property" means the real property as described in the Non Responsible Party Application for Voluntary Cleanup Contract attached as Appendix A, and that is subject to the ownership, prospective ownership, or possessory or contractual interest of AC Hampton or its Beneficiaries.
- H. "Segregated Sources" means drums, tanks, or similar discrete containers that potentially hold substances that may cause Contamination upon release to the environment.
- I. "Site" means all areas where a contaminant, petroleum, or petroleum product has been released, deposited, stored, disposed of, or placed or otherwise comes to be located; "Site" does not include any consumer product in consumer use or any vessel.
- J. "Waste Materials" means any Contamination-causing solid, semi-solid, or liquid material discarded, buried, or otherwise present on the Property, and may include sludge, slag, or solid waste materials such as empty containers and demolition debris or materials containing asbestos, lead-based paint, or petroleum or other contaminants.

FINDINGS

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

A. Owners and Operators: The owners and operators of the Property include the following:

TMS# 0139000100100 (Parcel A)

Southern Compress Co.	1-7-1928 to 6-30-1943
Gulf Atlantic Warehouse Corp.	6-30-1943 to 8-19-1946
South Carolina Warehouse Co.	8-19-1946 to 3-24-1952
McCall, R.C. & Robert D. McCallum, Tr.	3-24-1952 to 4-7-1952
Stevens, J.P. & Co.	4-7-1952 to 8-13-1982
Huskey Construction Co., Inc.	8-13-1982 to 7-7-2015
Oceana Rapid, LLC	7-7-2015 to Present

TMS# 0149000800200 (Parcel B)

Southern Compress Co.	1-7-1920 to 6-30-1943
Gulf Atlantic Warehouse Corp.	6-30-1943 to 10-6-1955
Rosenberg, Sam, Gerald P., & Ernest S.	10-6-1955 to 5-9-2000
RRR Realty, LLC	5-9-2000 to 7-13-2001
Industrial Metal Processing, Inc.	7-13-2001 to 5-3-2016
Water Tower Greenways, LLC	5-3-2016 to 8-19-2019
Oceana Rapid, LLC	8-19-2019 to Present

TMS# 0139000100300 (Parcel C)

Aiken, Henry H.	11-23-1938 to 7-6-1950
Langley, D.V. & James N. Long	7-6-1950 to 7-30-1954
Langley, D.V.	7-30-1954 to 4-17-1978
Robinson, Diane M., Jones, Doris L., Langley Cecil V., & Joe D.	4-17-1978 to 6-26-1984
Mt. Moriah Holiness Church	6-26-1984 to 11-18-2015
Oceana Rapid, LLC	11-18-2015 to Present

B. Property and Surrounding Areas: The Property is bounded generally to the northwest by railroad tracks, followed by vacant land, and The Grove Apartments (10 Monroe Street); to the northeast by railroad tracks and Pete Hollis Boulevard, followed by vacant land (1655 Buncombe Road), and International Cotton Depots (1533 Buncombe Road); to the southeast by railroad tracks, beyond which are vacant buildings (220 Hidden Corner Court); to the southwest by Kelly Court/Cedar Lane Court, followed by vacant land, Kelly Avenue, and Hampton Avenue, beyond which is Cripple Creek Grocery (1319 Hampton Avenue), and Norris Iron & Metal, Inc. (1322 Hampton Avenue); and to the west by railroad tracks and Hampton Avenue, followed by Water Tower Apartments (1000 Water Tower Circle).

The Property is currently occupied for mixed commercial use with associated retail and offices. Onsite operations/tenants generally consist of

food/beverage preparation and service, various retail, office/administrative activities, and routine property maintenance. In addition to the current structures, the Property is also improved with an out-of-use water tower, a dog park, a courtyard, outdoor seating and dining areas, electric vehicle charging stations, asphalt-paved parking areas, a gravel parking lot, associated landscaping, and drainage features.

According to the Phase I Environmental Site Assessment (ESA) performed by Partner Engineering North Carolina, PLLC, dated February 15, 2024, the Property was historically occupied for industrial use, generally consisting of cotton mill/warehouse operations on the central portion of the Property (Parcel A/Lot 3), and a surplus scrap metal and metal processing facility on the north portion of the Property (Parcel B/Lot 2).

Parcel B/Lot 2, addressed as 1326 Hampton Avenue - VCC 99-5358-RP

Parcel B/Lot 2 was developed with two (2) buildings (Buildings 3 and 4) in 1959 within an area designated as a junk/scrap yard. Parcel B/Lot 2 operated as a scrap metal facility since the 1950s, with operations consisting of sand blasting, painting, and metal processing. Industrial use on Parcel B/Lot 2 ceased after 2008 and the existing structures remained vacant for several years. According to historical documents, initial subsurface investigations conducted in this area of the Property dating back to 1998 identified soil and groundwater contamination attributed to the Property's past use as an industrial metal processing facility. Limited Phase II ESAs conducted in 1998

and 2000 identified various polychlorinated biphenyls (PCBs), oil and grease, volatile organic compounds (VOCs), arsenic, and lead in soil samples obtained for analysis. As such, Parcel B/Lot 2, identified as IMP - Hampton Avenue Site, has been included in Voluntary Cleanup Contract 99-5358-RP with the Department since May 18, 2000. An August 2008 Report of Site Assessment and Remediation Activities (RSARA) (Closure Report Lot 2), detailed soil removal activities completed in affected areas. Following excavation activities, confirmation soil sampling revealed elevated levels of PCBs and arsenic remained in exceedance of regulatory standards. Based on various sampling events performed on the Property, arsenic and PCBs were also found in groundwater above respective regulatory standards. A Declaration of Covenants and Restrictions (DCR) for Parcel B/Lot 2 of the Property was recorded on April 14, 2016. The DCR states that "the Property shall not be used for the following purposes without prior approval from the Department: residential, agricultural, child day care facilities, schools, elder care facilities or recreational (with the exception of green space, biking or walking trails, and picnic tables)" and that "[t]he groundwater beneath the Property may not be used for drinking or irrigation purposes without prior approval from the Department or its successor agency." Parcel B/Lot 2 must remain under the outlined restricted uses under this DCR unless this DCR is amended with the Department's approval. The latest groundwater data, based on a sampling event conducted in May 2017, indicated arsenic and PCBs remain in the groundwater at concentrations above regulatory limits. As such, a biennial groundwater monitoring frequency was established. Based on the most

recent Statement of Maintenance of the Declaration of Covenants and Restrictions issued on March 28, 2023, the Property was deemed to be in compliance with the covenants and restrictions. No further groundwater sampling data was provided for review. Based on the most recent groundwater analytical data identifying levels of arsenic above the DHEC¹ Maximum Contaminant Level (MCL), and in the absence of a Certificate of Completion, the elevated concentrations of arsenic and PCBs in groundwater at the subject property with respect to VCC 99-5358-RP represent a recognized environmental condition.

Historical use of the Property has resulted in PCB impacts to soil and groundwater. Post-excavation sampling of soil on Parcel B/Lot 2 indicated concentrations of total PCBs between 1 part per million (ppm) and 16 ppm are present in the area of the former bale press pit and associated discharge, the loading dock area, and the shredder fluff area at depths ranging from 2 to 9 ft below ground surface (bgs). Based on the May 2017 S&ME groundwater monitoring report, PCBs were detected in one (1) well, MW 3, at 14.1 µg/l exceeding the MCL of 0.5 µg/l. The presence of PCBs on Parcel B/Lot 2 was identified as a recognized environmental condition.

Parcel A/Lot 3, addressed as 1320 Hampton Avenue- VCP 19-7468-RP

The central portion of the Property, Parcel A/Lot 3, was originally developed

¹ The Department's predecessor agency was the South Carolina Department of Health and Environmental Control (DHEC).

with the existing Building 1 and Building 2 in 1919 as the Chester M. Goodyear Waste Working Plant, which was a cotton waste manufacturer. Cotton mill/warehouse operations continued for nearly 100 years. During a Phase I ESA conducted at the Property in June 2015 when the Property was purchased by Oceana Rapid, LLC (Oceana), various drums and containers of unknown materials were observed in the basement of Building 2. During an investigation conducted in 2016, similar materials were observed on an unsecured loading dock at the Property. The Department's predecessor agency issued a Consent Order to Oceana on June 1, 2017 for the improper handling of hazardous waste. The Consent Order recommended removal and disposal of a number of containers of paints, solvents, cleaners, and other chemicals, including a 10-gallon container of trichloroethylene and a 55-gallon drum of "dry cleaning compound." During a follow-up inspection, containers were observed in the same place and found to be in poor condition with some evidence of leakage on the surface. After an extension was granted, Oceana contracted an environmental services contractor to characterize and dispose of the contents. The limited information regarding the long-term industrial use, coupled with the identification of hazardous wastes, including dry-cleaning chemicals, at the Property in 2015 to 2017 prompted further investigation of surface conditions in this area of the Property. A Limited Phase II ESA dated December 21, 2018, was conducted at the Property by EAS Professionals, Inc. (EAS). The Phase II was performed on a larger area of land, referred to as Lots 1-17, that included the Property. The scope of the Phase II ESA included analysis of groundwater samples for fuel constituents and

solvents, including those used in dry-cleaning at Parcel A/Lot 3. Additionally, as groundwater contamination on Parcel B/Lot 2 (discussed above) had migrated to Parcel A/Lot 3, groundwater sampling on Parcel A/Lot 3 near its common boundary with Parcel B/Lot 2 was recommended. In November 2018, three (3) groundwater monitoring wells were installed at Parcel A between 8.5 feet and 15 feet bgs. Monitoring well MW-1 was advanced south of the buildings on Parcel B/Lot 2, MW-2 was advanced on the south side of Building 2 and served as a background arsenic sample location, and MW-5 was advanced to the north of Building 2. Groundwater sample MW-1 was analyzed for arsenic and PCBs, MW-2 was analyzed for arsenic and VOCs, and MW-5 was analyzed for VOCs. According to laboratory analysis, no PCBs and/or VOCs were detected in the groundwater samples. Arsenic was detected in groundwater sample MW-1 at a concentration of 1,470 micrograms per liter ($\mu\text{g/L}$), and in MW-2 at a concentration of 12.3 $\mu\text{g/L}$, both of which exceeded the DHEC MCL of 10 $\mu\text{g/l}$.

Further soil and groundwater sampling was conducted at the Property, as detailed in a Site Investigation Report prepared by EAS and dated May 9, 2019. According to the findings of this investigation, low concentrations of some semi-volatile organic compounds were detected in groundwater samples from the shallow aquifer; however, there were no MCL exceedances. Additionally, some metal concentrations and low-level organics detections were identified in some soil samples. Upon review of these findings, additional soil sampling was performed pursuant to the VCC 19-7468-RP Second Site Assessment Work

Plan (SAWP) prepared by EAS dated June 6, 2019. Additional soil sampling was conducted on Parcel A/Lot 3 by EAS in July 2019. As detailed in a Second Site Investigation Report dated July 19, 2019, arsenic, lead, and PCBs were detected above regulatory standards in the soil samples collected north of Building 2 along the Swamp Rabbit Trail. Total PCBs have been detected above 1 ppm in two soil samples; a zero (0) to one (1) ft bgs sample contained 4.24 ppm total PCBs and a two (2) to four (4) ft bgs sample from a different boring contained 21.3 ppm total PCBs. EAS requested a land use restriction for the Property due to the elevated concentrations found in the soil. A Soil Management Plan was implemented in August 2019 to provide guidance on safe and proper handling of the soils that had elevated concentrations of PCBs and arsenic. A Remedial Action Plan was developed for Parcel A/Lot 3 in August 2019 by EAS. The Plan outlined actions taken to remediate the impacted soil found on the north side of Parcel A/Lot 3. The impacted area was covered by a demarcation fabric, layered with clean fill material, compacted to an 18-inch fill depth, and then seeded with grass. The Remedial Action took place in April 2020. The remediated soil area was confirmed to be capped with a uniform, well-established vegetative cover.

On February 18, 2021, a Certificate of Completion was issued to Oceana for this portion of the Property under VCC 19-7468-RP. The Certificate of Completion is in effect along with the Declaration of Covenants and Restrictions that limits the land use in the Cover Placement Area (i.e., cap) depicted on Exhibit B to the Declaration of Covenants and Restrictions;

specifically, restricting the use for the following purposes without prior approval of the Department:

- residential, agricultural, child day care facilities, schools, or elder care facilities; and
- groundwater beneath the Cover Placement Area is not to be used for drinking or irrigation purposes.

Parcel A/Lot 3 must remain under the outlined restricted uses under this DCR unless this DCR is amended with the Department's approval.

Based on the issuance of Certificate of Completion for groundwater and the impacted soil, and the land use restrictions outlined for Parcel A/Lot 3 for arsenic in soil, the elevated concentrations of arsenic in soil which remain in place at the Parcel A/Lot 3 with respect to VCC 19-7468-RP represent a controlled recognized environmental condition, while the presence of residual PCBs on Parcel A/Lot 3 represents a recognized environmental condition.

- A. Applicant Identification: AC Hampton is a North Carolina limited liability company with its principal place of business located at 1200 East Morehead Street, Suite 280, Charlotte, North Carolina 28204.
- B. Proposed Redevelopment: AC Hampton will acquire the Property and intends to develop 1320 Hampton Avenue as adaptive reuse with continued

commercial/retail uses. Development plans for 1326 Hampton Avenue have not been determined.

CERTIFICATIONS

3. AC Hampton has certified upon application that: 1) AC Hampton is not a Responsible Party at the Site, or a parent, successor, or subsidiary of a Responsible Party at the Site and has not had any involvement with the Property in the past other than activities performed in anticipation of participation in the Voluntary Cleanup Program; 2) its activities will not aggravate or contribute to Existing Contamination on the Site or pose significant human health or environmental risks; and 3) it is financially viable to meet the obligations under this Contract.

RESPONSE ACTION

4. AC Hampton agrees to conduct the response actions specified in the subparagraphs below. An initial Work Plan shall be submitted by AC Hampton, or its designee, within thirty (30) days after the date of execution of this Contract by the Department, or such earlier or later date if approved by the Department's project manager. A report of the assessment results shall be submitted by AC Hampton, or its designee, in accordance with the schedule provided in the initial Work Plan. AC Hampton acknowledges that the assessment may find distributions of Existing Contamination requiring additional assessment and/or corrective action on the Property that cannot be anticipated with this Contract. AC Hampton agrees to perform the additional assessment and/or corrective

action consistent with the intended uses of the Property under the purview of this Contract; however, AC Hampton may seek an amendment of this Contract to clarify its further responsibilities. AC Hampton shall perform all actions required by this Contract, and any related actions of AC Hampton's choosing not expressly required by this Contract, pursuant to Work Plans and/or Addenda approved by the Department.

A. Work Plan Logistics:

- 1). The Work Plan(s) shall set forth a schedule and methods for assessment and corrective action activities detailed herein.
- 2). The Work Plan(s) shall be submitted to the Department in the form of one hard copy and one electronic copy of the entire Work Plan on a compact disk (in .pdf format).
- 3). All activities undertaken pursuant to this Contract shall be consistent with South Carolina statutes, regulations, and permitting requirements (e.g., stormwater management and waste disposal regulations). AC Hampton shall identify and obtain the applicable permits before beginning any action.
- 4). The Work Plan(s) shall be in accordance with accepted industry standards and shall be signed and sealed by a Professional Engineer or Professional Geologist duly-licensed in South Carolina.
- 5). The Work Plan(s) shall provide detailed information about the proposed sampling points, collection methods, analytical methods, quality assurance procedures, and other pertinent details of the assessment

and/or corrective measures activities consistent with the following:

- a). Sample collection methodologies shall be consistent with the US EPA Region IV Field Branches Quality System and Technical Procedures.
- b). All monitoring wells and groundwater sampling points shall be constructed in accordance with Well Standards, S.C. Code Ann. Regs. 61-71. The Work Plan shall provide sufficient detail to support issuance of the well approvals by the Department.
- c). The laboratory analyses for samples taken pursuant to the Work Plan are specified in the media-specific sub-paragraphs below, but may include any of the following:
 - i). the full EPA Target Analyte List with chromium speciation to analyze for hexavalent chromium (TAL);
 - i). EPA Target Analyte List excluding cyanide but with chromium speciation to analyze for hexavalent chromium (TAL-Metals);
 - ii). the full EPA Target Compound List (TCL);
 - i). EPA Target Compound List Volatile Organic Compounds (TCL-VOCs);
 - ii). EPA Target Compound List Semi-Volatile Organic Compounds (TCL-SVOCs);
 - iii). EPA Target Compound List Pesticides (TCL-Pesticides);
 - iv). EPA Target Compound List Polychlorinated Biphenyls (TCL-PCBs).
- d). All analytical methods shall be capable of achieving appropriate reporting levels to allow comparison to the media-specific screening

criteria listed in the "United States Environmental Protection Agency Regional Screening Levels for Chemical Contaminants at Superfund Sites" (EPA RSLs) in effect at the time of sampling. The applicable Protection of Groundwater Soil Screening Level (SSL) shall be the "MCL-Based SSL," if listed. If the applicable screening criteria are lower than achievable detection levels, the analytical method shall use the lowest achievable detection levels.

- 6). The Work Plan shall include the names, addresses, and telephone numbers of AC Hampton's consulting firm(s), analytical laboratories, and AC Hampton's contact person for matters relating to this Contract and the Work Plan.
 - a). The analytical laboratory shall possess applicable Certification defined in the State Environmental Laboratory Certification Program, S.C. Code Ann. Regs. 61-81, for the test method(s) and parameters specified in the Work Plan.
 - b). AC Hampton shall notify the Department in writing of any changes concerning the consulting firm(s), contact person(s), or laboratory identified in the Work Plan.
- 7). The Department will notify AC Hampton in writing of approvals or deficiencies in the Work Plan.
- 8). AC Hampton, or its designee, shall respond in writing within thirty (30) days of receipt of any comments on the Work Plan by the Department.
- 9). AC Hampton shall begin implementation of the Work Plan as soon as reasonably possible after receipt of written approval of the Work Plan by

the Department.

- 10). AC Hampton shall inform the Department at least five (5) working days in advance of all field activities conducted pursuant to the Work Plan, and shall allow the Department, or its authorized representatives, to take duplicates of any samples if desired.
- 11). AC Hampton shall preserve items on the Property that may: 1) provide evidence of a Potentially Responsible Party's involvement at the Site; 2) lead to the discovery of other areas of Contamination at the Site; or 3) contain environmental information related to the Site. Such items may include drums, bottles, labels, business and operating records, contracts, Site studies, investigations, and other physical or written materials relating to the Site. AC Hampton shall notify the Department of the location of any such items and provide the Department with an opportunity to inspect any materials or copy any documents at the Department's expense prior to destruction of said items.

B. Report Logistics

- 1). Report(s) shall be prepared in accordance with accepted industry standards and shall be certified by signature and seal of a Professional Engineer or Professional Geologist duly licensed in South Carolina.
- 2). The report(s) of assessment and/or corrective measures activities shall include a discussion of investigation methods and any deviations from the Department approved Work Plan. Report(s) shall also include tables and figures to summarize all data, a surveyed map documenting sampling

locations, documentation of field observations including well core logs, sample descriptions, field screening results, and all laboratory analytical data.

- 3). All report(s) shall be submitted to the Department in the form of one hardcopy and one electronic copy of the entire report on a compact disk (in .pdf format).

C. Assess Waste Materials and Segregated Sources:

- 1). AC Hampton shall characterize for disposal any Waste Material and Segregated Sources that may be discovered on the Property at any time during assessment, corrective action, or development activities in accordance with applicable regulations.
- 2). Upon discovery of any Segregated Source that has not yet released all of its contents to the environment, AC Hampton shall expeditiously stabilize or remove the Segregated Source from the Property.
- 3). AC Hampton shall immediately notify the Department if a release of Contamination occurs as a result of its assessment, stabilization, or removal actions. AC Hampton shall assess the impact of the release and take necessary action in accordance with a Department approved plan.

D. Conduct a well survey:

- 1). AC Hampton shall map all public and private wells used for drinking water supply within a one-half mile radius of the Property boundary, and wells used for irrigation or other non-drinking water use within a one-quarter

mile radius of the Property boundary.

- 2). AC Hampton shall report sufficient information to the Department to allow the Department to secure permission to sample the wells. At a minimum, this information shall include the: 1) Location of the well; 2) Identity and mailing address of the well owner; and 3) Telephone number, if publicly available or otherwise known to AC Hampton, of the well owner or an occupant of the residence served by the well.

E. Assess soil quality across the Property:

- 1). AC Hampton shall collect and analyze a minimum of eight (8) soil samples from four (4) locations on the Property. AC Hampton shall collect one surface soil sample (0-1 foot below ground surface) and one subsurface soil sample (2-foot minimum depth) from each of the following locations:
 - a). Four (4) locations along the southern boundary of the Parcel B / Lot 2 near the Swamp Rabbit Trail.
- 2). Unless otherwise specified above, each surface soil sample shall be analyzed for TAL-Metals (with chromium speciation to analyze for hexavalent chromium) and TCL-SVOCs. Each subsurface sample shall be analyzed for TAL-Metals (with chromium speciation to analyze for hexavalent chromium), TCL-VOCs, and TCL-SVOCs, and PCBs. A minimum of one (1) surface and one (1) subsurface sample shall be analyzed for the full EPA-TAL (includes cyanide) and EPA-TCL.
- 3). Soil quality results shall be compared to the EPA RSL Resident and Industrial Screening Levels and to the applicable Protection of

Groundwater SSL.

- 4). All analytical methods shall be capable of achieving appropriate reporting levels as specified in Paragraph 4.A.5.d. of this Contract.

F. Assess groundwater quality:

- 1). AC Hampton shall assess groundwater quality and flow direction across the Property. Assessment shall include samples from a minimum of three (3) monitoring wells on the Property. Specific locations shall be as follows:
 - a). the existing three (3) wells (MW-1, MW-2, and MW-3) on Parcel B / Lot 2.
- 2). Samples from all groundwater monitoring wells shall be analyzed for TAL-Metals, TCL-VOCs, and TCL-SVOCs, and PCBs. In addition, the sample from MW-3 shall be analyzed for the full EPA-TAL (includes cyanide) with chromium speciation to analyze for hexavalent chromium, and EPA-TCL.
- 3). Groundwater quality results shall be compared to the primary maximum contaminant level (MCL) standards in the State Primary Drinking Water Regulations, S.C. Code Ann. Regs. 61-58, or, if not specified in R.61-58, to the EPA RSL for "Tapwater."
- 4). All analytical methods shall be capable of achieving appropriate reporting levels as specified in Paragraph 4.A.5.d. of this Contract.

G. Evaluate and control potential impacts to indoor air:

- 1). AC Hampton shall evaluate potential impacts to indoor air if the Department determines that the concentrations of VOCs present in the subsurface pose a threat to indoor air quality based on EPA "OSWER

Technical Guide for Assessing and Mitigating the Vapor Intrusion Pathway from Subsurface Vapor Sources to Indoor Air” dated June 2015 and supplemental EPA guidance (“Vapor Intrusion Technical Guide”). The Department’s decision will be constrained towards predicting residential or commercial exposures consistent with the building construction and its intended use on the Property.

- 2). If a vapor intrusion assessment is required, AC Hampton shall submit a Vapor Intrusion Assessment Work Plan followed by a report of the results.
 - a). For future buildings, AC Hampton’s evaluation of vapor intrusion risk shall, unless otherwise agreed to by the Department, consist of collection and analysis of a representative number of soil gas samples from the proposed footprint of buildings to be constructed on the Property over areas potentially subject to vapor intrusion.
 - b). For existing buildings, AC Hampton’s evaluation of vapor intrusion risk shall, unless otherwise agreed to by the Department, consist of collection and analysis of a representative number of indoor air, soil gas, and sub-slab soil gas samples over areas potentially subject to vapor intrusion. Assessment activities shall also include evaluation of other factors that may affect vapor intrusion as discussed in the Vapor Intrusion Technical Guide.
 - c). Indoor air samples shall be collected from within the building during a minimum of two (2) separate sampling events approximately six (6) months apart. One sampling event shall be in the winter. The samples

collected for laboratory analysis may use either active or passive collection methods provided the same protocol is used for both sampling events.

- d). All indoor air, soil gas, and sub-slab soil gas samples shall be analyzed for all site related volatile compounds by appropriate methods capable of detecting concentrations at screening levels indicative of a 10^{-6} cancer risk or a hazard quotient of 1 (or 0.1 as applicable) for non-carcinogens and using appropriate attenuation factors for soil gas and sub-slab soil gas.
 - e). Indoor air quality results shall be compared to the current EPA RSL Resident Air and Industrial Air Screening Levels. The Department shall give reasonable consideration of data or other demonstration that shows unacceptable exposures inside the building do not result from the subsurface conditions.
 - f). Soil gas and sub-slab soil gas sampling results shall be compared to screening levels indicative of a 10^{-6} cancer risk or a hazard quotient of 1 (or 0.1 as applicable) for non-carcinogens for the proposed use of the Property. Comparison criteria shall be based on the Vapor Intrusion Technical Guide.
- 3). All analytical methods shall be capable of achieving appropriate reporting levels as specified in Paragraph 4.A.5.d. of this Contract.
 - 4). Should the results of the Vapor Intrusion Assessment indicate that contaminant concentrations exceed levels indicative of a 10^{-6} cancer risk or a hazard quotient/hazard index of 1 for non-carcinogens for the

proposed use of the Property (or other cancer risk or hazard quotients/hazard indices approved by the Department), AC Hampton shall evaluate options for corrective measures and engineering controls to ensure acceptable indoor air quality. At a minimum, AC Hampton shall propose and implement engineering controls to mitigate contaminant vapor intrusion to meet acceptable levels in accordance with Paragraph 4.H of this Contract.

- 5). The Department may allow AC Hampton to implement pre-emptive vapor intrusion mitigation measures in lieu of the above Vapor Intrusion Assessment. Vapor intrusion mitigation measures shall be completed and evaluated in accordance with Paragraph 4.H of this Contract.

H. Institute reasonable Contamination control measures:

- 1). AC Hampton shall remove from the Property and properly dispose of all Waste Materials and Segregated Sources of Contamination in accordance with applicable regulations based on characterization results.
 - a). AC Hampton shall document the characterization results and ultimate disposition of the materials to the Department within sixty (60) days of removal of any material from the Property.
 - b). Subject to Department approval, buried Waste Materials, if present, may be stabilized in place on the Property in a manner that will effectively limit or prevent human exposure and release of contaminants to the environment. If any Waste Materials are to be stabilized in place, AC Hampton shall propose plans for stabilization of

the Waste Materials in a Corrective Measures Plan in accordance with Paragraph 4.H.2 below. AC Hampton shall also enter into (or amend) a Declaration of Covenants and Restrictions to document the area of stabilization, and to maintain the stabilization measures in accordance with Paragraph 9 of this Contract.

- 2). AC Hampton shall take reasonable measures to effectively limit or prevent human exposure to Existing Contamination in any media on the Property. AC Hampton shall evaluate options for corrective measures in an Analysis of Brownfields Cleanup Alternatives (ABCA). Upon Department approval of the corrective measures selected in the ABCA, AC Hampton shall prepare a Corrective Measures Plan. The Corrective Measures Plan shall be approved by the Department prior to implementation and shall be consistent with the intended future use of the Property.
 - a). Corrective measures shall be required for Contamination present in any media on the Property with concentrations in excess of appropriate human-health risk-based exposure standards with plausibly complete routes of exposure.
 - b). AC Hampton may request Department approval to conduct a site-specific risk assessment to determine levels of Contamination that are acceptable for the intended use of the Property. The risk assessment shall be conducted in accordance with EPA Risk Assessment Guidance for Superfund. Prior to conducting the risk assessment, AC Hampton shall submit for Department approval, an overview of risk assessment assumptions including identification of Contamination exposure routes,

the type and duration of possible exposures, the magnitude of exposure, and any data gaps that need to be addressed to complete the risk assessment.

- c). Corrective measures may include removal, encapsulation, barriers, or other methods reasonably expected to limit human exposures to the Contamination. Subject to Department approval, corrective measures may include a land use restriction in accordance with Paragraph 9 (Declaration of Covenants and Restrictions) of this Contract.
- d). If required, vapor intrusion control measures shall be designed and certified by a Professional Engineer duly-licensed in South Carolina to effectively mitigate vapor intrusion risk to a 10^{-6} risk for carcinogens and a hazard quotient/hazard index of 1 for non-carcinogens based on current EPA RSLs and guidance on vapor intrusion (or other risk for carcinogens or hazard quotients/hazard indices approved by the Department). All vapor intrusion control measures shall include monitoring to confirm that the vapor mitigation system is effective, and procedures to ensure and document proper and effective operation and maintenance of the vapor intrusion mitigation system for as long as it is required at the Property. The Department shall give reasonable consideration of data or other demonstration that shows any unacceptable indoor air contaminant concentrations do not result from the subsurface conditions.
- e). Upon completion of any corrective measures, AC Hampton shall provide a Corrective Measures Report to document satisfactory completion of

the corrective measures for Department review and approval prior to obtaining a Certificate of Completion.

- 3). In the event that development of the Property will require disturbance of contaminants in soil or groundwater, AC Hampton shall propose a Media Management Plan. The Media Management Plan shall address procedures for management of contaminated media when disturbed, characterization of any soil or groundwater that is to be removed from the Property, and offsite disposal of any contaminated soil and groundwater that is to be removed from the Property at a permitted waste disposal facility. Upon completion of Property development and soil disturbance, a report of the soil management activities shall be submitted to the Department documenting the areas and depths of soil removal, all soil and groundwater sampling results, quantities of contaminated soil and groundwater removed from the Property, their disposal locations, and disposal manifests.
- 4). In the event that corrective measures include engineering controls that must be maintained and monitored for future use of the Property, a Stewardship Plan may be required by the Department. If required, the Stewardship Plan shall identify procedures for routine inspection and monitoring of the engineering controls; repair or replacement of the engineering controls as necessary; and management of contaminated media that may be encountered as a result of any disturbance of the engineering controls.

- I. Monitor and/or abandon the monitoring wells:
 - 1). AC Hampton shall implement a groundwater-monitoring program if required by the Department. Continued monitoring requirements will be based on the Department's determination of potential adverse effects on nearby receptors, i.e., individuals that are presently or potentially exposed to Contamination.
 - 2). The Department will determine the frequency and duration of the monitoring program on a case-specific basis.
 - 3). AC Hampton shall abandon the monitoring well(s) when the Department determines there are no further needs for wells. The wells shall be abandoned in accordance with Well Standards, S.C. Code Ann. Regs. 61-71.

- J. Complete required activities in the event of a Responsible Party default:
 - 1). Ongoing Responsible Party activities under RP VCCs 99-5358-RP and 19-7468-RP may substantially satisfy the requirements in sub-paragraphs 4.A through 4.I above. Therefore, it is agreed that response action completed by the Responsible Parties that meet the conditions of this Contract shall be deemed to satisfy the requirements on AC Hampton. The Department shall have sole discretion in determining the adequacy of a Responsible Party's response action towards completing the activities required by this Contract.
 - 2). The Department will provide written notification to AC Hampton if more than one hundred eighty (180) consecutive days elapse without substantial

- progress, or the Department otherwise determines a Responsible Party's activities are inadequate.
- 3). AC Hampton shall respond in writing within thirty (30) days to the Department's notification with a work plan for completing the unfulfilled requirements of this Contract.

HEALTH AND SAFETY PLAN

5. AC Hampton shall prepare and submit under separate cover from the Work Plan, a Health and Safety Plan consistent with Occupational Safety and Health Administration regulations. The Health and Safety Plan shall be submitted to the Department in the form of one electronic copy on compact disk (in .pdf format). AC Hampton agrees that the Health and Safety Plan is submitted to the Department only for informational purposes. The Department expressly disclaims any liability that may result from implementation of the Health and Safety Plan by AC Hampton.

PUBLIC PARTICIPATION

6. AC Hampton and the Department will encourage public participation to implement this Contract as follows:
 - A. The Department will provide notice, seek public comment, and initiate a thirty (30) day claim contribution notification period in accordance with established procedures consistent with S.C. Code Ann. § 44-56-750 upon signature of this Contract by AC Hampton.

B. AC Hampton shall erect a sign at major entrances onto the Property or other locations routinely accessible by the public. The sign(s) shall be erected no later than one (1) day after the Department's public announcement about the Contract in a newspaper of general circulation in the community.

- 1). The sign(s) will state "Voluntary Cleanup Project by AC Hampton Station Owner, LLC under Voluntary Cleanup Contract 24-7468-NRP with the South Carolina Department of Environmental Services." The sign(s) shall provide a brief description of the scope of activities under the Contract, and contact information, including telephone number and address, for a representative of AC Hampton. Contact information for the Department shall state "TOLL-FREE TELEPHONE: 1-866-576-3432."
- 2). All sign lettering must be of sufficient size to be legible with un-aided normal eyesight from the point where the public will normally pass by the Property without intruding onto the Property.
- 3). AC Hampton shall submit photographs of the sign(s) and a Property drawing showing the location(s) of the sign(s). The photographs shall be submitted to the Department within ten (10) days of erecting the sign(s).
- 4). AC Hampton agrees to revise the sign if the Department determines the sign is inaccurate, not legible, or otherwise ineffectively placed.
- 5). AC Hampton shall maintain the sign(s) in legible condition and at visible locations throughout the duration of the Contract period until a Certificate of Completion is issued on the Property.
- 6). The sign(s) may be removed to accommodate building or grading activities; however, AC Hampton shall restore the sign(s) within two (2) days to its

original location, or other publicly accessible location upon notice to the Department.

PROGRESS UPDATES

7. AC Hampton shall submit periodic written updates to the Department's project manager until such time as all activities related to the Property are complete pursuant to this Contract. The first update shall be due within sixty (60) days of the execution date of this Contract and semi-annually thereafter.

A. The updates may be in summary letter format, but should include information about:

- 1). The actions taken under this Contract during the previous reporting period;
- 2). Actions scheduled to be taken in the next reporting period;
- 3). Sampling, test results, and any other data in summary form, generated during the previous reporting period regardless of whether the data was collected pursuant to this Contract; and
- 4). A description of any environmental problems experienced during the previous reporting period and the actions taken to resolve them.

B. The Department's project manager may allow an extended schedule between updates based on case-specific conditions.

SCHEDULE

8. AC Hampton shall perform all activities and response actions pursuant to this Contract in an expeditious manner. In the event that circumstances cause a delay in implementation of the response actions, the Department may require implementation of interim measures to stabilize Contamination or prevent unacceptable exposures. AC Hampton shall implement the interim measures in accordance with a Department-approved plan.

DECLARATION OF COVENANTS AND RESTRICTIONS

9. Parcel B / Lot 2 is subject to a Declaration of Covenants and Restrictions (Declaration) recorded by Industrial Metals Processing with Greenville County on April 18, 2016 in Book DE 2486 at Page 0881. Parcel A / Lot 3 is subject to a Declaration recorded by Oceana Rapid, LLC with Greenville County on January 29, 2021 in Book DE 2614 at Page 5161; however, this Declaration only applies to the portion of Parcel A / Lot 3 subject to the soil cover identified as the "Cover Placement Area" in the Declaration. For the remainder of the Property not subject to the Declarations for Parcel B / Lot 2 or the "Cover Placement Area" of Parcel A / Lot 3, AC Hampton or its Beneficiaries shall enter, and record, a Declaration for the remaining portion of the Parcel A / Lot 3. The Declaration for Parcel B / Lot 2 shall be amended to restrict soil from leaving the Property without Departmental oversight. **Additional restrictions may be required if Contamination exceeds levels acceptable for unrestricted use after completing the response actions pursuant to this Contract.** The recorded Declaration shall be incorporated into this Contract as an Appendix and shall be

implemented as follows:

- A. The Department shall prepare and sign the Declaration prior to providing it to AC Hampton. An authorized representative of AC Hampton or its Beneficiaries shall sign the Declaration within ten (10) days of receipt. All signatures shall be witnessed and signed and sealed by a notary public.

- B. AC Hampton or its Beneficiaries shall record the executed Declaration with the Register of Deeds for the county where the Property is located.

- C. AC Hampton or its Beneficiaries shall provide a copy of the recorded Declaration to the Department within sixty (60) days of the Department's execution. The copy shall show the date and Book and Page number where the Declaration has been recorded.

- D. In the event that Contamination exceeds levels acceptable for unrestricted use (EPA RSLs for residential use and/or MCLs) on a portion of the Property, AC Hampton or its Beneficiaries may create a new parcel of that portion of the Property that will be subject to the Declaration.

- E. The Declaration shall be noted on the master deed of any planned development for the Property and noted, or referenced thereafter, on each individual deed of property subdivided from the Property and subject to the Declaration.

- F. The Declaration shall reserve a right of entry and inspection for AC Hampton or its Beneficiaries that may be transferred to another single individual or entity for purposes of compliance monitoring.
- 1). AC Hampton or its Beneficiaries shall ensure that the restrictions established by the Declaration remain on any subdivided property.
 - 2). AC Hampton or its Beneficiaries shall create a procedure to provide a single point of contact responsible for documenting current land use and compliance with the Declaration regardless of the Property's ownership status. The procedure shall be reviewed and approved by the Department before it is implemented.
- G. The Declaration shall provide that the Department has an irrevocable right of access to the Property after AC Hampton acquires the Property, and such right of access shall remain until remediation is accomplished for unrestricted use and monitoring is no longer required. Such access shall extend to the Department's authorized representatives and all persons performing response actions on the Property under the Department's oversight.
- H. AC Hampton or its Beneficiaries, or the individual or entity responsible for compliance monitoring, shall annually document the Property's land use and compliance with the Declaration to the Department. The report shall be submitted by May 31st of each year in a manner and form prescribed by the Department.

- I. The Department may amend the Declaration in response to changes in law, completion of remedial actions meeting the applicable standards in effect at the time, or if other circumstances of the Property change; however, said amendment shall not be applied retroactively unless expressly provided for in the legislation. An amendment may strengthen, relax, or remove restrictions based on the EPA RSL Summary Table in effect at that time; however, the Department shall not impose a more restrictive condition based solely on changes in the EPA RSL Summary Table. An amendment to the Declaration shall be duly executed and recorded using procedures similar to those detailed above.

NOTIFICATION

10. All notices required to be given by either party to the other shall be in writing. Each party shall have a continuing obligation to identify a contact person, whose name, address, and telephone number must be updated to the other party, throughout the term of the Contract. Notices by electronic mail or facsimile shall be acceptable if acknowledged in writing by the recipient; with the delivery date being the date of acknowledgment or earlier date if stated in the acknowledgment. All other forms of notice shall be deemed sufficiently given if delivered at the address shown below, or at such place or to such agent as the parties may from time to time designate in writing, by: 1) regular U.S. Mail by which notice shall be deemed to occur seven (7) days after the postmark date; 2) Certified or Registered Mail by which notice shall be deemed to occur on the date

received as shown on the receipt; 3) commercial delivery service company by which notice shall be deemed to occur on the date received as shown on the receipt; or 4) hand delivery to the other party.

A. All correspondence, notices, work plans, and reports shall be submitted to:

Jerry Stamps
Bureau of Land and Waste Management
2600 Bull Street
Columbia, South Carolina 29201

B. All correspondence and notices to AC Hampton shall be submitted to AC Hampton's designated contact person who as of the effective date of this Contract shall be:

John Wesley McAdams, II
AC Hampton Station Owner, LLC
1200 East Morehead Street, Suite 280
Charlotte, North Carolina 28204

FINANCIAL REIMBURSEMENT

11. AC Hampton or its Beneficiaries shall reimburse the Department as set forth below.

A. AC Hampton or its Beneficiaries shall reimburse the Department for its public

participation costs and for oversight costs of activities specific to this Contract as provided by S.C. Code Ann. § 44-56-750(D). The oversight costs shall include the direct and indirect costs incurred by the Department in implementing the Voluntary Cleanup Program as related to this Contract, and any future amendments thereto, and may include costs related to this Contract and incurred by the Department prior to execution of this Contract. Invoices for oversight costs will be sent to AC Hampton on a quarterly basis. All costs are payable to the Department within thirty (30) days of the Department's invoice submitted to:

John Wesley McAdams, II
AC Hampton Station Owner, LLC
1200 East Morehead Street, Suite 280
Charlotte, North Carolina 28204

- 1). Failure to submit timely payment for costs upon receipt of the Department's invoice is grounds for termination of the Contract pursuant to Paragraph 16 herein.
- 2). Payment for costs incurred by the Department pursuant to this Contract shall become immediately due upon termination of the Contract by any party pursuant to Paragraph 16 herein.

ACCESS TO THE PROPERTY

12. AC Hampton agrees the Department has an irrevocable right of access to the

Property for environmental response matters after AC Hampton acquires the Property. This right of access remains until such time as remediation is accomplished for unrestricted use and monitoring is no longer required and shall extend to the Department's authorized representatives and all other persons performing response actions on the Property under the Department's oversight.

CERTIFICATE OF COMPLETION AND COVENANT NOT TO SUE

13. A Certificate of Completion shall be issued to AC Hampton or its Beneficiaries for the Property under this Contract as follows:

A. AC Hampton or its Beneficiaries shall request a Certificate of Completion pursuant to S.C. Code Ann. § 44-56-750(C)(1) after the response actions are completed and any required Declarations are recorded pursuant to this Contract. The request shall be in writing and shall report 1) the amount of soil that was removed or remediated on the Property and 2) the cost of all environmental work conducted pursuant to this Contract.

B. Pursuant to S.C. Code Ann. § 44-56-750(C)(1) the Department shall issue the Certificate of Completion with its covenant not to sue upon determining that AC Hampton or its Beneficiaries has successfully and completely complied with the Contract and the voluntary cleanup approved under S.C. Code Ann. §§ 44-56-710 through 760.

C. The Department may issue a Provisional Certificate of Completion if the

substantive response actions required under this Contract are complete and a required Declaration has been recorded but all actions under this Contract have not been completed due to Property-specific circumstances.

- 1). A Provisional Certificate of Completion will include specific performance standards that AC Hampton or its Beneficiaries shall continue to meet.
- 2). The Provisional Certificate of Completion may include the Department's covenant not to sue for Existing Contamination; however, said covenant shall be automatically revoked if AC Hampton or its Beneficiaries do not satisfactorily complete the requirements of the Contract as stipulated in the Provisional Certificate of Completion.

ECONOMIC BENEFITS REPORTING

14. AC Hampton or its Beneficiaries shall report information to the Department that demonstrates that the activities pursuant to this Contract have been beneficial to the State and community. The report shall be submitted within two (2) years after the execution date of this Contract, and annually thereafter until two (2) years after redevelopment of the Property is complete. AC Hampton shall summarize the new operations at the Property, the number of jobs created, the amount of property taxes paid, and the total amount invested in the Property for property acquisition and capital improvements.

CONTRACT OBLIGATIONS AND PROTECTIONS INURE

15. The terms, conditions, obligations, and protections of this Contract apply to and inure to the benefit of the Department, AC Hampton, and its Beneficiaries as set

forth below. The following stipulations apply to ensure the transition of all obligations and protections to successive Beneficiaries for any portion of the Property:

- A. AC Hampton or its Beneficiaries shall provide a copy of this Contract and applicable Appendices to any Successor. Transmittal of the Contract copy may be through any commonly accepted mechanism.

- B. AC Hampton and its Beneficiaries shall not allow residential occupancy on any portion of the Property prior to obtaining the Certificate of Completion or a Provisional Certificate of Completion specific to that portion of the Property allowing residential occupancy.

- C. If the Certificate of Completion has not been issued, AC Hampton or its Beneficiaries shall request approval from the Department prior to transferring the obligations and protections of this Contract to a new person or entity. The Department shall not unreasonably withhold its approval upon receipt of a Non Responsible Party Application for Voluntary Cleanup Contract documenting that the new person or entity:
 - 1). Is not a Responsible Party for the Site;
 - 2). Has sufficient resources to complete the activities of this Contract;
 - 3). Will not use the Property for activities that are inconsistent with the terms and conditions of this Contract;
 - 4). Will assume the protections and all obligations of this Contract; and

5). Will, in the Department's sole but reasonable discretion, provide a measurable benefit to the State and the community as a result of this transfer.

D. If the Certificate of Completion has been issued and the portion of the Property is subject to a Declaration or other ongoing obligation pursuant to this Contract, AC Hampton or its Beneficiaries shall provide written notification to the Department identifying the new individual or entity within thirty (30) days after the effective date of the ownership change or other possessory transfer of the Property.

1). The notification shall include a signed statement from the new individual or entity that its use of the Property will remain consistent with the terms of the Contract and the Declaration, and that it will assume the ongoing obligations and protections of this Contract.

2). This requirement is waived for an individual or entity acquiring a portion of the Property for individual residential or commercial use provided the Declaration is noted on the master deed for the planned development, and the Department has approved the procedure for a single point of contact responsible for documenting current land use and compliance with the Covenant.

CONTRACT TERMINATION

16. AC Hampton, its Beneficiaries, and the Department each reserve the right to unilaterally terminate this Contract by giving thirty (30) days advance written

notice to the other party. Termination shall be subject to the following:

A. The Department may not terminate this Contract without cause and before termination shall provide AC Hampton or its Beneficiaries an opportunity to correct the cause(s) for termination, which may include, but is not limited to, the following:

- 1). Failure to complete the terms and conditions of this Contract;
- 2). Change in AC Hampton's or its Beneficiaries' business activities on the Property or use of the Property that are inconsistent with the terms and conditions of this Contract;
- 3). Failure to submit timely payment for costs upon receipt of the Department's invoice;
- 4). Failure of AC Hampton or its Beneficiaries to implement appropriate response actions for additional Contamination or releases caused by AC Hampton or its Beneficiaries;
- 5). Knowingly providing the Department with false or incomplete information or knowing failure to disclose material information;
- 6). Failure by AC Hampton or its Beneficiaries to obtain the applicable permits from the Department for the response actions or other activities undertaken at the Property pursuant to this Contract; or
- 7). Failure by AC Hampton or its Beneficiaries to make material progress toward the expansion, redevelopment, or reuse of the property as determined by the Department upon consideration of AC Hampton's or its Beneficiaries' marketing efforts, regional economic conditions, and other

pertinent information on the Property.

- B. Should AC Hampton or its Beneficiaries elect to terminate this Contract, that party shall certify to the Department's satisfaction that any environmental or physical hazards caused or contributed by AC Hampton or its Beneficiaries have been stabilized or mitigated such that the Property does not pose hazards to human health or the environment.
- C. Termination of this Contract by any party does not waive the Department's authority to require response action under any applicable state or federal law.
- D. Termination of this Contract by any party does not end the obligations of AC Hampton or its Beneficiaries to pay costs incurred by the Department pursuant to this Contract. Upon termination of this Contract, payment for such costs shall become immediately due.
- E. Upon termination of this Contract, the protections provided under this Contract shall be null and void as to any party who participated in actions giving rise to termination of the Contract. Revocation of protections shall also apply to that party's lenders, parents, subsidiaries, and successors, including lessees, heirs, devisees, and other parties taking an interest in the Property through that party who participated in actions giving rise to termination of the Contract. The protections will continue for any party who has received protections through a Certificate of Completion for this Contract, and who did

not participate in the actions giving rise to the termination.

ENTITLEMENT OF PROTECTIONS AND BENEFITS

17. AC Hampton and its Beneficiaries are entitled to the protections and benefits in regard to Existing Contamination provided by South Carolina statutes as follows:

A. Effective on the date this Contract is first executed by the Department:

- 1). Protection from contribution claims under CERCLA § 113, 42 U.S.C. § 9613 and S.C. Code Ann. § 44-56-200.
- 2). Protection from third-party claims as provided by S.C. Code Ann. § 44-56-750(H).
- 3). Eligibility to file annual application for Voluntary Cleanup Activity Tax Credits pursuant to the Income Tax Act, S.C. Code Ann. § 12-6-3550.

B. Effective on the date the Certificate of Completion is issued by the Department.

- 1). The Department's covenant not to sue AC Hampton and its Beneficiaries for Existing Contamination but not for any Contamination, releases, and consequences caused or contributed by AC Hampton or its Beneficiaries.
- 2). Specific tax credits or additional benefits expressly contingent in South Carolina statutes on issuance of the Certificate of Completion.

C. These Protections and Benefits do not apply to any Contamination, releases, and consequences caused or contributed by AC Hampton or its Beneficiaries.

The Department retains all rights under State and Federal laws to compel AC Hampton and its Beneficiaries to perform or pay for response activity for any Contamination, releases, and consequences caused or contributed by AC Hampton or its Beneficiaries.

RESERVATION OF RIGHTS BY THE DEPARTMENT

18. 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, past or future, that the Department may have against any person, firm, or corporation other than AC Hampton and its Beneficiaries. The Department reserves the right to undertake future response actions at the Site and to seek to compel parties, other than AC Hampton and its Beneficiaries, 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.

RESERVATION OF RIGHTS BY AC HAMPTON

19. AC Hampton retains all rights to assert claims in law or equity against any person, company, or entity with respect to the Property, except as limited elsewhere by this Contract. AC Hampton and its Beneficiaries specifically deny responsibility for response costs or damages resulting from Existing Contamination except for Contamination, releases, and consequences they cause or contribute. However, AC Hampton and its Beneficiaries agree to undertake the requirements of this Contract.

BURDEN OF PROOF

20. AC Hampton and its Beneficiaries shall have the continuing obligation to demonstrate that any newly discovered Contamination is not caused or contributed by AC Hampton or its Beneficiaries. AC Hampton and its Beneficiaries shall make this demonstration to the Department's satisfaction in accordance with State or Federal Law applicable to such newly discovered Contamination. For purposes of this clause, newly discovered Contamination means finding types of Contamination not previously identified at the Property or substantially higher concentrations of Existing Contamination.

LIMITATION OF CLAIMS BY AC HAMPTON AND ITS BENEFICIARIES

21. In consideration of the protections from the Department under this Contract, AC Hampton and its Beneficiaries agree not to assert any claims or causes of action against the Department or to seek other costs, damages, or attorney's fees from the Department arising out of activities undertaken at the Property pursuant to this Contract. This limitation shall not extend to any claims or causes of action resulting from the Department's intentional or negligent acts or omissions, or the Department's willful breach of this Contract.

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SIGNATORIES

22. The signatories below hereby represent that they are authorized to and do enter into this Contract on behalf of their respective parties.

THE SOUTH CAROLINA DEPARTMENT OF ENVIRONMENTAL SERVICES

BY:

DATE:

Juli E. Blalock, Chief
Bureau of Land and Waste
Management

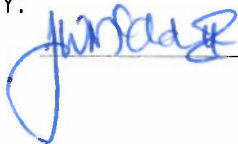
DATE:

Reviewed by Office of General
Counsel

AC HAMPTON STATION OWNER, LLC

BY:

DATE:



11/5/2024

JW McAdams II, manager

Printed Name and Title

APPENDIX A

Application for Non Responsible Party Voluntary Cleanup Contract

AC Hampton Station Owner, LLC

August 14, 2024