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**RECORDED**

JUN 11 2001

Clerk of Superior Court

*Lola B. Jamaly*CLERK SUPERIOR COURT  
CLYNN COUNTY, GEORGIA**AFTER RECORDING RETURN TO:**Carol Geiger, Esq.  
Kilpatrick Stockton LLP  
1100 Peachtree Street, Suite 2800  
Atlanta, Georgia 30309-4530**DECLARATION OF RESTRICTIONS, COVENANTS AND EASEMENT**

THIS DECLARATION is made this 9<sup>th</sup> day of April 2001, by ATLANTA GAS LIGHT COMPANY, a Georgia corporation (hereinafter sometimes referred to as "Declarant").

**WITNESSETH:**

**WHEREAS**, Declarant owns the property described on Exhibit "A" hereto attached and made a part hereof (the "Property"); and

**WHEREAS**, the Property contains "hazardous substances" as defined under the Georgia Hazardous Site Response Act, O.C.G.A. §12-8-90, *et seq.*, and, accordingly, Declarant desires to restrict the use of the Property and grants to AGLC easements to go on, under, over and through the Property as provided herein.

**NOW, THEREFORE**, Declarant does hereby subject the Property to the covenants, restrictions, easements and rights hereinafter stated:

1. Definitions. For purposes of this Declaration, the following terms shall have the following meanings, unless the context requires otherwise:

"AGLC" shall mean Atlanta Gas Light Company, its successors and assigns.

"Director" shall mean the Director of EPD, as hereinafter defined.

"EPD" shall mean the Georgia Department of Natural Resources, Environmental Protection Division, as well as any successor state agency with responsibility for and jurisdiction over environmental matters.

"Hazardous Substances" shall have the same meaning as under HSRA, as hereinafter defined.

"HSRA" shall mean the Hazardous Site Response Act, O.C.G.A. § 12-8-90, *et seq.*

2. Restrictive Covenants. Declarant hereby prohibits the use of groundwater beneath the Property as a source of drinking water or for any other purpose that could result in human ingestion as defined in the Rules for HSRA, Rule 391-3-19-.02(2)(i), incorporated herein by reference, in effect at the time of this Declaration. Declarant hereby restricts the use of the Property to non-residential uses as defined in the Rules for HSRA in effect at the time of this Declaration. The foregoing are hereinafter collectively referred to as the "Restrictive Covenants."

3. Easement. Declarant hereby grants to AGLC, and its agents, employees, representatives and contractors, a nonexclusive permanent right, privilege and easement in, upon, under, across and through the Property, for purposes of further investigating, remediating, remedying or otherwise taking responsive action with respect to manufactured gas plant impacts, as identified in the Corrective Action Plan dated October 1999 on file with EPD. The foregoing is hereinafter referred to as the "Easement."

4. Improvements. Any and all improvements located in whole or in part on all or any portion of the Property, and the construction, operation, use and maintenance of the Property and such improvements, shall be subject to and shall comply with these Restrictive Covenants and Easement.

5. Covenants running with the land. Declarant acknowledges and agrees that the Restrictive Covenants and Easement are appurtenant to and run with the land, and shall be binding and enforceable against all future owners of the Property including Declarant, its successors and assigns, and any trustee appointed to manage the Property. Should a transfer or sale of the Property occur before such time as the Restrictive Covenants and Easement

have been amended or revoked then said Restrictive Covenants and Easement shall be binding on the transferee(s) or purchaser(s).

The Restrictive Covenant shall inure to the benefit of EPD, AGLC and their respective successors and assigns and shall be enforceable by the Director or his agents or assigns and AGLC or its successors and assigns in a court of competent jurisdiction. The Easement shall inure to the benefit of AGLC and its successors and assigns and shall be enforceable by AGLC, its successors and assigns in a court of competent jurisdiction. The Restrictive Covenants and Easement shall remain in full force and effect in accordance with O.C.G.A. § 44-5-60(c), unless and until the Director determines that the Property meets Type 1 or 2 Risk Reduction Standards, as defined in the Rules for Hazardous Site Response Chapter 391-3-19-.07.

6. Severability. In the event any one or more of the provisions contained in this Declaration shall for any reason be held to be invalid, illegal or unenforceable in any respect in a final ruling or judgment of a court of competent jurisdiction from which no appeal has been or can be taken, the remainder of the restrictions, covenants and easements shall not be affected thereby and each term, covenant, condition and provision hereof shall remain valid and enforceable to the fullest extent permitted by law.

7. HSRA Notice. This property has been listed on the state's hazardous site inventory and has been designated as needing corrective action due to the presence of hazardous wastes, hazardous constituents, or hazardous substances regulated under state law. Contact the property owner or the Georgia Environmental Protection Division for further information concerning this property. This notice is provided in compliance with the Georgia Hazardous Site Response Act.

8. General Provisions.

(a) Binding Effect. This Declaration shall be binding upon and enforceable against, and shall inure to the benefit of, the Declarant, AGLC and EPD and their respective heirs, legal representatives, successors and permitted assigns.

(b) Pronouns. Wherever appropriate in this Declaration, personal pronouns shall be deemed to include the other genders and the singular to include the plural.

(c) Headings. The use of headings, captions and numbers in this Declaration is solely for the convenience of identifying and indexing the various provisions in this Declaration and shall in no event be considered otherwise in construing or interpreting any provision in this Declaration.

(d) Non-Waiver. Failure by any party to complain of any action, non-action or breach of any other party shall not constitute a waiver of any aggrieved party's

rights hereunder. Waiver by any party of any right arising from any breach of any other party shall not constitute a waiver of any other right arising from a subsequent breach of the same obligation or for any other default, past, present or future.

(e) Time of Essence. Time is of the essence of this Declaration.

(f) Rights Cumulative. All rights, remedies, powers and privileges conferred under this Declaration on the parties shall be cumulative of and in addition to, but not restrictive of or in lieu of, those conferred by law.

(g) Applicable Law. This Declaration shall be governed by, construed under and interpreted and enforced in accordance with the laws of the State of Georgia.

[Remainder of page intentionally left blank.]

IN WITNESS WHEREOF, Declarant has signed and sealed this Declaration,  
all the day, month, and year first above written.

Signed, sealed and delivered  
in the presence of:

Rene H. McCrany  
Unofficial Witness  
Anna S. [Signature]  
Notary Public

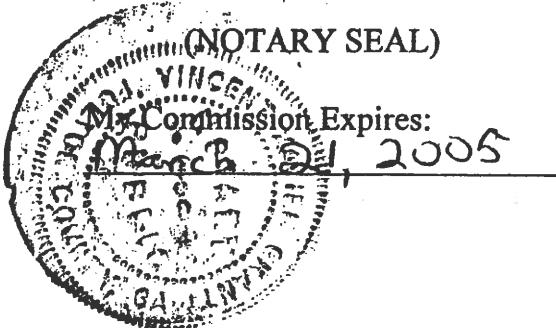
**DECLARANT:**  
**ATLANTA GAS LIGHT COMPANY,**  
a Georgia corporation

By: Paul R. Shlanta

Name: Paul R. Shlanta

Title: Senior Vice President

(CORPORATE SEAL)



**EXHIBIT "A"****LEGAL DESCRIPTION**

**ALL THAT TRACT OF LAND** lying and being in the City of Brunswick, in G.M.D. 26, Glynn County, Georgia, being more particularly described as follows:

**BEGINNING** at the intersection of the northerly line of Newcastle Street and the northerly line of "K" Street in said City; thence N 17° 21' 00" W for 55.00 feet to an iron pin set; thence N 72° 39' 00" E for 145.00 feet to a 1/2 inch iron pin found on the southwesterly line of a 15-foot alley; thence continuing along said southwesterly line of said 15-foot alley S 17° 21' 00" E for 70.00 feet to a 1/2 inch iron pin set on the northerly right-of-way line of "K" Street; thence continuing along said northerly right-of-way line of "K" Street S 72° 39' 00" W for 129.00 feet to a 1/2 inch iron pin set; thence N 64° 11' 51" W for 21.93 feet to the point of beginning; according to Survey for Atlanta Gas & Light Company, dated July 10, 2000, prepared by Shupe Surveying Company, P.C., and bearing the seal and certification of Gary R. Nevill, Georgia Registered Land Surveyor No. 2401.

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EXHIBIT "A," CONTINUED

All that tract or parcel of land lying, situated and being in that portion of the City of Brunswick, Glynn County, Georgia, commonly called "New Town", being portions of the lots numbered and designated as Lots Nos. 468, 469, 470, 471, 472, 473, 474, 475, 476, 477, 478, 479 and 480, as more fully described as follows:

Beginning at the intersection of the northeasterly right-of-way line of Newcastle Street and the southeasterly right-of-way line of "L" Street in said City; thence along the southeasterly right-of-way line of "L" Street N 72°39'00" E for 150.00 feet to a 1/2 inch iron pin set at the intersection of the southeasterly right-of-way line of "L" Street and the southwesterly side of a 15-foot alley; thence along said southwesterly side of the 15-foot alley S 17°21'00" E for 330.00 feet to a 1/2 inch iron pin set; thence S 72°39'00" W for 145.00 feet to a 1/2 inch iron pin set on the northeasterly right-of-way line of Newcastle Street; thence continue along said northeasterly right-of-way line of Newcastle Street N 17°21'00" W for 295.00 feet to a 1/2 inch iron pin set; thence continue along said right-of-way line of Newcastle Street S 72°39'00" W for 5 feet to a 1/2 inch iron pin set on the said right-of-way line of Newcastle Street; thence continue along said right-of-way line of Newcastle Street N 17°21'00" W for 35.00 feet to the place of beginning; all as more particularly shown on that certain survey for Atlanta Gas & Light Company, dated June 10, 2000, prepared by Shape Surveying Company, P.C., bearing the seal and certification of Gary R. Neville, Georgia Registered Land Surveyor No. 2401 dated November 13, 2000.

Less and except any property lying within the boundaries of any right-of-way.

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