

**City of Florence – Former Richards Metal Plating, Inc.
Florence, Alabama
ADEM VCP Site #: 461-077-263**

Fact Sheet

A Voluntary Cleanup Program (VCP) Cleanup Plan has been found to be technically adequate by the Alabama Department of Environmental Management (ADEM) for the Former Richards Metal Plating site in Florence, Alabama. This fact sheet has been prepared to briefly advise the public of the principal legal and policy issues of the VCP.

I. VCP PROCESS

The VCP provides a mechanism for the implementation of a cleanup program that encourages applicants to voluntarily assess, remediate, and reuse rural and urban areas of actual or perceived contamination. The program does not relieve any “responsible person” for the liability for administrative, civil, or criminal fines or penalties which are otherwise authorized by law and imposed as a result of the illegal or unpermitted disposal of solid waste, hazardous waste, hazardous constituents, hazardous substances, petroleum products, and/or pollutants to the land, air, or waters of the State on an identified property. The program is designed to expedite the voluntary cleanup process and has been designed for entry at any stage of the cleanup process as long as all applicable criteria have been met up to the point of entry.

II. PROCEDURES FOR REACHING A FINAL DECISION

ADEM is proposing to issue the City of Florence a final decision for the site remediation. The remediation plan incorporates use restrictions to include site utilization for industrial or commercial purposes only. The property may not be used as a school, hospital or healthcare clinic, nursing home, day care facility or playground. Groundwater from the site shall not be used for drinking water or irrigation purposes.

ADEM Admin Code R. 335-15-6-.02 requires that the public be given a 30-day comment period from the date of the notice. The comment period will begin on September 8, 2021, which is the date of publication of the public notice in major local newspaper(s) of general circulation and will end on October 7, 2021.

All persons wishing to comment on any of the conditions of the VCP Remediation should submit their comments in writing to ADEM, Permits and Services Division, 1400 Coliseum Blvd. (Zip 36110). P.O. Box 301463 (Zip 36130-1463) Montgomery, Alabama, ATTENTION: Mr. Russell Kelly. Written comments on the VCP activities should be submitted to ADEM and be received by 5:00 p.m. on October 7, 2021.

ADEM will consider all written comments received during the comment period while making a final decision on this issue. When ADEM makes its final decision, notice will be

given to the applicant and each person who has submitted written comments or requested notice of the final decision.

III. FACILITY DESIGN

Geo-Source, Inc. has completed Site Investigation activities under the VCP at the Former Richards Metal Plating site located at 529 S. Royal Avenue, Florence, Lauderdale County, Alabama. The 2.75 acre site is currently vacant with a portion of a concrete slab remaining in the northwest section of the property while vegetation can be found throughout the remainder of the site. Richards Metal Plating, Inc. began metal plating operations on site in 1964. Mr. Richards ceased operation in December 2005, and the facility was abandoned by May 2006. The facility plated chromium and nickel onto vehicle bumpers and truck accessory parts in a single chrome/nickel plating line. The old railroad depot across from the main facility was used to shape and weld “metal into radiator grill guards and windshield guards”. In 2009, the EPA conducted an emergency removal of wastes and soil on the property but did not address any groundwater contamination at that time. In 2020, due to the possibility of elevated concentrations of certain metals being present in the groundwater on site, the City of Florence partnered with Geo-Source, Inc. to perform groundwater assessment activities. Due to the increased presence of chromium, hexavalent chromium, and nickel in groundwater, institutional and engineering controls will be used at the site to eliminate or minimize potential exposures associated with future use and/or development. Future site development plans include the transformation of the area into a parking lot.

IV. TECHNICAL CONTACT

Emily Duke, Project Manager
Redevelopment Section
Industrial Hazardous Waste Branch
Land Division
Alabama Department of Environmental Management
1400 Coliseum Boulevard (Zip 36110)
P.O. Box 301463 (Zip 36130-1463)
Montgomery, Alabama
(334) 271-7740

ENVIRONMENTAL COVENANT

The City of Florence, Alabama (hereinafter "Grantor") grants an Environmental Covenant (hereinafter "Covenant") this ___ day of _____, 2021, to the following entities pursuant to The Alabama Uniform Environmental Covenants Act, Ala. Code §§ 35-19-1 to 35-19-14 (the Act) and the regulations promulgated thereunder: the Alabama Department of Environmental Management (ADEM).

WHEREAS, the Grantor is the owner of certain real property located in the City of Florence, Alabama, identified as the former Richards Metal Plating property situated at 529 S. Royal Avenue, in Lauderdale County, Alabama, (hereinafter "the Property"). The property was conveyed to Grantor by deed dated January 29, 2020, and recorded in the Office of the Judge of Probate for Lauderdale County, Alabama, in Deed Book 2020 at Page 3881;

WHEREAS, the Property is more particularly described as the following:

Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12 and 13 in Block No. 541, according to the plat of said Block made by Charles Boeckh, C.E., for the Florence Land Mining and Manufacturing Company and recorded in the Office of the Judge of Probate of Lauderdale County, Alabama, in New Plat Book 1, Page 70. Together with that portion of alley in said Block lying between Lots 9 through 13, on the North, and Lot 6, on the South, donated to the abutting and adjacent property owners in the vacation of said achlley by the City of Florence, Alabama. ALSO the South 1/2 of a certain 10 foot strip of land formerly an alley now vacated, running Northeastwardly and Southwestwardly along the Northwardly line of said Lot 6, EXCEPT a portion of that certain South 1/2 of said former alley and a portion of the Lot 6, described as follows, to-wit: Begin at a point on the Westwardly side of said Lot 6 and on the eastwardly side of Royal Avenue 9.15 feet Southwardly from the Northwest corner of said Lot 6; run thence Eastwardly at right angles to the Eastwardly side of Royal Avenue a distance of 29.55 feet to a point; run thence to the left and parallel to the East line of Royal Avenue for a distance of 4.2 feet to the center of above mentioned 10 foot strip; run thence Westwardly along the centerline of said 10 foot strip for a distance of 30.5 feet to the East line of Royal Avenue; run thence Southwardly along the East line of Royal Avenue for 14.45 feet to the point of beginning;

WHEREAS, this instrument is an Environmental Covenant developed and executed pursuant to the Act and the regulations promulgated thereunder;

WHEREAS, a release/disposal of hazardous substances, including, but not limited to, chromium, hexavalent chromium and nickel in groundwater, occurred on the Property;

WHEREAS, the selected “remedial action” for the Property, which has now been implemented, providing in part, for the following actions:

Implementation of this environmental covenant;

WHEREAS, pursuant to the Groundwater Assessment Report approved by ADEM on September 22, 2020, the Grantor and assignees agreed to perform operation and maintenance activities at the Property to address the effects of the release/disposal, which includes controlling exposure to the hazardous wastes, hazardous constituents, hazardous substances, pollutants, or contaminants;

WHEREAS, the Groundwater Assessment Report requires institutional controls to be implemented to address the effects of the release/disposal and to protect the remedy so that exposure to the hazardous waste, hazardous constituents, hazardous substances, pollutants, or contaminants is controlled by restricting the use of the Property and the activities on the Property;

WHEREAS, hazardous wastes, hazardous constituents, hazardous substances, pollutants, or other contaminants remain on the Property, specifically contamination has occurred in groundwater and the following contaminant(s) remain at the site: chromium, hexavalent chromium and nickel in groundwater;

WHEREAS, the purpose of this Covenant is to ensure protection of human health and the environment by placing restrictions on the Property to reduce the risk to human health to below the target risk levels for those hazardous wastes, hazardous constituents, hazardous substances, pollutants, or contaminants that remain on the Property;

WHEREAS, further information concerning the release/disposal and the activities to correct the effects of the release/disposal may be obtained by contacting Chief, Land Division, Alabama Department of Environmental Management (“ADEM”), or his or her designated representative, at 1400 Coliseum Boulevard, Montgomery, Alabama, 36110; and

WHEREAS, the Administrative Record concerning the Property is located at:

City Attorney’s Office
City of Florence
110 W. College Street
Florence, Alabama 35630

and

Alabama Department of Environmental Management
1400 Coliseum Boulevard
Montgomery, Alabama 36110

NOW, THEREFORE, Grantor hereby grants this Environmental Covenant to ADEM and declares that the Property shall hereinafter be bound by, held, sold, used, improved, occupied, leased, hypothecated, encumbered, and/or conveyed subject to the following requirements set forth in paragraphs 1 through 3 below:

1. **DEFINITIONS**

Owner. "Owner" means the GRANTOR, its successors and assigns in interest.

2. **USE RESTRICTIONS**

Any deviation from the following requires prior written approval from ADEM through modification of this covenant:

Property may not be rezoned or utilized for any purpose other than industrial or commercial purposes. Property is restricted from use as a school, hospital or healthcare clinic, nursing home, day care facility or playground. Groundwater from the site shall not be used for drinking water or irrigation purposes.

3. **GENERAL PROVISIONS**

A. **Restrictions to Run with the Land**. This Environmental Covenant runs with the land pursuant to Ala. Code §35-19-5, as amended; is perpetual, unless modified or terminated pursuant to the terms of this Covenant pursuant to Ala. Code §35-19-9, as amended; is imposed upon the entire Property unless expressly stated as applicable only to a specific portion thereof; inures to the benefit of and passes with each and every portion of the Property; and binds the Owner, all persons using the land, all persons, their heirs, successors and assigns having any right, title or interest in the Property, or any part thereof who have subordinated those interests to this Environmental Covenant, and all persons, their heirs, successors and assigns who obtain any right, title or interest in the Property, or any part thereof after the recordation of this Environmental Covenant.

B. **Notices Required**. In accordance with Ala. Code §35-19-4(b), as amended, the Owner shall send written notification, pursuant to Section J, below, following transfer of a specified interest in, or concerning proposed changes in use of, applications for building permits for, or proposals for any site work affecting the contamination on, the Property. Said notification shall be sent within fifteen (15) days of each event listed in this Section.

C. **Registry/Recordation of Environmental Covenant; Amendment; or Termination**. Pursuant to Ala. Code §35-19-12(b), as amended, this Environmental Covenant and any amendment or termination thereof, shall be contained in ADEM's registry for environmental covenants. After an

environmental covenant, amendment, or termination is filed in the registry, a notice of the covenant, amendment, or termination may be recorded in the land records in lieu of recording the entire covenant in compliance with §35-19-12(b). Grantor shall be responsible for filing the Environmental Covenant within thirty (30) days of the final required signature upon this Environmental Covenant.

- D. **Compliance Certification.** In accordance with Ala. Code §35-19-4(b), as amended, the Owner shall submit a report to the Chief of the ADEM Land Division, if requested by the Chief. Said report shall detail the Owner's compliance, and any lack of compliance with the terms of the Covenant.
- E. **Right of Access.** The Owner hereby grants ADEM; ADEM's agents, contractors and employees; the Owner's agents, contractors and employees the right of access to the Property for implementation or enforcement of this Environmental Covenant.
- F. **ADEM Reservations.** Notwithstanding any other provision of this Environmental Covenant, ADEM retains all of its access authorities and rights, as well as all of its rights to require additional land/water use restrictions, including enforcement authorities related thereto.
- G. **Representations and Warranties.** Grantor hereby represents and warrants to the other signatories hereto:
- i) That the Grantor has the power and authority to enter into this Environmental Covenant, to grant the rights and interests herein provided and to carry out all obligations hereunder;
 - ii) That the Grantor is the sole owner of the Property and holds fee simple title which is free, clear and unencumbered;
 - iii) That the Grantor has identified all other parties that hold any interest (e.g., encumbrance) in the Property and notified such parties of the Grantor's intention to enter into this Environmental Covenant;
 - iv) That this Environmental Covenant will not materially violate, contravene, or constitute a material default under, any other agreement, document, or instrument to which Grantor is a party, by which Grantor may be bound or affected;
 - v) That this Environmental Covenant will not materially violate or contravene any zoning law or other law regulating use of the Property;

- vi) That this Environmental Covenant does not authorize a use of the Property which is otherwise prohibited by a recorded instrument that has priority over the Environmental Covenant.

H. **Compliance Enforcement.** In accordance with Ala. Code §35-19-11(b), as amended, the terms of the Environmental Covenant may be enforced by the parties to this Environmental Covenant; any person to whom this Covenant expressly grants power to enforce; any person whose interest in the real property or whose collateral or liability may be affected by the alleged violation of the Covenant; or a municipality or other unit of local government in which the real property subject to the Covenant is located, in accordance with applicable law. The parties hereto expressly agree that ADEM has the power to enforce this Environmental Covenant. Failure to timely enforce compliance with this Environmental Covenant or the use or activity limitations contained herein by any person shall not bar subsequent enforcement by such person and shall not be deemed a waiver of the person's right to take action to enforce any non-compliance. Nothing in this Environmental Covenant shall restrict ADEM, or the Grantor, from exercising any authority under applicable law.

I. **Modifications/Termination.** Any modifications or terminations to this Environmental Covenant must be made in accordance with Ala. Code §§35-19-9 and 35-19-10, as amended.

J. **Notices.** Any document or communication required to be sent pursuant to the terms of this Environmental Covenant shall be sent to the following persons:

ADEM

Chief, Land Division
Alabama Department of Environmental Management
1400 Coliseum Boulevard
Montgomery, AL 36110

Grantor

Andrew Betterton, Mayor
City of Florence
110 W. College Street
Florence, Alabama 35630

K. **No Property Interest Created in ADEM.** This Environmental Covenant does not in any way create any interest by ADEM in the Property that is subject to the Environmental Covenant. Furthermore, the act of approving this

- Environmental Covenant does not in any way create any interest by ADEM in the Property in accordance with Ala. Code §35-19-3(b), as amended.
- L. **Severability.** If any provision of this Environmental Covenant is found to be unenforceable in any respect, the validity, legality, and enforceability of the remaining provisions shall not in any way be affected or impaired.
- M. **Governing Law.** This Environmental Covenant shall be governed by and interpreted in accordance with the laws of the State of Alabama.
- N. **Recordation.** In accordance with Ala. Code §35-19-8(a), as amended, Grantor shall record this Environmental Covenant and any amendment or termination of the Environmental Covenant in every county in which any portion of the real property subject to this Environmental Covenant is located. Grantor agrees to record this Environmental Covenant within fifteen (15) days after the date of the final required signature upon this Environmental Covenant.
- O. **Effective Date.** The effective date of this Environmental Covenant shall be the date upon which the fully executed Environmental Covenant has been recorded, in accordance with Ala. Code §35-19-8(a), as amended.
- P. **Distribution of Environmental Covenant.** Within fifteen (15) days of filing this Environmental Covenant, the Grantor shall distribute a recorded and date stamped copy of the recorded Environmental Covenant in accordance with Ala. Code §35-19-7(a), as amended. However, the validity of this Environmental Covenant will not be affected by the failure to provide a copy of the Covenant as provided herein.
- Q. **ADEM References.** All references to ADEM shall include successor agencies, departments, divisions, or other successor entities.
- R. **Grantor References.** All references to the Grantor shall include successor agencies, departments, divisions, or other successor entities.
- S. **Other Applicable Party(ies).** All references to Other Applicable Party(ies) shall include successor agencies, departments, divisions, or other successor entities.

Property owner has caused this Environmental Covenant to be executed pursuant to The Alabama Uniform Environmental Covenants Act, on this ____ day of _____, 2021.

IN TESTIMONY WHEREOF, the parties have hereunto set their hands this the day and year first above written.

CITY OF FLORENCE

This Environmental Covenant is hereby approved by the City of Florence, Alabama this ____ day of _____, 2021.

By: _____

Andrew Betterton, Mayor
City of Florence

STATE OF ALABAMA)
)
COUNTY OF LAUDERDALE)

I, _____, a _____ in and for said County in said State or Commonwealth, hereby certify that _____, whose name as _____ [title] of _____ [Grantor] is signed to the foregoing conveyance and who is known to me, acknowledged before me on this day that, being informed of the contents of the conveyance, (s)he, as such officer and with full authority executed the same voluntarily for and as the act of said corporation.

Given under my hand this the ____ day of _____, 2021

Notary Public: _____

My Commission Expires: _____

ALABAMA DEPARTMENT OF ENVIRONMENTAL MANAGEMENT

This Environmental Covenant is hereby approved by the State of Alabama this ____ day of _____, 2021

By: _____

Stephen A. Cobb
Chief, Land Division
Alabama Department of Environmental Management

State of Alabama}

Montgomery, County}

I, the undersigned Notary Public in and for said County and State, hereby certify that Stephen A. Cobb, whose name as Chief, Land Division, Alabama Department of Environmental Management is signed to the foregoing conveyance, and who is known to me, acknowledged before me on this day that, being informed of the contents of the conveyance, he approved the same voluntarily on the day the same bears date and with full authority to do so.

Given under my hand and official seal this ____ day of _____, 2021

Notary Public

My Commission Expires: _____

STATE OF ALABAMA
COUNTY OF LAUDERDALE

I, _____, Judge of Probate of
Lauderdale County, do certify that the foregoing Environmental Covenant was lodged in
my office for record, and that I have recorded it, this ___ day of _____,
2021 in the Deed Recordation Book _____ on Page _____.

Judge of Probate

This instrument prepared by:

William T. Musgrove, III
City Attorney
City of Florence
110 W. College Street
Florence, Alabama 35630