

**VOLUNTARY CLEANUP CONTRACT
26-8894-RP**

**IN THE MATTER OF
FRIEDHEIM ROAD LANDFILL SITE, YORK COUNTY
and
CITY OF ROCK HILL**

This Contract is entered into by the South Carolina Department of Environmental Services and City of Rock Hill, pursuant to the Brownfields/Voluntary Cleanup Program, S.C. Code Ann. §§ 44-56-710 through 760, as amended, the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), 42 U.S.C. §§ 9601 to 9675, as amended, and the South Carolina Hazardous Waste Management Act (HWMA), S.C. Code Ann. § 44-56-200, with respect to the facility known as the Friedheim Road Landfill Site (“Site”). The City of Rock Hill property is located at 650 Friedheim Road, Rock Hill, South Carolina (“Property”). The Property includes approximately 46.7 acres and is bounded generally by residential development to the north, Friedheim Road to the south, residential development to the east, and undeveloped land to the west. The Property is identified by the County of York as Tax Map Serial Numbers 598-16-01-001 and 598-16-01-003. A legal description of the Property is attached to this Contract as Appendix A.

DEFINITIONS

1. Unless otherwise expressly provided, terms used in this Contract 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 CERCLA, the HWMA, and in regulations promulgated under these statutes.

- A. “CRH” shall mean City of Rock Hill. CRH is a local government entity with its principal place of business located at 155 Johnston Street Rock Hill SC 29730
- B. “Contamination” shall mean impact by a Contaminant or Hazardous Substance.
- C. “Contract” shall mean this Responsible Party Voluntary Cleanup

Contract.

- D. "SCDES" shall mean 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.
- E. "Hazardous Substance" shall have the same meaning as defined under subparagraphs (A) through (F) of Paragraph (14) of CERCLA § 101, 42 U.S.C. § 9601(14).
- F. "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 § 101, 42 U.S.C. §§ 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.
- G. "Property" as described in the legal description attached as Appendix A, shall mean that portion of the Site, which is subject to ownership, prospective ownership, or possessory or contractual interest of CRH.
- H. "Response Action" shall mean any assessment, cleanup, inspection, or closure of a site as necessary to remedy actual or potential damage to public health, public welfare, or the environment.
- I. "Site" shall mean all areas where a Hazardous Substance, Pollutant or Contaminant 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, as defined in CERCLA.

- J. “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 to 760, as amended.
- K. “Work Plan” shall mean the plan for additional Response Actions to be conducted at the Site as described in Paragraph 3 of this Contract.

FINDINGS

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

- A. Property ownership information:
City of Rock Hill Unknown – Present
- B. Aerial photographs from 1937 and 1949 show the Property as agricultural land and undeveloped woods. Aerial photographs from 1961 to 2011 show landfilling activities. A building was constructed on the southern portion of the Property by 2005 and was removed by 2011. Aerial photographs from 2013 to 2021 show the Property as vacant and overgrown.
- C. The Soil Assessment Findings from a Phase II Environmental Site Assessment (Phase II) indicated that several volatile organic compounds (VOCs) were detected at concentrations greater than their laboratory method detection limit (MDLs) in the soil sample SB-1, but none of the compounds were detected at a concentration greater than a residential regional screening level (RSL). Each VOC at SB-1, except for 1,3 dichlorobenzene, was detected at a concentration greater than a risk-based soil screening level (SSL) or the maximum contaminant level (MCL)-based SSL for the protection of groundwater. Aluminum, arsenic, cobalt, iron, and vanadium were

detected at concentrations greater than the residential RSL in one or more samples. Mercury at SB-1 was the only metal detected at a concentration greater than an industrial RSL. Several metals were detected at concentrations greater than the risk-based SSL or the MCL-based SSL for the protection of groundwater. The detected metals are typical of soils in the Piedmont province of South Carolina, and the detected concentrations are generally within average ranges. In addition, many of the detected metals appear to be distributed across the Site, further indicating those metals are naturally occurring in the soil.

- D. The Groundwater Assessment Findings from a Phase II indicated that several metals were detected at concentrations greater than a South Carolina MCL or Tapwater RSL in the groundwater samples. Four (4) VOCs were detected in groundwater samples but at concentrations less than a South Carolina MCL or Tapwater RSL.
- E. CRH plans to redevelop the Property into an outdoor recreational park, with funding assistance through the National Park Service's Outdoor Recreation Legacy Partnership of the Land and Water Conservation Fund.

RESPONSE ACTIONS

3. CRH agrees to submit to SCDES for review and written approval within thirty (30) days of the execution date of this Contract a Work Plan for the Site that is consistent with the technical intent of the National Contingency Plan. The Work Plan shall be implemented upon written approval from SCDES. The Work Plan shall include the names, addresses, and telephone numbers of the consulting firm, the analytical laboratory certified by SCDES, and CRH's contact person for matters relating to this Contract. CRH will notify SCDES in writing of changes in the contractor or laboratory. SCDES will review the Work Plan and will notify CRH in writing of any deficiencies in the Work Plan, and CRH will respond in writing to SCDES's comments within thirty (30) days. 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. Submit to SCDES a Media/Soil Management Plan (to include a Baseline Risk Assessment or other evaluation of risk to human health and the environment) in accordance with the schedule in the approved Work Plan. SCDES shall review the report for determination of completion of the Work Plan and sufficiency of the documentation. If SCDES determines that the field investigation is not complete, it will send written notification of such to CRH, and CRH shall subsequently conduct additional field investigation to further determine the source, nature, and extent of Contamination. If SCDES determines that the field investigation is complete but the report is incomplete, SCDES shall send to CRH a letter indicating that revision of the report is necessary. Within thirty (30) days of receipt of such letter from SCDES, CRH shall submit a revised report addressing SCDES's comments.
 - B. If determined necessary by SCDES, conduct a Feasibility Study or other evaluation of remedial and/or removal alternatives for addressing Contamination at the Site.
4. CRH 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. The Health and Safety Plan is submitted to SCDES for information purposes only. SCDES expressly disclaims any liability that may result from implementation of the Health and Safety Plan by CRH.
5. CRH shall inform SCDES in writing at least five (5) working days in advance of all field activities pursuant to this Contract and, if deemed necessary by SCDES, shall allow

SCDES and its authorized representatives to take duplicates of any samples collected by CRH pursuant to this Contract.

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

7. All correspondence by either party to the other shall be submitted electronically into the SCDES e-Permitting system.

Unless otherwise directed in writing by either party, all correspondence, work plans, and reports should be submitted to:

SCDES: Greg Cassidy
South Carolina Department of Environmental Services
Bureau of Land and Waste Management
2600 Bull Street
Columbia, South Carolina 29201
greg.cassidy@des.sc.gov

City of Rock Hill: Corinne Sferrazza
City of Rock Hill
PO Box 11706
Rock Hill, SC 29731-1706
corinne.sferrazza@cityofrockhill.com

All final work plans and reports shall be submitted electronically into the SCDES e-Permitting system. A hard copy will be submitted to SCDES only upon request of the Project Manager.

PUBLIC PARTICIPATION

8. Upon execution of this Contract by CRH, SCDES will seek public participation in accordance with S.C. Code Ann. § 44-56-740(D), and not inconsistent with the National Contingency Plan. CRH will reimburse SCDES's costs associated with public participation (e.g., publication of public notice(s), building and equipment rental(s) for public meetings, etc.).

RESPONSE COSTS

9. In accordance with S.C. Code Ann. §§ 44-56-200 and 44-56-740, CRH shall, on a quarterly basis, reimburse SCDES 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 activities and costs associated with public participation. Payments will be due within thirty (30) days of SCDES's invoice date. SCDES shall provide documentation of its Oversight Costs in sufficient detail so as to show the personnel involved, amount of time spent on the project for each person, expenses, and other specific costs. Invoices shall be submitted to:

City of Rock Hill:	Jesse Holliman City of Rock Hill Parks, Recreation, & Tourism Department PO Box 11706 Rock Hill, SC 29731-1706 jesse.holliman@cityofrockhill.com
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All of CRH's payments should reference the Contract number on page 1 of this Contract and be made payable to:

The South Carolina Department of Environmental Services

If complete payment of the Past Costs or of the quarterly billing of Oversight Costs is not received by SCDES by the due date, SCDES may bring an action to recover the amount owed and all costs incurred by SCDES in bringing the action including, but not limited to, attorney's fees, SCDES personnel costs, witness costs, court costs, and deposition costs.

ACCESS

10. SCDES, its authorized officers, employees, representatives, and all other persons performing Response Actions will not be denied access to the Site 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 SCDES (or as allowed by applicable law). CRH and subsequent owners of the Property shall ensure that a copy of this Contract is provided to any lessee or successor or other transferee of the Property, and to any owner of other property that is included in the Site. If CRH is unable to obtain access from the Property owner, SCDES may obtain access and perform Response Actions. All of SCDES's costs associated with access and said Response Actions will be reimbursed by CRH.

RESTRICTIVE COVENANT

11. If hazardous substances in excess of residential standards exist at the Property after CRH has completed the actions required under this Contract, CRH shall enter and file a restrictive covenant. Upon SCDES's approval of the items outlined therein, the restrictive covenant shall be signed by SCDES and representatives of CRH and witnessed, signed, and sealed by a notary public. CRH shall record this restrictive covenant with the Register of Deeds in York County. The signed covenant shall be incorporated into this Contract as an Appendix. A Certificate of Completion shall not be issued by SCDES until the restrictive covenant, if required, is executed and recorded.

With the approval of SCDES, the restrictive covenant may be modified in the future if additional remedial activities are carried out which meet appropriate clean-up standards at that time or circumstances change such that the restrictive covenant would no longer be applicable. SCDES may require CRH or subsequent owners of the Property to modify the restrictive covenant if a significant change in law or circumstances requiring remediation occurs. CRH or subsequent owners of the Property shall file an annual report with SCDES 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 Property. The report must be submitted in a manner prescribed by SCDES.

OBLIGATIONS AND BENEFITS

12. Upon execution of this Contract by SCDES, CRH, its signatories, parents, subsidiaries, successors, and assigns shall be deemed to have resolved their liability to the State in an administrative settlement for purposes of, and to the extent authorized under 42 U.S.C. § 9613(f)(2), S.C. Code Ann. § 44-56-200, for the matters addressed in this Contract. "Matters addressed" are all Response Actions taken or to be taken at or in connection with this Site under this Contract and any subsequent amendments to this Contract, and all response costs incurred or to be incurred under this Contract and any subsequent amendments to this Contract. Further, by resolving its liability to the State for some or all of a Response Action in this administrative settlement, CRH may seek contribution to the extent authorized under 42 U.S.C. § 9613(f)(3)(B), S.C. Code Ann. § 44-56-200 from any person who is not a party to this administrative settlement. A thirty (30) day comment period shall be required prior to SCDES's execution of this Contract and shall commence upon publication of the notice of this proposed Contract in the *South Carolina State Register*.

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 SCDES may have against a responsible party who is not a signatory to this Contract and who is not a signatory's parent, subsidiary, successor, or assign.

14. Subject to the provisions of Paragraph 16, nothing in this Contract is intended to limit the right of SCDES to undertake future Response Actions at the Site or to seek to compel parties to perform or pay for costs of 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 SCDES in exercising its authority under State and Federal law.

15. Subject to the provisions of Paragraph 16, nothing in this Contract is intended to be or shall be construed as a release or covenant not to sue for any claim or cause of action that SCDES may have against CRH for any matters not expressly addressed by and settled through this Contract.

16. Upon successful completion of the terms of this Contract, CRH shall submit to SCDES a request for a Certificate of Completion.

Once SCDES determines that CRH has successfully and completely complied with this Contract, SCDES, pursuant to S.C. Code Ann. §§ 44-56-740(A)(5) and (B)(1), will give CRH a Certificate of Completion that provides a covenant not to sue to CRH, its signatories, parents, subsidiaries, successors, and assigns for the work done in completing the Response Actions specifically covered in this Contract and completed in accordance with the approved work plans and reports. The covenant not to sue and administrative settlement for purposes of contribution protection are contingent upon SCDES's determination that CRH successfully and completely complied with this Contract.

In consideration of SCDES's covenant not to sue, CRH, its signatories, parents, subsidiaries, successors and assigns agree not to assert any claims or causes of action against SCDES arising out of activities undertaken at the Site or to seek other costs, damages, or attorney's fees from SCDES arising out of activities undertaken at the Site, except for those claims or causes of action resulting from SCDES's intentional or grossly negligent acts or omissions.

17. CRH and SCDES 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 CRH elect to terminate, it must submit to SCDES all data generated pursuant to this Contract, and certify to SCDES's satisfaction that any environmental or physical hazard shall be stabilized and/or mitigated such that the Site 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.

18. SCDES may terminate this Contract only for cause, which may include but is not limited to, the following:

- A. Events or circumstances at the Site that are inconsistent with the terms and conditions of this Contract;
- B. Failure to complete the terms of this Contract or the Work Plan;
- C. Failure to submit timely payments for Oversight Costs as defined in Paragraph 9 above;
- D. Additional Contamination or releases or consequences at the Site caused by CRH its parents, subsidiaries, successors, and assigns;
- E. Providing SCDES with false or incomplete information or knowingly failing to disclose material information;
- F. Change in CRH's or its parents', subsidiaries', successors', and assigns', business activities on the Property or uses of the Property that are inconsistent with the terms and conditions of this Contract;
or
- G. Failure by CRH to obtain the applicable permits from SCDES for any Response Action or other activities undertaken at the Property.

19. Upon termination of this Contract under Paragraph 17 or 18, the covenant not to sue and administrative settlement for purposes of contribution protection shall be null and void. Termination of this Contract by CRH or SCDES does not end the obligations to reimburse Oversight Costs already incurred by SCDES and payment of such costs shall become immediately due.

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

THE SOUTH CAROLINA DEPARTMENT OF ENVIRONMENTAL SERVICES

BY: _____ DATE: _____

Juli Blalock, Chief
Bureau of Land and Waste Management
S.C. Department of Environmental Services

Reviewed by Office of General Counsel

DATE: _____

CITY OF ROCK HILL

Signature

DATE: _____

Printed Name and Title

APPENDIX A

Legal Description of the Property

York County

Tax Map Serial Number 598-16-01-001 and 598-16-01-003

All that certain piece, parcel or tract of land lying on both sides of the southwestern corporate limit line of the City of Rock Hill in Catawba Township, York County, S. C., containing 50 acres, more or less, and being represented on a map made by White and Maret, Surveyors, dated June 29, 1950, entitled Property of R. E. DeVore, same being part of a 65 acre tract known as the Joseph B. Miller lands, and being bounded by lands of E. W. Sturgis, A. Friedheim and Bro., R. E. DeVore, Arcade Cotton Mill, and Watson's Branch and being more particularly described as follows: Beginning at a point in center of Watson's Branch on line of property of E. W. Sturgis and running with the line of said Sturgis land S. 17-15 E. 1097 feet to stake; thence continuing with the line of Sturgis land S. 7-45 W. 660 feet to stake at or near the intersection of Friedheim Road and another road or street; thence with the line of Friedheim Road N. 77-45 E. 365 feet to a point in said road; thence leaving said road and with new division line N. 7-45 E. 223.3 feet to stake; thence with another new division line N. 77-45 E. 850 feet to stake; thence with another new division line N. 12-15 W. 200 feet to stake at or about center of pole line; thence with another new division line N. 77-45 E. 759 feet to stake on line of property of Arcade Cotton Mill; thence with the line of said property N. 14-45 E. 724.2 feet to point in center of Watson's Branch; thence with the center of said Watson's Branch to the beginning point; the conveyed premises being the identical property conveyed by J. B. Matthews, Special Referee, to R. E. DeVore by deed dated April 15, 1941, recorded April 22, 1941, in book of Clerk's Deeds 4, at page 143, SAVING AND EXCEPTING therefrom a tract of 10.8 acres fronting 1480 feet along the northern side of Friedheim Road, cut off from the original tract and retained by the said R. E. DeVore.