

PROFESSIONAL SERVICES AGREEMENT

This Agreement is entered into this 15th day of Jan, 2008, by the Downtown Development Authority ("DDA") and Walsh Environmental Scientists and Engineers, LLC, ("Walsh"), collectively referred to as Parties, for the purpose of professional environmental services for the DDA to be provided by Walsh.

RECITALS.

The DDA desires to engage Walsh to provide services in connection with a non-intrusive tank investigation at 560 Colorado Avenue, Grand Junction, Colorado hereinafter referred to as "the Project."

The DDA is engaging Walsh to perform a non-intrusive tank investigation, sub-contractor oversight, regulatory compliance, and reporting at 560 Colorado Avenue, Grand Junction, Colorado.

For purposes of this Agreement, the DDA's representative will be John Shaver, Project Manager, whose address is City of Grand Junction, 250 North 5th Street, Grand Junction, Colorado 81501, and whose phone number is (970) 244-1508, and who will provide Walsh with required approvals and/or modifications within the general scope of services in this Agreement. Walsh's representative will be Robert Stockton, Walsh Environmental Scientists and Engineers, LLC, 535 Grand Avenue, Grand Junction, Colorado 81501-2790, phone number (970) 241-4636, who will be the primary point of contact for and regarding work on the Project.

1. SCOPE OF WORK.

Walsh will provide services for the Project in accordance with the following Scope of Services included in the attached Exhibit A which is incorporated by this reference as if fully set forth herein.

Walsh has submitted a proposal, cost estimate, and/or fee schedule to the DDA, a copy of which is attached hereto as Exhibit B and incorporated herein as if fully set forth.

Walsh agrees to provide the services set forth in the Scope of Services in Exhibit A for the DDA in accordance with regulations established by the Colorado Division of Oil and Public Safety (OPS). WALSH will notify the OPS of any tank removals and discovered release(s), perform the subsurface investigations, prepare a site characterization report based upon data collection according to OPS regulations, and submit report(s) to the DDA and OPS. The DDA may request or approve changes within the general scope of services in this Agreement. If such changes affect Walsh's cost of or time required for performance of the services, an equitable adjustment in fees to be paid Walsh may be made by an amendment to this Agreement, fully executed with signatures of the DDA's and Walsh's designated representatives.

Walsh shall assume all responsibility for the performance of all work hereunder whether or not subcontractors are involved. Walsh will specify in advance the subcontractors they intend to use

and what their functions will be. The DDA retains the right to inspect any phase and/or any part of Walsh's work pursuant to or under this Agreement, including visits to the site or to the contractors or subcontractors.

2. WARRANTY

Walsh warrants that the services to be rendered pursuant to this Agreement shall be performed in accordance with the standards customarily provided by an experienced and competent professional engineering and scientific organization rendering the same or similar services. Walsh warrants, for a period of one (1) year from the date of completion of work under this Agreement, that all such work shall conform with good, sound design, engineering practices, environmental practices, and any applicable data and specifications attached to or included or referenced in an applicable work order(s) and/or Scope of Services. Should any failure in this regard appear during any term of the warranty hereunder, Walsh shall, upon notification, revise, redesign, replace or redo, at the option of the Client, the engineering drawings, specifications of work, reports, or work at no cost to the DDA. Walsh's maximum liability to the DDA for corrective services shall not exceed 15% of the value of rendered services under this work order or an aggregate of \$10,000 for all orders hereunder, whichever is less.

Walsh shall, for the protection of the DDA, arrange for standard warranties from vendors and trade contractors with respect to permanent materials, equipment, machinery and construction. Such warranties shall extend for the period of time obtainable from the vendors or trade contractors. Walsh shall render reasonable assistance to Client for the purpose of enforcing these warranties.

3. RIGHT OF ENTRY

As appropriate, the DDA grants a right of periodic entry to Walsh, its agents, staff, consultants, contractors or subcontractors, for the purpose of performing all acts, studies and research pursuant to the Scope of Services and/or work orders thereunder, including but without limitation, the obtaining of samples, the performance of tests and evaluation, monitoring, measuring and other on-site work.

4. PAYMENT

The DDA shall pay Walsh for services rendered in accordance with the approved cost estimate or rate schedule identified in Exhibit B to this Agreement. The DDA will pay the full amount of invoice within thirty (30) days of the date of the invoice. Late payments will be subject to 1.5 percent interest per month from the due date until the full amount due is paid. Any invoices not paid within sixty (60) days of the date of the invoice may be considered by Walsh to be a breach of this Agreement and shall entitle Walsh to suspend or stop work, upon five (5) days written notice to the DDA.

Walsh shall maintain accurate accounting records of all reimbursable costs paid or incurred by Walsh in connection with the Scope of Services, and such records shall be made available to the DDA for inspection upon request.

5. COMPLIANCE WITH LAW AND NONDISCRIMINATION

Walsh agrees to comply with all applicable laws, rules, regulations, safety requirements and codes of the United States, the State of Colorado and local government now in effect or hereinafter enacted. This shall include without limitation laws prohibiting discrimination on the basis of race, color, religion, national origin, age, sex or handicap.

Walsh states and affirms that it has received no incentives, compensation, gifts or remuneration other than payment for services rendered, in connection with this Agreement.

6. GOVERNING LAW AND VENUE

This Agreement shall be governed by and construed under the laws of the State of Colorado (without regard to its conflict of laws rules). The Parties agree that any action pertaining to this Agreement, other than for collection of past due payments, shall be submitted to binding arbitration in accordance with the rules of the American Arbitration Association, before a panel of three arbitrators, exclusively in the County of Mesa, Colorado, and each party waives its right to change venue. In the event of any arbitration or other proceeding commenced to enforce any terms of this Agreement, or which arises out of or in connection with the performance of obligations or exercise of rights provided by this Agreement, the successful or prevailing party shall be entitled to recover reasonable attorneys' fees and other expenses incurred in connection with the arbitration or proceeding, in addition to any other relief to which it may be entitled.

7. WORKSITE HAZARDS

The DDA agrees to provide Walsh with information known to the DDA regarding potentially hazardous substances on the Property involved in the Project and to provide such information when possible prior to Walsh beginning work under this Agreement.

Walsh shall inform the DDA of potentially hazardous substances or conditions existing on the Property involved in the Project discovered by Walsh in the course of its work on behalf of the DDA, and shall provide reports to the State of the same as required by law.

8. INDEPENDENT CONTRACTOR STATUS

Walsh shall be for all purposes an independent contractor retained by the DDA to perform all work and service hereunder. Nothing in this Agreement is intended to nor shall create a relationship, express or implied, of employer-employee or principal-agent between the DDA and Walsh or between a Party and the employees, officers, agents, contractors or subcontractors of the other. In the event that the DDA retains other contractors or subcontractors to perform work on the Property or site, Walsh shall not be liable for the work prepared or performed by those other contractors or subcontractors.

9. TERMINATION

This Agreement may be terminated in whole or in part in writing by either party in the event of a default consisting of substantial failure by either party to fulfill its obligations under this Agreement through no fault of the terminating party; provided that the defaulting party is given written notice of default and a reasonable opportunity to cure the default. This Agreement may be terminated in whole or in part in writing by the DDA for its convenience, provided that Walsh is given not less than ten (10) days written notice of intent to terminate. In the event of termination of this Agreement, the DDA shall pay Walsh all reimbursable costs which are due and unpaid as of the effective date of termination and, in addition, those reimbursable costs incurred in good faith by Walsh after the effective date of termination in connection with demobilization of equipment and personnel and subcontract and purchase order settlements if any. Upon receipt of termination notice by the DDA, Walsh shall promptly discontinue all work unless the notice directs otherwise. Walsh shall deliver to the DDA all data, drawings, specifications, reports, summaries and such other information and materials as may have been developed or accumulated by Walsh in performing the work hereunder, whether completed or in progress. The rights and remedies of the DDA and Walsh provided in this article are in addition to any other rights and remedies provided by law or equity, or otherwise provided in this Agreement.

10. DOCUMENTS.

All documents, including but not limited to, reports, drawings, specifications, boring logs, field notes, laboratory test data, calculations and estimates prepared by Walsh as part of the service pursuant to this Agreement, shall become the property of the DDA. Walsh may retain copies of all of these, but shall treat them as confidential.

11. CONFIDENTIALITY.

Walsh shall retain in confidence and not improperly disclose to third parties, or use for the benefit of anyone other than the DDA, without written consent of the DDA or as may be required by court order, any confidential information compiled or developed during the course of any work performed under this Agreement, as amended.

12. LIABILITY AND INDEMNIFICATION.

The DDA shall indemnify, defend and save harmless Walsh from and against all demands, suits, judgments, expense, attorney's fees and losses for or in connection with bodily injury (including death) to persons or damage to property arising out of or in connection with the negligent performance of the DDA, its agents or employees, arising out of this Agreement. Walsh shall indemnify, defend and save harmless the DDA from and against all demands, suits, judgments, expense, attorney's fees and losses for or in connection with bodily injury (including death) to persons or damage to property arising out of or in connection with the negligent performance of Walsh, its agents or employees, arising out of this Agreement

The parties recognize that certain federal statutes related to hazardous waste work provide that individuals and firms may be held liable for damages and claims related to such work under a doctrine of joint and several strict liability. It is the intention of the parties that Walsh not be exposed to any hazardous waste liability arising out of site contamination not created or caused or worsened by Walsh, the activities of others, including but not limited to the DDA, or for any liabilities which may arise from the work performed by Walsh with due care as provided hereunder. Accordingly, for purposes of this Agreement only, and except as provided under the paragraph above regarding the negligence of Walsh, to the extent allowed under the law the DDA shall reimburse Walsh for or otherwise indemnify, defend and save Walsh harmless from any and all demands, suits, judgments, expenses, attorney's fees and losses arising out of or in connection with bodily injury (including death) to persons or damage to property which may arise from the presence or origination of hazardous substances, pollutants or contaminants on the Property, irrespective of whether such materials were generated or introduced before or after execution of this Agreement and irrespective of whether the DDA was aware of or directly involved in the generation or introduction of such materials.

Walsh shall not be considered the generator of any hazardous substances, pollutants or contaminants encountered or handled in the performance hereunder.

Neither party shall have any liability to the other for loss of product, loss of profit, loss of use or any other indirect, incidental, special or consequential damages, whether brought on an action for breach of contract warranty, tort or strict liability, and irrespective of whether caused or allegedly caused by either party's negligence.

13. WAIVER.

Any failure of a Party to require strict performance of a portion of this Agreement shall not constitute a waiver of that Party's right to require strict performance of this Agreement.

14. CONFLICT OF INTEREST

As a full-service environmental services firm, Walsh provides services to clients in the public and private sectors, and to regulatory agencies and the regulated communities. In some cases there is a potential for perceived or real conflicts of interest to occur. In order to prevent such conflicts to interest, and protect the confidentiality of client information, Walsh has provided for certain procedures to be followed by Walsh personnel, which procedures are available for the DDA's review. By signing this Agreement, the DDA waives the right to file any claims, suits or judgments against Walsh or its employees for any perceived or real organizational or personal conflicts of interest. The DDA does not, however, waive any rights to make claims arising out of actual wrongful or negligent disclosures of confidential information to third parties not otherwise entitled to them by law.

15. INSURANCE

Walsh shall procure and continuously maintain property, casualty and liability insurance as listed below. At the DDA's request, Walsh will deliver to the DDA certificates of insurance. The

insurance coverages described herein shall include a provision that the DDA must receive thirty (30) days notice in the event of cancellation.

- Workers' Compensation Insurance in compliance with applicable state and federal law.
- Commercial General Liability, \$3,000,000
- Errors & Omission/Pollution Liability, \$1,000,000
- Automobile Liability Insurance, combined single limit, \$1,000,000
- Excess (umbrella) Liability, \$10,000,000

16. FORCE MAJEURE

Walsh is not responsible for damages or delay in performance cause by acts of God, strikes, lockouts, accidents, or other events beyond the control of Walsh.

17. SUCCESSORS AND ASSIGNS

This Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective successors and assigns. Walsh shall not assign this Agreement or its rights or obligations hereunder without prior written consent of the DDA.

18. NO THIRD PARTY BENEFICIARY

There are no express, intended or implied third-party beneficiaries to this Agreement. The Agreement may only be enforced by the Parties.

19. SEVERABILITY

It is understood and agreed by the parties hereto that if any part, term or provision of this Agreement is held illegal or in conflict with any law of the State of Colorado or the United States or by any court having jurisdiction, the validity of the remaining portions or provisions shall not be affected and the rights and obligations of the parties shall be construed and enforced as if the Agreement did not contain the particular part, term, or provision so invalidated.

20. INTEGRATION

This Agreement and the Exhibits hereto which are incorporated herein constitute the entire agreement between the parties and cannot be changed except by a written instrument signed by all parties hereto or as otherwise specifically provided herein.

22. TIME

The Parties agree that in the performance of the services hereunder time is of the essence.

23. NOTICES

Notices concerning this Agreement, notices of alleged or actual violations of the terms or provisions of this Agreement, and other notices of similar importance shall be made in writing by Walsh to the DDA at:

Office of the City Attorney
City of Grand Junction
250 North 5th Street
Grand Junction CO 81501

and by the DDA to Walsh at:

Robert A. Stockton
Walsh Environmental Scientists and Engineers, LLC
535 Grand Ave
Grand Junction, CO 81501-2790

with a copy to:

Walsh Environmental Scientists and Engineers, LLC
4888 Pearl East Circle, Suite 108
Boulder, CO 80301-2475

This Agreement is EXECUTED THIS 15th day of Jan, 2008.

~~CITY OF GRAND JUNCTION~~

By: [Signature] [Signature] 11/13/08
Signature Printed name & Title Date

WALSH ENVIRONMENTAL SCIENTISTS AND ENGINEERS, LLC

By: [Signature] Robert A. Stockton, PM 1-15-2008
Signature Printed name & Title Date

Exhibit A

**Scope of Services
not provided to City Clerk's Office**