



C. Earl Hunter, Commissioner

*Promoting and protecting the health of the public and the environment.*

April 27, 2009

The Honorable John Rhoden, Mayor  
Town of Hampton  
608 First Street West  
Hampton, South Carolina 29924

Re: Town of Hampton  
Former Safety Disposal Systems Site  
Voluntary Cleanup Contract 09-5463-NRP  
Hampton County

Dear Mayor Rhoden:

Enclosed please find a true and certified copy of the fully executed Voluntary Cleanup Contract 09-5463-NRP.

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 803-896-4285 or [stampsjm@dhec.sc.gov](mailto:stampsjm@dhec.sc.gov).

Sincerely,

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

Attachments: Voluntary Cleanup Contract 09-5463-NRP

cc: Robert Hodges, BLWM (w/o attachments)  
Russell Berry, Region 8 EQC District, Hampton (email)  
File # 55920 (w/o attachments)

**VOLUNTARY CLEANUP CONTRACT  
09-5463-NRP**

**IN THE MATTER OF  
SAFETY DISPOSAL SYSTEMS SITE, HAMPTON COUNTY  
and  
TOWN OF HAMPTON**

This Contract is entered into by the South Carolina Department of Health and Environmental Control and the Town of Hampton, pursuant to the Brownfields/Voluntary Cleanup Program, S.C. Code Ann. § 44-56-710, et seq. (2002 and Supp. 2007), as amended on June 11, 2008, the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), 42 U.S.C §§ 9601, et seq., and the South Carolina Hazardous Waste Management Act (HWMA), S.C. Code Ann. § 44-56-200 (2002), with respect to the Property located at 100 Mill Street, Hampton, South Carolina. The Property is identified by Tax Map Serial Numbers 119-05-01-003, 119-05-03-002, 119-05-03-006, 119-05-02-001, 119-05-04-001, and 119-05-03-001. The Property is comprised of six parcels and includes approximately 13 acres. In entering this Contract, the Department relies on the representations of the "Information and Certification" of August 21, 2008 by the Town of Hampton, which is incorporated into this Contract and attached as Appendix A.

1. Unless otherwise expressly provided, terms used in this Contract shall have the meaning assigned to them in CERCLA, including any amendments, or in the regulations promulgated thereunder.
  - A. "Hampton" shall mean the Town of Hampton.
  - B. "Hampton Beneficiaries" shall mean Hampton, its Non-Responsible Party lenders, parents, subsidiaries, assigns and successors, including new

purchasers, lessees, heirs, and beneficiaries but only to the extent that such parties have never been a Responsible Party at the Property.

- C. "Bona Fide Prospective Purchaser" shall have the same meaning as that in CERCLA, Section 101(40).
- D. "Contamination" means presence of a Pollutant, Contaminant, Petroleum, or Petroleum Product, or a Hazardous Substance.
- E. "Contract" shall mean this Voluntary Cleanup Contract.
- F. "Department" shall mean the South Carolina Department of Health and Environmental Control or a successor agency of the State of South Carolina that has responsibility for and jurisdiction over the subject matter of this Contract.
- G. "Existing Contamination" shall mean any contamination, including pollutants or contaminants, petroleum or petroleum products, or hazardous substances, present or existing on or under the Site as of the execution date of this Contract.
- H. "Hazardous Substance" means
  - i. Any substance designated pursuant to section 311(b)(2)(A) of the Federal Water Pollution Control Act [33 U.S.C. 1321(b)(2)(A)],
  - ii. Any element, compound, mixture, solution, or substance designated pursuant to section 9602 of CERCLA,
  - iii. Any hazardous waste having the characteristics identified under or listed pursuant to section 3001 of the Solid Waste Disposal Act [42 U.S.C. 6921]

(but not including any waste the regulation of which under the Solid Waste Disposal Act [42 U.S.C. 6901 et seq.] has been suspended by Act of Congress),

- iv. Any toxic pollutant listed under section 307(a) of the Federal Water Pollution Control Act [33 U.S.C. 1317(a)],
  - v. Any hazardous air pollutant listed under section 112 of the Clean Air Act [42 U.S.C. 7412], and,
  - vi. Any imminently hazardous chemical substance or mixture with respect to which the Administrator has taken action pursuant to section 7 of the Toxic Substances Control Act [15 U.S.C. 2606]. The term does not include petroleum, including crude oil or any fraction thereof which is not otherwise specifically listed or designated as a hazardous substance under subparagraphs (A) through (F) of this paragraph, and the term does not include natural gas, natural gas liquids, liquefied natural gas, or synthetic gas usable for fuel (or mixtures of natural gas and such synthetic gas).
- I. "Non-Responsible Party" (or "NRP") shall mean any party which is neither:
- i. A responsible party at the time the voluntary cleanup contract is signed, including lenders, economic development agencies, fiduciaries, trustees, executors, administrators, custodians, subsequent holders of a security interest; nor
  - ii. A parent, subsidiary of, or successor to a responsible party.
- J. "Oversight Costs" shall mean those costs, both direct and indirect, incurred by the Department in implementing the Voluntary Cleanup Program as related to this Contract and any future amendments thereto.
- K. "Petroleum" and petroleum product" means crude oil or any fraction of crude oil

which is liquid at standard conditions of temperature and pressure (60 degrees Fahrenheit and 14.7 pounds for each square inch absolute), including any liquid which consists of a blend of petroleum and alcohol and which is intended for use as a motor fuel.

- L. "Pollutant or Contaminant" includes, but is not limited to, any element, substance, compound, or mixture, including disease-causing agents, which after release into the environment and upon exposure, ingestion, inhalation, or assimilation into any organism, either directly from the environment or indirectly by ingestion through food chains, will or may reasonably be anticipated to cause death, disease, behavioral abnormalities, cancer, genetic mutation, physiological malfunctions, including malfunctions in reproduction, or physical deformations, in organisms or their offspring; "contaminant" does not include petroleum, including crude oil or any fraction of crude oil, which is not otherwise specifically listed or designated as a hazardous substance under subparagraphs (A) through (F) of paragraph (14) of CERCLA, Section 101, 42 U.S.C. Section 9601, et seq. and does not include natural gas, liquefied natural gas, or synthetic gas of pipeline quality or mixtures of natural gas and such synthetic gas.
  
- M. "Property" shall mean property as described in the Information and Certification attached as Appendix A, and that is subject to ownership, prospective ownership, or possessory or contractual interest of Hampton.
  
- N. "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.

- O. "Responsible Party" shall mean:
- i. The owner and operator of a vessel or a facility, as these terms are defined in CERCLA;
  - ii. 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, as these terms are defined in CERCLA;
  - iii. 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 such a party or entity and containing such hazardous substances, as these terms are defined in CERCLA;
  - iv. Any person who accepts or accepted any hazardous substances for transport to disposal or treatment facilities, incineration vessels or sites selected by such person from which there is a release, or a threatened release that causes the incurrence of response costs, of a hazardous substance, as such terms are defined in CERCLA; and
  - v. Any person who owns or operates or who owned or operated an above ground or underground storage tank from which petroleum or petroleum products have been released or who owns and operates or who owned or operated a property on which a petroleum release or other discharge has occurred; however, the exemptions of Section 44-2-80(B) and (C) apply.
- P. "The Site" shall mean all areas where a contaminant, petroleum or petroleum product 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).

- Q. "Underground Storage Tank" means any one or combination of tanks, including underground pipes connected to it, which is used to contain an accumulation of regulated substance, and the volume of which is ten percent or more beneath the surface of the ground. [State Underground Petroleum Environmental Response Bank Act of 1988. Section 44-2-20. Definitions (24)]
- R. "Voluntary Cleanup" shall mean a response action taken under and in compliance with the Brownfields/Voluntary Cleanup Program, S.C. Code Ann. § 44-56-710, et seq. (2002 and Supp. 2007), as amended on June 11, 2008.
- S. "Work Plan" shall mean the plan for additional response actions to be conducted at the Property as described in Paragraph 5 of this Contract.
2. Based on the information known by and/or provided to the Department, the following findings are asserted for purposes of this Contract:
- A. Owners and operators on the Property are attached as Appendix B
- TMS 119-05-01-003 (Medical Waste Incinerator Parcel) History
- B. The Property is generally bound to the north by Mill Street with undeveloped land beyond, to the northeast by Mill and Jarrell Street with undeveloped land and residences beyond, to the East by Mill Street and Nix Street with vacant land, a welding shop, and residential properties beyond, to the south by the vacant Georgia Pacific facility, and to the west by the Nevamar facility (laminated manufacturer).
- C. The Property was utilized by Safety Disposal System of South Carolina as a medical and specialized waste incineration facility between 1985 and 2002.

Operations ceased after an Administrative Order (AO) was issued by the Department and SDS declared bankruptcy. The facility reportedly burned up to 100 tons of waste per day. Other activities included permitted release into an on-site storm water detention pond and on-site mosquito control.

- D. The Department issued an Administrative Order (AO) dated February 25, 2002 that permanently ceased operations at the subject facility. The AO resulted from numerous violations including improper ash storage, improper infectious waste storage, failure to properly monitor the incinerators, and air quality permit violations. The Department took control of the facility and referred the site to the EPA Emergency Response and Removal Branch to conduct a removal action.
  
- E. The Final Removal Action Letter Report dated January 17, 2003 prepared by Weston Solutions, Inc. on behalf of the EPA indicated that 1,525 tons of solids (ash, sump solids, drum contents, and unburned medical waste) along with 2,824 gallons of liquid (oil, water, solvents) were properly discarded during the cleanup. Analytical tests indicated a majority of the materials were non-hazardous; therefore, some of the wastewater was treated on-site. Forty-seven gallons of hazardous waste were identified and appropriately disposed during the cleanup, including caustics, aluminum chloride, klaraid, sulfuric acid, and hydrogen peroxide.
  
- F. Georgia Pacific reportedly operated a fuel UST on a contiguous parcel that was purchased by SDS for additional parking. The former UST is suspected to be located in the southern portion of the subject Property
  
- G. An unpermitted landfill, owned by Nevamar (a.k.a. Westinghouse Electric Co.

and International Paper) is located adjacent to the northwest boundary of the subject Property. Groundwater contamination, consisting of a commingled VOC and SVOC plume, emanating from the landfill has migrated onto the subject Property. Groundwater flow was established to be east and southeast toward the subject Property.

TMS 119-05-03-002, 119-05-03-006, 119-05-02-001, 119-05-04-001, 119-05-03-001 (Storage Properties) History

- H. The Property is generally bound to the north and northeast by wooded land and single-family residences, to the east and southeast by wooded and cleared agricultural land, a welding shop, and single-family residences, to the south and southwest by Mill Street and Nix Street with the former SDS medical waste incineration facility and vacant Georgia Pacific facility beyond, and to the west by Mill Street with the former SDS medical waste incineration facility and Nevamar property beyond.
  
- I. SDS used these parcels for ancillary services and storage associated with the former incineration facility. Activities included: truck maintenance and repair, tractor-trailer storage, storage of medical waste in plastic bins, independent welding operations, SDS offices, and residential use. In 1989 an incident complaint was reported to the Department regarding Smith's Body Shop. The reported incident included two 55-gallon drums and several five and one-gallon size containers. The Department required the removal of the containers. The contents, if any, of the containers does not appear to have been identified and no record of their removal was located.
  
- J. Hampton is attempting to acquire the properties through eminent domain proceedings. Though specific redevelopment plans have not yet been

established, Hampton's acquisition of the Property will benefit the local community by conducting appropriate response actions with regard to potential environmental impacts, increasing tax revenue, increasing surrounding property values, and increasing jobs.

3. Hampton is a local government in the State of South Carolina with its principal place of business located at 608 First Street West, Hampton, South Carolina, 29924. Hampton is a Non-Responsible Party at the Site; it is not a parent, successor, or subsidiary of a Responsible Party at the Site; and it certifies that it is eligible to be a Bona Fide Prospective Purchaser for the Property. Other than hiring a demolition contractor to demolish and dispose of the former SDS incinerator property structures as part of Hampton's 2007/2008 Community Development Block Grant activities, Hampton has had no previous involvement with the Site, including but not limited to any such activities that may have resulted in any Existing Contamination at the Site.
4. Hampton agrees to submit to the Department for review and written approval within thirty (30) days of the execution date of this Contract a Work Plan for the Property that is consistent with the technical intent of the National Contingency Plan. The Work Plan shall be implemented upon written approval from the Department. The Work Plan shall include the names, addresses, and telephone numbers of the consulting firm, the analytical laboratory certified by the Department, and Hampton's contact person for matters relating to this Contract. Hampton will notify the Department in writing of changes in the contractor or laboratory. The Department will review the Work Plan and will notify Hampton in writing of any deficiencies in the Work Plan, and Hampton shall respond in writing within thirty (30) days to the Department's comments. The Work Plan and all associated reports shall be prepared in accordance with industry standards and endorsed by a Professional Engineer (P.E.) and/or Professional Geologist (P.G.) duly-licensed in South Carolina

and shall set forth methods and schedules for accomplishing the following tasks:

- A. Hampton shall perform a baseline characterization of all media on the Property that may have been impacted by past operations.
  
- B. Hampton shall remove any existing potential for contamination:
  - i. In the event that drums, tanks, or other containers and items that are potential sources of contamination are found on the Property at any time prior to or during assessment or development activities, all shall be characterized and removed from the Property for proper use or disposal in accordance with applicable regulations. Records documenting characterization and disposal of these items shall be provided to the Department within 30 days of removal.
  
  - ii. Should any release of potential contamination occur or be identified during removal of these items, Hampton shall immediately notify the Department and shall assess the impact of the release in accordance with a Department approved plan.
  
- C. Hampton shall properly abandon the existing water supply well in accordance with R.61-71 of the South Carolina Well Standards
  
- D. Hampton shall assess soil contamination:
  - i. **Incinerator Parcel:**
    - a. One surface soil sample shall be collected from the former chemical storage area. This sample shall be analyzed for Volatile Organic Compounds (VOCs), Semi-Volatile Organic Compounds (SVOCs), TAL

Metals, Pesticides, and Formaldehyde.

- b. One surface soil sample (or depth corresponding to highest field screening measurement) shall be collected at the former Diesel AST Storage Area. This sample shall be analyzed for VOCs, SVOCs and TAL Metals.
- c. Two soil samples shall be collected at the structures of unknown use. Samples shall be collected at the interval corresponding to the highest field screening measurements or, if field screening does not indicate impacts, immediately beneath the structure foundations. These samples shall be analyzed for VOCs, SVOCs, and TAL metals.
- d. Three surface soil samples shall be collected from areas of potential contaminant deposition due to previous grading activities. These samples shall be analyzed for SVOCs and TAL metals.
- e. One surface and one corresponding subsurface soil sample shall be collected at the suspected former UST area. The subsurface soil sample shall be collected at the interval corresponding to the highest field screening measurement. These samples shall be analyzed for VOCs, SVOCs, and TAL metals. Additionally, the subsurface soil samples shall be analyzed for Formaldehyde.
- f. One surface and one corresponding subsurface soil sample shall be collected at the at the former SDS wastewater treatment area. The subsurface soil sample shall be collected at the depth of native soil or 4 to 6 feet below grade. These samples shall be analyzed for VOC, SVOCs, and TAL metals.
- g. Two surface soil samples shall be collected from the former ash handling area. These samples shall be analyzed for VOC, SVOCs, and TAL metals. Additionally, one sample shall be analyzed for pesticides and Dioxins/Furans.

- h. One surface and one corresponding subsurface soil sample shall be collected from three locations within the former incinerator/sump area, for a total of 6 samples. Each sample shall be analyzed for VOCs, SVOCs, and TAL metals. Additionally, the surface and subsurface samples from one location shall be analyzed for Dioxins/Furans.

ii. **Storage Parcel**

- a. Surface and corresponding subsurface soil samples shall be collected from 3 locations within the former truck repair area for a total of six samples. Subsurface soil samples shall be collected at a depth of 4 to 6 feet. Each sample shall be analyzed for VOCs, SVOCs, and TAL metals.
- b. Four surface soil samples shall be collected from the former trailer storage area. Each sample shall be analyzed for VOCs, SVOCs, TAL metals, and pesticides.
- c. One soil sample shall be collected immediately adjacent to the concrete pad on the estimated down gradient side from the surface interval or interval corresponding to the highest field screening measurements. This sample shall be analyzed for VOCs, SVOCs, TAL metals, and pesticides.
- d. One surface, or interval corresponding with the highest field screening measurements, soil sample shall be collected within the former Smith's Body Shop discarded debris. This sample shall be analyzed for VOCs, SVOCs, and TAL metals.
- e. One surface, or interval corresponding with the highest field screening measurements, soil sample shall be collected within the former welding shop. This sample shall be analyzed for VOCs, SVOCs, and TAL metals.

- f. One surface, or interval corresponding with the highest field screening measurements, soil sample shall be collected at the former residence/office building near an off-site welding shop. This sample shall be analyzed for VOCs, SVOCs, and TAL metals.
  - g. During the installation of the well along the western edge of the Property, as described in Paragraph E(ii)(a)(I) below, one soil sample shall be collected if field screening indicates potential contamination. This sample shall be analyzed for VOCs, SVOCs, and TAL metals.
- iii. Surface soil quality results shall be compared to the residential and industrial exposure screening levels listed on the EPA Regional Screening Levels for Chemical Contaminants at Superfund Sites, dated July 7, 2008, and to the Protection of Groundwater MCL based Soil Screening Level as found on that table. Subsurface soil quality results shall be compared to the Protection of Groundwater MCL based Soil Screening Level. Hampton may elect to conduct a site-specific risk assessment to establish alternate remedial goals, subject to submittal of a risk assessment work plan to the Department and subsequent approval.

E. Hampton shall assess groundwater quality:

i. **Incinerator Parcel**

- a. Hampton shall install 4 direct-push technology (DPT) wells using pre-packed, 10-foot screens. One well shall be installed at each of the following locations:
  - (I) Near the truck scales. This sample shall be analyzed for VOCs, SVOCs, and TAL metals.
  - (II) Near the former SDS wastewater treatment area. This sample shall be analyzed for VOCs, SVOCs, TAL metals, and formaldehyde.

- (III) Near the chemical storage building. This sample shall be analyzed for VOCs, SVOCs, TAL metals, and pesticides.
  - (IV) Near the ash handling area and former incinerator/sumps. This sample shall be analyzed for all TCL/TAL parameters as well as dioxins/furans.
- b. If field screening techniques indicate a potential release, one direct-push technology well shall be installed at each of the following locations:
    - (I) Diesel above-ground storage tank (AST). This sample shall be analyzed for VOCs, SVOCs, and TAL metals.
    - (II) Former UST near the Georgia-Pacific property. This sample shall be analyzed for VOCs, SVOCs, TAL metals, and formaldehyde.
  - c. Hampton shall gain access to and sample the existing permanent monitoring wells owned by the nearby Nevamar facility. These wells include BL-54-II and BL-54-IV. Each sample from these wells shall be analyzed for VOCs, SVOCs, and TAL metals.

ii. **Storage Parcel**

- a. Hampton shall install 2 direct-push technology (DPT) wells using pre-packed, 10-foot screens. One well shall be installed at each of the following locations:
  - (I) Former truck repair area. This sample shall be analyzed for VOCs, SVOCs, and TAL metals.
  - (II) Western edge of Property to evaluate potential migration from the nearby landfill onto the subject Property. This sample shall be analyzed for VOCs, SVOCs, and TAL metals.



ii. **Storage Parcel**

- a. Three sediment samples shall be collected from the ditch located along the northern edge of the Property at each of the following locations:
- (I) Downstream of the Nevamar discharge. This sample shall be analyzed for VOCs, SVOCs and TAL metals.
  - (II) Beneath the discharge pipe of unknown use. This sample shall be analyzed for VOCs, SVOCs and TAL metals.
  - (III) Near the former Smith's Body Shop Debris. This sample shall be analyzed for VOCs, SVOCs and TAL metals
- b. One surface water sample shall be collected from the ditch representative of the discharge from the nearby Nevamar facility.

iii. Surface water quality results shall be compared to the values set forth in the SC Water Classifications and Standards R.61-68, based on consumption of either "water and organisms" or "organisms only" as applicable for the water body. Sediment samples shall be compared to the Ecological Screening Values as included in EPA Region 4 Ecological Risk Assessment – Supplement to RAGS (<http://www.epa.gov/region4/waste/ots/ecolbul.htm>).

G. Based on the results of initial assessment, additional assessment may be required to determine the extent of contamination.

H. Hampton shall evaluate and control potential impacts to indoor air:

- i. In the event that the Department determines significant concentrations of volatile organic compounds are encountered in subsurface soil samples or groundwater samples, a representative number of soil gas samples shall be collected from the proposed footprint of buildings to be constructed on the

site. The Department will use the modified Johnson and Ettinger Model to determine "Significant concentrations" and the model will be constrained towards predicting commercial exposures consistent with the building construction likely to be employed on the site.

- ii. Soil gas samples shall be analyzed for all site related constituents including volatile organic compounds by appropriate methods capable of detecting soil gas concentrations at screening levels indicative of a  $10^{-6}$  risk for shallow gas samples (using an attenuation factor appropriate for the depth of the samples) as identified in Table 2c of EPA OSWER Draft Guidance for Evaluating the Vapor Intrusion to Indoor Air Pathway from Groundwater and Soils (Subsurface Vapor Intrusion Guidance), <http://www.epa.gov/correctiveaction/eos/vapor.htm>.
  - iii. An addendum to the Work Plan shall be submitted detailing the steps to be taken if the soil gas evaluation indicates contamination underlying the Property may impact indoor air quality at concentrations exceeding allowable concentrations for the designated future use.
- I. Hampton shall stop continuing releases of contamination, and as required by the Department, address contamination in a manner that is protective of human health and the environment, consistent with the intended future use of the Property:
- i. Based on the results of the assessment activities above, Hampton shall take reasonable steps, approved by the Department, to address the presence of contamination:
    - a. In excess of appropriate human-health and ecological risk-based standards via all potential routes of exposure;
    - b. In excess of appropriate standards for contaminant migration to groundwater; or

- c. Should presumptive evidence of a Non-Aqueous Phase Liquid (NAPL) be found in the subsurface under the Property. For purposes of this clause, presumptive evidence of NAPL shall be defined as finding solvent concentrations at, or greater than, 1% of its solubility limit in any groundwater sample.
  - ii. In the event that any result exceeds these screening criteria, additional sample locations and procedures to determine the extent of contamination shall be proposed and implemented under an addendum to the Work Plan.
  - iii. Any action to address contamination and other activities undertaken at the Property shall be consistent with all laws and permitting requirements of the Department, including, but not limited to, stormwater management and waste disposal regulations. Hampton shall identify and obtain the applicable permits before initiating any actions.
- J. Hampton shall implement groundwater monitoring and/or abandon permanent monitoring wells:
  - i. Based on the results of groundwater assessment, implementation of a Department-approved groundwater monitoring program may be required.
  - ii. If groundwater monitoring is not required and there are no further needs for any of the groundwater monitoring wells, Hampton shall abandon the monitoring well(s) in accordance with R.61-71 of the South Carolina Well Standards.
- 5. Hampton shall prepare and submit under separate cover from the Work Plan, a Health and Safety Plan that is consistent with Occupational Safety and Health Administration regulations. Hampton agrees that the Health and Safety plan is submitted for informational purposes only to the Department and the Department expressly disclaims any liability that may result from implementation of the Health

and Safety Plan by Hampton.

6. Hampton 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 Hampton pursuant to this Contract.
7. Hampton shall preserve all drums, bottles, labels, business and operating records, contracts, Site studies, investigations, and other physical or written materials relating to the Site that may provide environmental information, evidence of a Potentially Responsible Party's involvement at the Site, or may lead to the discovery of other areas of contamination at the Site. Prior to destruction of any such items, Hampton shall notify the Department of their location and provide the Department with an opportunity to inspect any materials or copy any documents at the Department's expense.
8. Within 30 days of Work Plan approval and quarterly thereafter, Hampton shall submit to the Department's project manager 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.
9. All correspondence which may be required or permitted to be given by either party to the other hereunder shall be in writing and deemed sufficiently given if delivered by (i) regular U.S. mail, (ii) certified or registered mail, postage prepaid, return receipt

requested, (iii) or nationally recognized overnight delivery service company or by hand delivery to the other party at the address shown below or at such place or to such agent as the parties may from time to time designate in writing. All correspondence, four (4) copies of all Work Plans and Reports, and one (1) copy of the Health and Safety Plan should be submitted to:

For the Department:

Jerry Stamps

Bureau of Land and Waste Management

2600 Bull Street

Columbia, South Carolina 29201

For Hampton:

Mayor John Rhoden

608 First Street West

Hampton, South Carolina 29924

10. The Department and Hampton recognize that public participation is an important component of the Voluntary Cleanup Contract. Specific functions of the Department and Hampton are as follows:
  - i. The Department will seek public comment in accordance with S.C. Code Ann. § 44-56-750 (2002 and Supp. 2007), as amended on June 11, 2008, and as outlined below:
    - a. Upon signature of this Contract by Hampton, the Department will provide notice for public participation by placing announcements describing the proposed Contract in newspaper(s) of general circulation within the affected community. A thirty-day period following the publication date of the announcement(s) will be provided for public

comment and will precede the Department's scheduled date for execution of the Contract.

- b. The Department may publicize the proposed Contract by any other means including, but not limited to, electronic mail, news releases, community flyers, and door-to-door canvassing. Such actions may be done solely at the Department's discretion.
  - c. A public informational meeting will be held if requested by twelve residents of South Carolina or an organization representing twelve or more residents of South Carolina. At the Department's discretion, public informational meetings may be held in the nearby communities for any other reason prior to the Department executing the contract. A public meeting may be requested at any time during the thirty-day comment period. In the event that a public meeting is deemed necessary, the Department will provide approximately two weeks advance notice of the meeting to the public and will extend the public comment period at least through the end of the day following the public meeting. The Department will not execute the contract during any public comment period. In addition, the Department may, at its discretion, conduct public meetings to inform the community about the site at any time after the contract is executed until the certificate of completion is issued.
- ii. Hampton agrees to enhance the public knowledge of the site response activities by:
    - a. Erecting a sign(s) at each entrance onto the Property from any public road, thoroughfare, navigable waterway, or other location routinely accessible by the public. The sign(s) shall be erected not later than one day after publication of any public announcement about the site placed by the Department in any newspaper of general circulation in the community.

- b. The sign will state "Voluntary Cleanup Project by Hampton under Voluntary Cleanup Contract 09-5463-NRP with the South Carolina Department of Health and Environmental Control." The sign shall provide a brief description of the scope of activities under the NRP contract and contact information, including telephone number and address, for a representative of Hampton. Contact information for the Department shall state "TOLL-FREE TELEPHONE: 1-866-576-3432". All required lettering on the sign must be of sufficient size to be legible with un-aided normal eyesight from the point where the public will normally pass by the site without intruding onto the Property.
  - c. Within 10 days after erecting the sign, Hampton shall furnish to the Department photographs of the sign along with a site location drawing showing the sign location(s). Photograph(s) of the sign(s) shall be taken from no closer than the edge of the publicly-accessible road, waterway, etc. and should include an appropriately sized scale reference so that Department may determine the size of the sign and effectiveness of the lettering. Hampton agrees to revise the sign if the Department determines the sign is not legible.
  - d. Hampton must maintain the sign(s) in legible conditions and visible locations throughout the duration of the contract period until a certificate of completion is issued on the site.
  - e. In the event that any sign must be removed to accommodate building or grading activities, Hampton shall replace the sign within two days. If the sign cannot be restored to the original location, Hampton may relocate it to another location meeting the conditions specified above.
- iii. All costs incurred by the Department for public participation (e.g., public notice(s), building and equipment rental(s) for public meetings, etc.) will be paid by Hampton.

11. The terms and conditions of this Contract apply to and shall inure to the benefit of the Department and Hampton Beneficiaries.
12. The Department shall be notified in writing upon transfer of ownership of the Property, but this provision shall not apply to transfer of each conveyance to an owner of a residential dwelling unit on the Property.
13. 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 Hampton Beneficiaries.
14. 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 other than Hampton 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.
15. 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). Hampton and subsequent owners of the Property shall ensure that a copy of this Contract is provided to any lessee successor or other transferee of the Property.

16. As provided for by S.C. Code Ann. § 44-56-200 (2002) and S.C. Code Ann. § 44-56-750 (D) (2002), Hampton shall, on a quarterly basis, 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. Invoices shall be submitted to:

Mayor John Rhoden  
608 First Street West  
Hampton, South Carolina 29924

17. Hampton Beneficiaries are entitled to protection from contribution claims as provided by CERCLA § 113(f)(2), 42 U.S.C. §§ 9613(f)(2); S.C. Code Ann. § 44-56-200 (2002) and S.C. Code Ann. § 44-56-750 (2002 and Supp. 2007), as amended on June 11, 2008. A thirty (30) day comment period for contribution protection commences upon notice of this Contract to Responsible Parties at the Site as identified by the Department through a reasonable search effort.
18. Hampton Beneficiaries are entitled to protection from third-party claims for equitable relief or damages relating to "Existing Contamination" at the Site, as provided by S.C. Code Ann. § 44-56-750 (2002 and Supp. 2007), as amended on June 11, 2008. This limitation on liability does not apply to any contamination, releases, and consequences caused by Hampton Beneficiaries. Should contamination not previously identified as "Existing Contamination", or at levels not previously identified, be discovered at the Site, or upon unforeseen releases or consequences, the burden is on VFI Beneficiaries to demonstrate to the Department's satisfaction that the contamination, release, and/or other consequences were not caused by

Hampton Beneficiaries. Furthermore, this limitation of liability is effective on the date this contract is executed by the Department, but will be automatically withdrawn if this contract is lawfully terminated by either party.

19. If, after the actions required under this Contract are completed, contamination in excess of residential standards (as defined by the EPA Regional Screening Levels for Chemical Contaminants at Superfund Sites, dated July 7, 2008) remain at the Property, Hampton or subsequent owners working under this Contract shall enter into and record a restrictive covenant. The executed restrictive covenant shall be incorporated into this contract as an Appendix and shall be subject to the following provisions:
  - A. Upon the Department's approval of the items outlined therein, the restrictive covenant shall be signed by the Department and an authorized representative of Hampton or subsequent owners working under this Contract and witnessed, signed, and sealed by a notary public. The fully executed restrictive covenant shall be filed with the Register of Mesne Conveyance or Deeds in Hampton County by Hampton or subsequent owner executing the instrument, and a copy of the restrictive covenant shall be provided to the Department showing that the document has been filed and showing the book and page number where it has been recorded by the county.
  - B. With the approval of the Department, the restrictive covenant may be modified in the future if additional remedial activities are carried out that meet appropriate clean up standards at that time or circumstances change such that the restrictive covenant would no longer be applicable.
  - C. The Department may require Hampton or subsequent owners to modify the restrictive covenant if a significant change in law or circumstances requiring remediation occur.
  - D. Hampton or subsequent owners may commission a survey to delineate a new

legal parcel that is subject to the restrictive covenant.

- E. The restrictive covenant shall be recorded on the master deed of any planned residential community and shall be noted or referenced thereafter on each individual deed of property subdivided from the Property and subject to the restrictive covenant. The restrictive covenant shall reserve a right of entry and inspection for Hampton that may be transferred to another single individual or entity for purposes of coordinated compliance monitoring. Hampton or subsequent owners shall ensure that protective measures established by the restrictive covenants remain intact and functional on any subdivided property.
  - F. Hampton or the single individual or entity responsible for coordinated compliance monitoring shall file an annual report with the Department by May 31st of each year detailing the current land uses and compliance with the restrictive covenants for as long as the restrictive covenant remains in effect on the affected property. The report may be submitted in a manner prescribed by the Department
  - G. Hampton or subsequent owners working under this Contract shall create a procedure to provide a single point of contact, e.g. property owners association, responsible for documenting current land use and compliance with the restrictive covenants regardless of the Property's ownership status. The procedure shall be reviewed and approved by the Department before it is implemented.
20. Two (2) years after the execution date of this Contract, Hampton or subsequent owner of the Property shall provide the Department with the following information concerning the new operation at the Property: the number of jobs created; the amount of increase to the tax base; the amount of soil removed or remediated, if necessary; cost of all environmental work; and any other information that

demonstrates that the activities performed pursuant to this Contract have been beneficial to the State, the community, and the Department.

21. Upon successful completion of the terms of this Contract as referenced in Paragraphs 4, 5 and 19 above, Hampton shall submit to the Department a written notice of completion. As part of this notice, Hampton shall report the costs of all environmental work and the total amount invested in the site for property acquisition and capital improvements. Once the Department determines satisfactory completion of the Contract terms, the Department, as provided by CERCLA § 113(f)(2), 42 U.S.C. §§ 9613(f)(2); S.C. Code Ann. § 44-56-200 (2002) and S.C. Code Ann. § 44-56-750 (2002 and Supp. 2007) as amended on June 11, 2008, will give Hampton a Certificate of Completion that provides a covenant not to sue for Existing Contamination. Should contamination not previously identified as "Existing Contamination", or at levels not previously identified, be discovered at the Site, or upon unforeseen releases or consequences, the burden is on Hampton Beneficiaries to demonstrate to the Department's satisfaction that the contamination, release, and/or other consequences were not caused by Hampton Beneficiaries. In consideration of the protections from the Department, Hampton Beneficiaries agree 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.
  
22. Hampton specifically denies any responsibility for response costs or damages resulting from Existing Contamination and does not, by signing this Contract, waive any rights that it may have to assert any claims in law or equity against any other person, company, or entity with respect to the Site. However, Hampton Beneficiaries

are responsible and liable for any and all contamination, releases, and consequences they cause or contribute to the Site. Should contamination not previously identified as "Existing Contamination", or at levels not previously identified, be discovered at the Site, or upon unforeseen releases or consequences, the burden is on Hampton Beneficiaries to demonstrate to the Department's satisfaction that the contamination, release, and/or other consequences were not caused by Hampton Beneficiaries.

23. Hampton or subsequent owners of the Property 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 Hampton or subsequent owners of the Property elect to terminate, it must submit to the Department all data generated pursuant to this Contract, and certify to the Department's satisfaction that any environmental or physical hazard created by Hampton shall be stabilized and/or mitigated such that the Property does not pose a hazard to human health or the environment that did not exist prior to any initial response action addressing contamination identified in this Contract. Termination of this Contract by Hampton, Owner or the Department does not end the obligations of Hampton or Owner to pay oversight costs already incurred by the Department and payment for such costs shall become immediately due.
  
24. The Department may terminate this Contract only for cause, which may include but is not limited to the following: Events or circumstances at the Property that are inconsistent with the terms and conditions of this Contract;
  - A. Events or circumstances at the Property that are inconsistent with the terms and conditions of this Contract;
  - B. Failure to complete the terms of this Contract or the Work Plan;

- C. Failure to submit timely payment for oversight costs as defined in Paragraph 16 above;
  - D. Additional contamination or releases or consequences caused by Hampton Beneficiaries;
  - E. Providing the Department with false or incomplete information or knowing failure to disclose material information;
  - F. Change in Hampton Beneficiaries' business activities on the Property or use of the Property that are inconsistent with the terms and conditions of this Contract.
  - G. Failure by Hampton Beneficiaries to obtain the applicable permits from the Department for any response actions or other activities undertaken at the Property.
25. Upon termination of the Contract, the covenant not to sue, contribution protection, and liability protection will be null and void. However, if any Hampton Beneficiary provides false or incomplete information or if its business activities change such that they are inconsistent with the terms and conditions of this Contract, then the covenant not to sue, contribution protection, and liability protection shall become null and void only as to the Hampton Beneficiaries involved in the action giving rise to the termination without affecting the protections provided by this Contract to the previous Non-Responsible Parties and other Hampton Beneficiaries.
26. 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 HEALTH AND ENVIRONMENTAL CONTROL

BY: Daphne G. Neel  
Daphne G. Neel, Chief  
Bureau of Land and Waste Management

DATE: 4/22/09

Gregory S. Dukman  
Approved by Office of General Counsel

DATE: April 10, 2009

Town of Hampton

BY: John B. Rhoden

DATE: 2-2-09

John B. Rhoden, Mayor  
Printed Name and Title

# APPENDIX A

## Information and Certification



**Hart & Hickman**  
ENVIRONMENTAL CONSULTANTS

OUR CLIENTS DEMAND A SMARTER SOLUTION

**Via U.S. Mail**

February 5, 2009

Voluntary Cleanup Program  
Division of Sites Assessment and Remediation  
Bureau of Land and Waste Management  
South Carolina Department of Health  
and Environmental Control  
2600 Bull Street  
Columbia, SC 29201

Attention: Mr. Jerry Stamps

Re: Information and Certification  
Revision 1  
Town of Hampton  
Hampton, South Carolina  
H&H Job No. HAM-001

Dear Mr. Stamps:

This letter is submitted on behalf of the Town of Hampton, requesting a non-responsible party Voluntary Cleanup Contract ("VCC") for certain properties currently owned by Safety Disposal Systems of South Carolina (SDS) located in Hampton, Hampton County, South Carolina. This letter is the first revision to the previous Information and Certification submitted to your office on August 18, 2008. Edits to this letter have been identified in *italics*.

The Town of Hampton was awarded an EPA Region 4 Brownfield assessment grant for the assessment of the former SDS Medical Waste Incinerator and associated properties. SDS has gone into bankruptcy and is no longer a viable entity. The Town is attempting to acquire the properties through eminent domain proceedings; however, has not yet taken title to the properties. *Through a title search conducted by Walter H. Sanders, the Town of Hampton, s, two liens were identified. The first, filed on December 17, 2002 against SDS is regarding workers'*

**RECEIVED**

FEB 11 2009

LAND REVITALIZATION  
DIVISION - BLWM

Hart & Hickman, PC  
2923 South Tryon Street  
Suite 100 Charlotte, NC  
28203-5449

704-586-0007 phone  
704-586-0373 fax  
www.harthickman.com

*compensation insurance. The second, filed on October 9, 2008 by the Town of Hampton, is regarding funds expended by the Town of Hampton for the demolition and cleanup of the SDS Properties.*

The Town has completed two Phase I ESAs for the subject properties which were submitted to Gail Rawls-Jeter on May 13 and June 10, 2008.

The following information is provided to begin our request for a VCC in connection with the Town of Hampton's acquiring of these properties. The information is provided according to DHEC's checklist for information and Certification.

**1. A statement certifying what benefit(s) that the purchase and response action will give to the State, the community, and/or the Department.**

The Town of Hampton certifies that, to the best of its knowledge, the benefits to the surrounding community and to the State of South Carolina from our acquiring of the land and environmental response actions includes identifying potential releases to soil, ground water, surface water, and sediment, and reducing potential exposure concerns, as well as increasing tax revenue, increasing surrounding property values, and increasing jobs in the community upon successful redevelopment of the property

**2. A statement certifying that the party is not a responsible party [as defined under CERCLA § 107 (a) and S.C. Code Ann. § 44-56-720(8)] at the Site, nor is it a parent, successor or subsidiary of a responsible party at the Site. Also state whether there is a viable responsible party who can perform the necessary response actions at the Sites.**

The Town of Hampton certifies that, to the best of its knowledge, the Town of Hampton is not a responsible party at the Site, or is it a parent, successor, or subsidiary of a responsible party at the Site. *Previous property owners, based on a completed title search, are included with this letter as an attachment.*

3. **A statement certifying that continued operation of the facility or new property development, with exercise of due care, will not aggravate or contribute to the existing contamination or interfere with any future response action, nor will it pose health risks to either the community or those persons likely to be present at or near the Sites.**

The Town of Hampton certifies that, to the best of its knowledge, that property development and future operation of the site, with the exercise of due care, will not aggravate or contribute to the existing contamination or interfere with any future response action, nor will it pose health risks to either the community or those persons likely to be present at or near the site.

4. **A statement that ensures the financial viability of the party to meet the obligations in the Contract.**

The Town of Hampton is a public institution and has various means of funding this project. The predominant means of funding is a \$200,000 EPA Hazardous Substance Assessment Grant which will be utilized for the assessment of these properties. Funding for corrective actions, if any are required, may be funded by a variety of sources or by a prospective purchaser of these properties.

5. **A statement describing the business activities that the party plans to carry out on the property, especially those that could contribute to the release of any contaminant(s).**

The Town is seeking a private investor to develop these properties. It is likely that these properties would remain commercial or light industrial in use due to the industrial nature of the surrounding area.

**6. A statement describing the environmental response actions (proposed Scope of Work) that the party intends to implement at the Sites pursuant to the Voluntary Cleanup Contract.**

The scope of work will include a Phase II site assessment which will determine if a release has occurred at the Site. Further work will be delineated in the VCC and agreed upon by the Town, DHEC, and potential future developers, if identified.

**7. A legal description of the property.**

The Site consists of the following six parcels:

1. Hampton County Parcel Number 119-05-01-003, Plat Book CAB A Page 53-4
2. Hampton County Parcel Number 119-05-03-002, Plat Book 19 page 767
3. Hampton County Parcel Number 119-05-03-006, Plat Book 12 page 104
4. Hampton County Parcel Number 119-05-02-001, Plat Book CAB A Page 53-4
5. Hampton County Parcel Number 119-05-04-001, Plat Book CAB A Page 53-4
6. Hampton County Parcel Number 119-05-03-001, Plat Book CAB A Page 53-4

**8. The name, address, and telephone number of the party and its contact person for matters related to this property.**

Ownership: Mayor John Rhoden  
Town of Hampton  
608 First Street West  
Hampton, South Carolina 29924  
(803) 943-2951

Environmental: Bruce Hickman, PE  
2923 S. Tryon Street, Ste. 100  
Charlotte, North Carolina 28203  
(704) 586-0007

**Certification**

I certify that to the best of my knowledge and belief the information contained in this submittal is true, accurate, and complete. As to those identified portions of this submittal for which I cannot personally verify the accuracy but were conducted on behalf of the Town of Hampton, I certify that this submittal and attachments were prepared in accordance with procedures designed to assure that qualified personnel properly gathered and evaluated the information submitted.

Signature: \_\_\_\_\_

Name: \_\_\_\_\_

John Rhoden

Title: \_\_\_\_\_

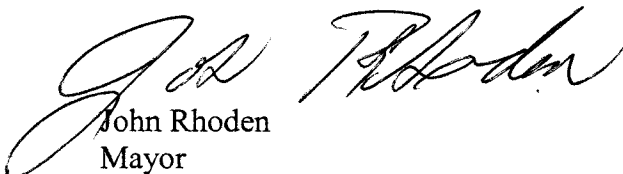
Mayor

Date: \_\_\_\_\_

2-9-09

If I can provide further information, please do not hesitate to contact me. I can be reached on my direct line at 803-943-2951 or via email at [townofhampton@emabarqmail.com](mailto:townofhampton@emabarqmail.com).

Sincerely,  
*Town of Hampton*

  
John Rhoden  
Mayor

Enclosures: Site Location Map (Figure 1)  
Property Cards  
Property Owner Summary

cc: Hart & Hickman, PC