

**VOLUNTARY CLEANUP CONTRACT
26-8917-RP**

**IN THE MATTER OF
FORMER SPARTANBURG RACE SHOP SITE, SPARTANBURG COUNTY
and
DUKE ENERGY CAROLINAS, LLC**

This Contract is entered into by the South Carolina Department of Environmental Services and Duke Energy Carolinas, LLC 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 Former Spartanburg Race Shop Site ("Site"). The Duke Energy Carolinas, LLC property is located at 400 North Fairview Avenue, Spartanburg, South Carolina ("Property"). The Property includes approximately 3.18 acres and is bounded generally by railroad tracks to the north, undeveloped land to the south, North Fairview Avenue to the east, and vacant land to the west. The Property is identified by the County of Spartanburg as Tax Map Serial Number 7-12-03-143.00. 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. "Duke Energy" shall mean Duke Energy Carolinas, LLC, as successor to Duke Energy Corporation. Duke Energy is a limited liability company with its principal place of business located at 525 South Tryon Street, Charlotte, North Carolina.
- B. "Contamination" shall mean impact by a Pollutant or Contaminant,

Petroleum and Petroleum Product, 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. "Petroleum" and "Petroleum Product" shall mean 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.
- G. "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.

- H. "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 Duke Energy.
- I. "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.
- J. "Site" shall mean all areas where a Hazardous Substance, Petroleum, Petroleum Product, 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.
- K. "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.
- L. "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:
 - Duke Energy 8/12/02 – Present
 - Ernie Elliott, Inc. 7/1/02 – 8/12/02
 - Fenley Motorsports 9/1/99 – 7/1/02
- B. A review of historical data sources indicates the western portion of the Site was developed with residential structures as early as the 1920s. Access to the Site was initially provided by a road present along its eastern boundary; the Site was bisected by North Fairview Avenue between 1951 and 1961. The residential structures were

demolished and a larger structure, which operated as the Bud Moore Engineering Inc. Race Shop, was constructed on the northern portion of the western Site sub-parcel prior to 1964. Race shop operations at the Site reportedly included race car fabrication, painting, engine testing, and repairs. Additions to the race shop building were constructed adjacent to the original structure prior to 1976.

- C. On September 1, 1999, Fenley Motorsports acquired the Site property and reportedly continued operation of the race shop until sometime prior to July 1, 2002, when the Site was sold. Following acquisition of the Site property on August 12, 2002, Duke Energy subsequently leased the former race shop building to Converse College from December 20, 2004 through October 13, 2015 for use as a facility maintenance operations center and for general campus storage. Following the lease expiration, Converse College vacated the property, and the former race shop building remained vacant until trespassers entered and set fire to the Site building on April 29, 2024.
- D. Duke Energy performed a Limited Phase II Environmental Site Assessment at the property in 2025. Semi-Volatile Organic Compounds (SVOCs) (benzo(a)anthracene, benzo(a)pyrene, benzo(b)fluoranthene, and indeno (1,2,3-cd)pyrene) and the metal arsenic were detected in soil samples at concentrations above their respective Industrial Soil Regional Screening Levels (RSLs). SVOC concentrations greater than Industrial Soil RSLs were present in only two shallow soil samples (0 to 0.5 and 1 to 2 ft bgs) collected from the same boring location (SB-14). None of these SVOCs were detected in the deeper soil sample (5 to 6 ft bgs) collected from the same boring location (SB-14), nor were these SVOCs detected in the groundwater samples collected from the Site's monitoring wells. Trace building materials, including bricks, degraded concrete, and metal wire, were observed in soil recovered from depths between 0.5

and 5.5 ft bgs at this boring location. Concentrations of all detected compounds in groundwater samples collected from Site monitoring wells were below their respective United States Environmental Protection Agency (USEPA) Screening Levels for Tap Water and Maximum Contaminant Levels (MCLs).

RESPONSE ACTIONS

3. Duke Energy 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 Duke Energy's contact person for matters relating to this Contract. Duke Energy will notify SCDES in writing of changes in the contractor or laboratory. SCDES will review the Work Plan and will notify Duke Energy in writing of any deficiencies in the Work Plan, and Duke Energy 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. Conduct an Environmental Assessment to determine the source, nature, and extent of Contamination at the Site.
- B. Submit an Assessment Report to SCDES, including a Baseline Risk Assessment or other evaluation of risks to human health and the environment. SCDES shall review the report to determine whether the Assessment is complete and adequately documented. If SCDES determines that additional field investigation is needed, Duke Energy shall conduct the additional investigation. If SCDES determines that the report is incomplete, Duke Energy shall submit a revised report

addressing SCDES's comments within thirty (30) days after receiving SCDES's written notice.

- C. Submit a Removal Action Plan once the Assessment Report has been approved by SCDES. Any comments generated through SCDES's review of the Removal Action Plan must be addressed in writing to SCDES's Project Manager within thirty (30) days of receipt of said comments by Duke Energy.
- D. SCDES shall provide their approval of the Non-Time Critical Removal Action within thirty (30) days after receipt of a Removal Action Plan that satisfactorily addresses SCDES comments.
- E. Implement the Non-Time Critical Removal Action in accordance with the Removal Action Plan.
- F. Submit a Removal Action Report to SCDES in accordance with the approved Removal Action Plan. SCDES shall review the report to determine whether the removal action is complete and adequately documented. If SCDES determines the report is incomplete, Duke Energy shall submit a revised report addressing SCDES's comments within thirty (30) days after receiving SCDES's written notice.
- G. Submit a Soil Management Plan addressing soil disturbance procedures after SCDES approves the Removal Action Report. The Plan shall include Duke Energy contact information, notice requirements for entities disturbing soil, and be incorporated into a Restrictive Covenant that runs with the property deed.
- H. 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. Duke Energy 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 Duke Energy.

5. Duke Energy 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 Duke Energy pursuant to this Contract.

6. Within sixty (60) days of the execution date of this Contract and once a quarter thereafter, Duke Energy 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

Duke Energy: Stephen Barrick
Duke Energy Carolinas, LLC
525 S Tryon St, Mail Code DEP36A
Charlotte, North Carolina 28202
stephen.barrick@duke-energy.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 Duke Energy, SCDES will seek public participation in accordance with S.C. Code Ann. § 44-56-740(D), and not inconsistent with the National Contingency Plan. Duke Energy 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, Duke Energy 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 on quarterly basis to:

Duke Energy: Stephen Barrick
Duke Energy Carolinas, LLC
525 S Tryon St, Mail Code DEP36A
Charlotte, North Carolina 28202
stephen.barrick@duke-energy.com

All of Duke Energy'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). Duke Energy 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 Duke Energy 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 Duke Energy.

RESTRICTIVE COVENANT

11. If hazardous substances in excess of residential standards exist at the Property after Duke Energy has completed the actions required under this Contract, Duke Energy 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 Duke Energy and witnessed, signed, and sealed by a notary public. Duke Energy shall record

this restrictive covenant with the Register of Deeds in Spartanburg 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 Duke Energy or subsequent owners of the Property to modify the restrictive covenant if a significant change in law or circumstances requiring remediation occurs. Duke Energy 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, Duke Energy, 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, Duke Energy 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 Duke Energy for any matters not expressly addressed by and settled through this Contract.

16. Upon successful completion of the terms of this Contract, Duke Energy shall submit to SCDES a request for a Certificate of Completion. Once SCDES determines that Duke Energy 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 Duke Energy a Certificate of Completion that provides a covenant not to sue to Duke Energy, 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 Duke successfully and completely complied with this Contract.

In consideration of SCDES's covenant not to sue, Duke Energy, 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 negligent acts or omissions.

17. Duke Energy 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 Duke Energy 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 Duke Energy, its parents, subsidiaries, successors, and assigns;
- E. Providing SCDES with false or incomplete information or knowingly failing to disclose material information;
- F. Change in Duke Energy'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 Duke Energy 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 Duke Energy 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: _____

DUKE ENERGY CAROLINAS, LLC

Signature

DATE: _____

Michelle S. Spak - SVP, EHS, OpEX & CCP
Printed Name and Title

APPENDIX A

Legal Description of the Property

County of Spartanburg

Tax Map Serial Number 7-12-03-143.00

All that parcel or lot of land located on the eastern and western sides of North Fairview Avenue, City and County of Spartanburg, State of South Carolina, containing 3.18 acres, more or less, and being more particularly shown on a plat of survey for Duke Energy Corporation by John F. Tinsley, P.L.S., dated July 8, 2002, to be herewith recorded in the Register of Deeds Office for Spartanburg County, South Carolina. Reference being hereby made to said plat of survey in aid of description.

This being the same property conveyed to Ernie Elliott, Inc. by Deed of Roger L. Couch, Master-in-Equity for Spartanburg County, South Carolina, dated July 8, 2002, and recorded July 18, 2002, in Deed Book 76-C, page 814, Register of Deeds Office for Spartanburg County, South Carolina.

together with all and singular the rights, members, hereditaments and appurtenances to said premises belonging or in anywise incident or appertaining; to have and to hold all and singular the premises before mentioned unto the grantee(s), and the grantee's (s') heirs (or successors) and assigns forever. And the grantor(s) do(es) hereby bind the grantor(s) and the grantor's(s') heirs (or successors), executors and administrators to warrant and forever defend all and singular said premises unto the grantee(s) and the grantee's(s') heirs (or successors) and assigns against the grantor(s) and the grantor's(s') heirs (or successors) and against every person whomsoever lawfully claiming or to claim the same or any part thereof, except as to restrictions and easements of record, if any.

