

DOE92GJP

TYPE OF RECORD: PERMANENT

CATEGORY OF RECORD: **UMTRA**

PURPOSE: VICINITY PROPERTY REMEDIAL ACTION
AGREEMENT

NAME OF AGENCY OR CONTRACTOR: U.S. DEPARTMENT OF ENERGY

STREET ADDRESS/PARCEL/SUBDIVISION: GRAND JUNCTION POLICE
STATION - 314 SOUTH 6TH STREET

PARCEL No.: 2945-143-31-948

PROJECT: MILL TAILINGS REMOVAL

CITY DEPARTMENT: PUBLIC WORKS

YEAR: 1992

EXPIRATION DATE: NONE

DESTRUCTION DATE: NONE

Vicinity Property

DOE Agreement No.: DE-R004-92AL64690
DOE/State of Colorado, Cooperative
Agreement No.: DE-FC04-81AL16257
DOE ID NUMBER: GJ-00429-CC

RECEIVED

APR 8 1992

Colo. Dept. of Health
Grand Jct. Office

VICINITY PROPERTY
REMEDIAL ACTION AGREEMENT

THIS AGREEMENT, by and among the UNITED STATES OF AMERICA (hereinafter referred to as the "Government"), represented by the United States Department of Energy (hereinafter referred to as "DOE"), the STATE OF COLORADO (hereinafter referred to as the "STATE"), represented by the COLORADO DEPARTMENT OF HEALTH (hereinafter referred to as the "CDH") and CITY OF GRAND JUNCTION (hereinafter referred to as the "Owner"),

WITNESSETH THAT:

WHEREAS, pursuant to Title I of the Uranium Mill Tailings Radiation Control Act of 1978, Public Law 95-604 (hereinafter referred to as the "Act"), the Government, represented by DOE, and the State have entered into a cooperative agreement (hereinafter referred to as "Cooperative Agreement") in order to implement a jointly-conducted program of assessment and remedial action at that certain DOE-designated processing site in Mesa County, Colorado, known as the Climax Mill Site, together with associated vicinity properties; and

WHEREAS, the Owner owns and controls a parcel of real property (hereinafter referred to as the "Vicinity Property") described in the map attached hereto as Appendix A; and

WHEREAS, DOE has designated the Vicinity Property for remedial action and the Owner has agreed to such remedial action under the terms set forth below:

NOW THEREFORE, it is agreed that:

1. Right of Entry, Inspection and Right to Restrict Access.

- a. The Owner owns and controls the Vicinity Property and hereby grants to the State and to DOE, their authorized representatives, contractors and subcontractors, without payment of any land use charge: (a) right of entry in, across, and over the Vicinity Property to perform remedial action on the Vicinity Property and to take soil samples, perform radiologic surveys, and to perform or take any other reasonable action consistent with the expeditious performance and evaluation of such remedial action; and (b) the right to restrict access to, and post appropriate warning signs on, such parts of the Vicinity Property, as may be necessary, in order to facilitate remedial action and protect the health and assure the safety of the public: PROVIDED, that such rights are subject to existing easements for public roads and highways, public utilities, railroads and pipelines.

- b. The Owner further grants to the State and to the Government, including DOE, the Nuclear Regulatory Commission, and the Environmental Protection Agency, and their authorized representatives, the right to periodically enter upon the Vicinity Property at any time in order to inspect the Vicinity Property for the purposes of carrying out this Agreement and enforcing the Act and any rules and regulations promulgated under the Act.
2. Title to Residual Radioactive Materials. The Owner hereby grants to DOE all right, title and interest in all residual radioactive materials, equipment, vegetation, improvements and other property permanently removed from the Vicinity Property by the State or DOE, their authorized representatives, agents, contractors and subcontractors, in performing remedial action upon the Vicinity Property.
3. Remedial Action. The remedial action to be performed shall be that which is described in the Vicinity Property Remedial Action Plan attached hereto as Appendix B and incorporated herein by reference, subject to such changes deemed necessary by the State and DOE during the performance of such remedial action. The Owner shall be informed of all such changes. The remedial action contemplated herein shall be performed by the DOE, its authorized representatives, agents, contractors and subcontractors. The Owner shall not be held liable or have a duty to pay for any of the remedial action work performed hereunder by DOE, its authorized representatives, contractors and subcontractors.
4. Restoration. DOE shall be responsible for loss or destruction of, or damage to, the Owner's real and personal property caused by the activities of DOE, its authorized representatives, contractors and subcontractors, in exercising any of the rights granted in this Agreement: PROVIDED, that such responsibility shall be limited to restoration of such real and personal property to a condition reasonably comparable to its condition immediately prior to the performance of remedial action by techniques of backfilling, seeding, sodding, landscaping, rebuilding, repair or replacements indicated in the Vicinity Property Remedial Action Plan (Appendix B), and such other methods as may be agreed to by the State, DOE, and the Owner during the course of remedial action under this Agreement.

The parties acknowledge that use of the phrase "condition reasonably comparable to its condition immediately prior to the performance of remedial action" contemplates that the work performed by the DOE through its contractors or subcontractors may include the use of alternate materials or variations due to the use of new materials.

PROVIDED FURTHER, that to the extent that latent or patent defects or out-of-code conditions exist on the Vicinity Property, and to the extent that said defects or conditions were either pre-existing or were not the subject or result of the remedial action, DOE shall not be responsible for the correction of, or any costs associated with the correction of, such defects or conditions except to the extent DOE, in its sole discretion, determines that the correction of such defects or conditions would facilitate the performance of remedial action on the Vicinity Property.

5. Release of Liability/Hold Harmless. Subject to the provision of Paragraph 4, Restoration, the Owner, on behalf of himself, his heirs, successors and assigns, hereby: (1) releases the State and the Government from, and holds the State and Government harmless against, any liability or claim thereof by the Owner on behalf of the Owner, his heirs, successors or assigns arising out of the performance of any remedial action on the Vicinity Property; and (2) releases contractors and subcontractors of the Government, and holds contractors and subcontractors of the Government harmless against, any liability or claim thereof by the Owner on behalf of the Owner, his heirs, successors or assigns arising out of the performance of any remedial action on the Vicinity Property, if the Government, by virtue of its contractual relationship, would be ultimately financially responsible for such liability or claim. For purposes of this Agreement the term "subcontractors" includes all tiers of subcontracts.

6. State or Government-Owned Property. Except for title to personal property brought to the Vicinity Property by DOE or the State in order to restore the Vicinity Property pursuant to the Vicinity Property Remedial Action Plan (Appendix B) or Paragraph 4, Restoration, title to all personal property brought to the Vicinity Property by the State or the Government, or their authorized representatives, contractors or subcontractors, during the term of this Agreement shall remain in the State or the Government, as appropriate, and such title shall not be affected by incorporation or attachment thereof to any property not owned by the State or the Government, nor shall personal property, or any part thereof, become a fixture or lose its identity as personalty by reason of affixation to any realty. The Owner shall not be liable for any loss of or damage to such State or Government personal property, or for expenses incidental to such loss or damage, except that the Owner shall be responsible for any such loss or damage (including expenses incidental thereto) which results from the willful misconduct or lack of good faith of the Owner.

7. Permits and Licenses. The State and DOE, their authorized representatives, contractors and subcontractors, shall obtain all necessary permits or licenses and abide by all applicable Government, State, and Local laws, regulations and ordinances.
8. Lessee/Sublessee Consent. If the Vicinity Property is subject to any leases or subleases, the Owner shall obtain the consent of the lessees and sublessees, as appropriate, to enter into this Agreement. Such consent shall be evidenced by the signatures of the lessees and sublessees in the space provided on the Lessee/Sublessee Consent Page of the Agreement. Such consent shall constitute the unconditional agreement, by each lessee or sublessee, with all terms and conditions of this Agreement, including but not limited to: the terms and conditions regarding right of entry and inspection, right to restrict access, transfer of title to residual radioactive materials and other property permanently removed from the Vicinity Property, title to State or Government-owned property, notice to subsequent purchasers, term and termination, and appropriations; Appendix A; and Appendix B. By such consent, each lessee or sublessee, on behalf of himself, his heirs, successors and assigns, hereby: (1) releases the State and the Government from, and holds the State and Government harmless against, any liability or claim thereof by the lessee or sublessee on behalf of the lessee or sublessee, his heirs, successors or assigns arising out of the performance of any remedial action on the Vicinity Property; and (2) releases contractors and subcontractors of the Government, and holds contractors and subcontractors of the Government harmless against, any liability or claim thereof by the lessee or sublessee on behalf of the lessee or sublessee, his heirs, successors or assigns arising out of the performance of any remedial action on the Vicinity Property, if the Government, by virtue of its contractual relationship, would be ultimately financially responsible for such liability or claim. For purposes of this Agreement, the term "subcontractors" includes all tiers of subcontracts.
9. Binding Effect. The provisions of this Agreement shall be binding upon and shall inure to the benefit of the successors and assigns of the Owner. Except to the extent lessees and sublessees have consented to this Agreement pursuant to Paragraph 8, Lessee/Sublessee Consent, the Owner shall: (1) notify the State Site Representative or the Contracting Officer as designated in the signature block below, if the Vicinity Property is, or at any time during the term of this Agreement should become, leased, sold, or otherwise transferred to a party other than the Owner; and (2) give written notice to any purchaser, lessee, or transferee of the applicability of the rights of the State and the Government contained in this Agreement when such purchase, lease, or transfer takes place during the term of this Agreement.

10. Notice to Subsequent Purchasers. The State shall take such action as may be necessary, pursuant to DOE regulations and with the informed consent of the Owner by virtue of his or her execution of this Agreement, to assure that any person who purchases the Vicinity Property shall be notified, through the public land records, prior to the purchase, of the nature and extent of residual radioactive materials removed from the Vicinity Property, including the condition of the Vicinity Property after such action.
11. Covenant Against Contingent Fees. The Owner warrants that no person or selling agency has been employed or retained to solicit or secure this Agreement upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, except bona fide employees or bona fide established commercial or selling agencies maintained by the Owner for the purpose of securing business. For breach or violation of this warranty, DOE and the State shall have the right to annul this Agreement without liability or in its discretion to recover from the Owner, the full amount of such commission, percentage, brokerage, or contingent fee.
12. Officials Not to Benefit. No member of or delegate to Congress, or resident commissioner, shall be admitted to any share or part of this Agreement, or to any benefit that may arise therefrom; but this provision shall not be construed to extend to this Agreement if made with a corporation for its general benefit.
13. Health and Safety. The State and the DOE, their authorized representatives, contractors and subcontractors, shall use their best efforts to protect the health and assure the safety of the public during performance of remedial action under this Agreement.
14. Term and Termination
 - a. The term of this Agreement shall commence on the effective date hereof and shall continue, unless sooner terminated hereunder, until the remedial action upon the Vicinity Property is completed and certification by DOE, through radiologic measurements deemed appropriate by DOE, that the Vicinity Property meets the applicable radiation standards promulgated by the U. S. Environmental Protection Agency (40 CFR Part 192) for the protection of the public health, safety and environment.

- b. The State and DOE may terminate this Agreement at any time and for any reason, and such termination shall be effected by delivery, by the State or DOE, or both, to the Owner of a Notice of Termination specifying the reason for the termination and the date upon which such termination becomes effective: PROVIDED, that this Agreement shall not be so terminated until such time as the State and DOE restore the Vicinity Property to a condition reasonably comparable to its condition immediately prior to the performance of remedial action thereon under this Agreement.
15. Appropriations and Expenditures. To the extent that provisions of this Agreement call for the expenditure of appropriated funds in fiscal years subsequent to the current fiscal year, such provisions shall be subject to the availability of funds, appropriated by both Congress and the State, which may be legally expended for such purposes.
16. Effective Date. The effective date of this agreement shall be the date of execution by the State of Colorado, the DOE, and the Owner, whichever date is the latest.
17. Owner Responsibility. With respect to the work performed under this Agreement, except as to hidden or latent defects, the Owner shall have a period of seven (7) calendar days after completion of the Final Inspection and Approval to submit a written objection to the DOE designating those portions of the completed work which the Owner believes are not in compliance with this Agreement. Resolution of the written objection, or failure to submit a timely written objection, shall be conclusively deemed as a waiver of defects in the performance of the work, except for latent or hidden defects. The effective date for any and all warranties that DOE may enforce for the benefit of the Owner, under Paragraph 18 hereof, shall be the date of the Final Inspection and Approval.
18. DOE Responsibility. The Government, for the benefit of the Owner, shall use its best efforts to enforce any warranties, expressed or implied, which the Government or its prime contractors are entitled to in connection with the work performed under this Agreement caused by omission of materials, defective materials, poor or improper workmanship.

19. Relocation Assistance.

- a. The parties estimate that the remedial action contemplated for the Vicinity Property will take approximately 12 months to complete and acknowledge that in order to facilitate such remedial action the Owner must vacate the Vicinity Property and temporarily assume residence at another location. The Owner agrees to vacate the Vicinity Property prior to commencement of remedial action at the Vicinity Property through completion of remedial action or earlier termination of this Agreement. The Owner shall not rent, lease, or otherwise grant any right of entry, occupancy, use or possession of the Vicinity Property during the period of remedial action except for any such grant made by this Agreement. This Agreement shall not affect the Owner's responsibility to make any payments associated with any mortgage, deed of trust, or other security instrument associated with the Vicinity Property or to pay any tax assessments or levies on the Vicinity Property. The Owner agrees to maintain insurance on the Vicinity Property during the course of remedial action.
- b. In consideration of the Owner's agreements in subparagraph a. of this Paragraph 19., DOE shall cause its prime remedial action contractor, Chem-Nuclear Geotech, Inc. (Geotech), to:
 - (1) provide to the Owner, at no cost to the Owner, a suitable building within reasonable proximity to the Vicinity Property and comparable to the building on the Vicinity Property in physical size, amenities, and apparent physical condition;
 - (2) relocate, at no cost to the Owner, the Owner's furnishings and items of property to and from the comparable building, provided that Geotech shall separately inventory property moved and property left on the Vicinity Property and the Owner shall indicate his agreement with said inventories prior to relocation from the Vicinity Property;
 - (3) reimburse the Owner for any reasonable incidental expense associated with insurance against loss or damage to the Owner's furnishings and items of property while in use at the comparable building; and


- (4) arrange and pay for utility transfers or hook-ups in connection with the Owner's use of the comparable building as follows: water, sewer, gas, electricity, and telephone. The parties estimate that relocation of the Owner's furnishings and property will require approximately fourteen days for the moves out of and back to the Vicinity Property. With respect to the cost of utilities at the Vicinity Property and at the comparable building, the parties agree that: (1) the Owner shall maintain his current utility accounts for water, sewer, gas and electricity at the Vicinity Property; (2) DOE shall make use of the water, sewer, gas and electric utilities at the Vicinity Property in the course of remedial action and shall cause Geotech to reimburse the Owner for any costs of such utilities for the period of remedial action; and (3) the Owner shall pay either Geotech or the appropriate utility company for any utilities used by the Owner at the comparable building during the Owner's occupancy of such building.
- c. Except for the compensation or other consideration expressly provided for in subparagraph b. of this Paragraph 19., the Owner releases the Government, the State and Geotech of, and holds the Government, the State, and Geotech harmless against, any claim by the Owner or any third party, for compensation, loss or damage in connection with or arising out of the temporary relocation of the Owner from the Vicinity Property or interruption of any business activities that may have been conducted at the Vicinity Property.
20. Appendices. The following Appendices are attached to and made a part of this Agreement:
- Appendix A - Vicinity Property Map and Legal Description;
Appendix B - Vicinity Property Remedial Action Plan

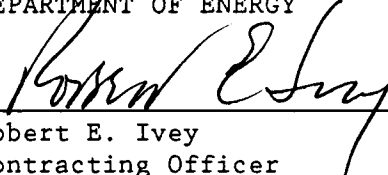
DOE Agreement No.: DE-R004-92AL64690
DOE/State of Colorado, Cooperative
Agreement No.: DE-FC04-81AL16257
DOE ID NUMBER: GJ-00429-CC

IN WITNESS WHEREOF, the parties hereto have executed this Agreement in several counterparts.

THE STATE OF COLORADO
Department of Health

THE UNITED STATES OF AMERICA
U. S. DEPARTMENT OF ENERGY

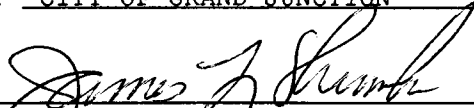
By: 
G. A. Franz III
Hazardous Materials & Waste
Management Division
Colorado Department of Health

By: 
Robert E. Ivey
Contracting Officer
P. O. Box 2567
Grand Junction, CO 81502

Date: 4-13-92

Date: 3/31/92

OWNER: CITY OF GRAND JUNCTION

By: 
to Mark K. Achen, City Manager
250 North Fifth Street
Grand Junction, Colorado 81502

Date: 4/15/92

DOE Agreement No.: DE-R004-92AL64690
DOE/State of Colorado, Cooperative
Agreement No.: DE-FC04-81AL16257
DOE ID NUMBER: GJ-00429-CC

APPENDIX A

VICINITY PROPERTY MAP
AND
LEGAL DESCRIPTION

Street Address: 314 South Sixth Street, Grand Junction, Colorado

Legal Description: Lots 1 to 10 inclusive, Block 138, City of Grand Junction, and that portion of the vacated alley on the east as per Ordinance No. 1142, Mesa County, Colorado.

Vicinity Property Map: Refer to the following drawing(s) attached to this Agreement and incorporated herein by reference:
3-D00429-F1, 3-D00429-F2, 3-D00429-A11, 3-D00429-A12,
3-D00429-A13, 3-D00429-A14, 3-D00429-A15, 3-D00429-A16,
3-D00429-A21, 3-D00429-A22, 3-D00429-A23, 3-D00429-A24,
3-D00429-A25, 3-D00429-A26, 3-D00429-A27, 3-D00429-A28,
3-D00429-A29, 3-D00429-A30, 3-D00429-A31, 3-D00429-A32,
3-D00429-A33, 3-D00429-A34, 3-D00429-A35, 3-D00429-A41,
3-D00429-A42, 3-D00429-A51, 3-D00429-A52, 3-D00429-A53,
3-D00429-A61, 3-D00429-A62, 3-D00429-A63, 3-D00429-A64,
3-D00429-A65, 3-D00429-A66, 3-D00429-A67, 3-D00429-A68,
3-D00429-A71, 3-D00429-A72, 3-D00429-A73, 3-D00429-A81,
3-D00429-A82, 3-D00429-A91, 3-D00429-A98, 3-D00429-S1,
3-D00429-S2, 3-D00429-S3, 3-D00429-S4, 3-D00429-S5,
3-D00429-S6, 3-D00429-S7, 3-D00429-S8, 3-D00429-S9,
3-D00429-S10, 3-D00429-M1, 3-D00429-M2, 3-D00429-M3,
3-D00429-M4, 3-D00429-M5, 3-D00429-M6, 3-D00429-P1,
3-D00429-P2, 3-D00429-P3, 3-D00429-P4, 3-D00429-FP1,
3-D00429-MP1, 3-D00429-ES1, 3-D00429-E1, 3-D00429-E2,
3-D00429-E3, 3-D00429-E4, 3-D00429-E5, 3-D00429-E6,
3-D00429-E7, 3-D00429-E8, 3-D00429-E9, 3-D00429-E10,
3-D00429-E11, and 3-D00429-E12.

APPENDIX B

VICINITY PROPERTY
REMEDIAL ACTION PLAN

Surveys have shown that residual radioactive materials exist on the Vicinity Property. In order to meet the general health and environmental standards promulgated by the U.S. Environmental Protection Agency (EPA) at 40 CFR 192, it will be necessary to remove the residual radioactive materials and, as may be required, such plantings and property improvements on the Vicinity Property within the shaded areas as shown in Appendix A. The shaded areas represent the DOE estimate of the extent of residual radioactive materials on the property. The exact amount of material will be determined during the remedial action.

Following removal of the residual radioactive materials and verification by the DOE that the Vicinity Property meets the EPA Standards, the Vicinity Property will be restored to a condition reasonably comparable to its condition immediately prior to the performance of remedial action. Best efforts will be made to minimize disruptions and inconveniences to the Owner.

The following sequence of remedial action operations is anticipated for this Vicinity Property:

- A. Radiologic measurements to establish and mark the areas of residual radioactive materials to guide the excavation.
- B. Photography of existing property conditions for verification during restoration work.
- C. Removal of personal property items from the affected areas for storage by owner or by DOE in a non-affected area during the remedial action.
- D. Installation of a temporary safety/security fence around the excavation site where required.
- E. Removal and disposal as required from the affected areas as shown in the following: Drawing No.: 3-D00429-F1, 3-D00429-F2, 3-D00429-A11, 3-D00429-A12, 3-D00429-A13, 3-D00429-A14, 3-D00429-A15, 3-D00429-A16, 3-D00429-A21, 3-D00429-A22, 3-D00429-A23, 3-D00429-A24, 3-D00429-A25, 3-D00429-A26, 3-D00429-A27, 3-D00429-A28, 3-D00429-A29, 3-D00429-A30, 3-D00429-A31, 3-D00429-A32, 3-D00429-A33, 3-D00429-A34, 3-D00429-A35, 3-D00429-A41, 3-D00429-A42, 3-D00429-A51, 3-D00429-A52, 3-D00429-A53, 3-D00429-A61, 3-D00429-A62, 3-D00429-A63, 3-D00429-A64, 3-D00429-A65, 3-D00429-A66, 3-D00429-A67, 3-D00429-A68, 3-D00429-A71, 3-D00429-A72, 3-D00429-A73, 3-D00429-A81, 3-D00429-A82, 3-D00429-A91.

3-D00429-A98, 3-D00429-S1, 3-D00429-S2, 3-D00429-S3, 3-D00429-S4,
3-D00429-S5, 3-D00429-S6, 3-D00429-S7, 3-D00429-S8, 3-D00429-S9,
3-D00429-S10, 3-D00429-M1, 3-D00429-M2, 3-D00429-M3, 3-D00429-M4,
3-D00429-M5, 3-D00429-M6, 3-D00429-P1, 3-D00429-P2, 3-D00429-P3,
3-D00429-P4, 3-D00429-FP1, 3-D00429-MP1, 3-D00429-ES1, 3-D00429-E1,
3-D00429-E2, 3-D00429-E3, 3-D00429-E4, 3-D00429-E5, 3-D00429-E6,
3-D00429-E7, 3-D00429-E8, 3-D00429-E9, 3-D00429-E10, 3-D00429-E11,
and 3-D00429-E12.

- F. Excavation of soil from the affected areas. Dust control measures will be used during excavation and loading in order to minimize airborne dispersal of residual radioactive materials as well as dust. Continuous radiologic monitoring of the excavated surface will be performed in order to determine when sufficient material has been removed.

Covered dump trucks will be used to transport the residual radioactive materials from the Vicinity Property to the State of Colorado Tailings Repository. Underpinning of building foundations will be performed where necessary due to excavation.

- G. During the course of design engineering, the Owner expressed a desire to incorporate construction activities outside the scope of the remedial action program. Because the desired construction activities are so thoroughly integrated into the remedial action reconstruction activities, the DOE has agreed to incorporate the desired construction activities subject to the Owner providing funds to the DOE, through its prime contractor, in the total amount of \$161,957 prior to the award of the remedial action subcontract. In the event the Owner fails to provide the \$161,957 in time for the DOE to effect a timely subcontract for remedial action, the property will be reconstructed to its present configuration with the exception of the jail area which will be reconstructed to a roughed in general use configuration as shown on the drawings identified in Appendix A. The Owner agrees that any changes or modifications to the project which are outside the scope of the project as designed, may create an additional financial liability for the Owner.

- H. Further, to facilitate administration of the project incorporating the Owner's desired construction activities, the parties agree that the DOE shall be responsible for all construction documents and the correction of any design deficiencies. The parties further agree that the Owner shall be responsible for and hold DOE harmless for, any warranty issues which may arise from the performance of the remedial action reconstruction activities as well as the Owner's desired construction activities. The Owner and the DOE agree to cooperate in determining any design or warranty liabilities.

- I. Prior to or during the course of remedial action at the Vicinity Property, DOE and the State may determine that any resident of the Vicinity Property is entitled to relocation assistance payments. Such relocation assistance payments in support of said residents removing themselves from the Vicinity Property during all or part of the remedial action activities thereon may be used for temporary sleeping accommodations, meals, and other daily living expenses at a location other than the Vicinity Property. Entitlement of these relocation assistance payments will be in accordance with the following schedule:
1. Per Diem as follows: None
 2. Refer to Paragraph 19 of the Remedial Action Agreement for Relocation Assistance.
- J. Radiologic sampling and analysis of the site will be performed by DOE in order to certify that the uranium mill tailings or other residual radioactive materials have been removed from the Vicinity Property in accordance with the EPA Standards.
- K. Restoration of any utility service lines disturbed during remedial action and inspection to assure that they function properly as well as meet local code requirements.
- L. Backfilling of the affected areas to their original grades prior to the start of fixture replacement and landscaping where required.
- M. Re-establishment of interior and exterior concrete work, such as the sidewalks, steps, drive, slabs, patio, and walls which were removed by the remedial action.
- N. Importing and finish grading of a minimum of twelve (12) inches of topsoil in those areas to be landscaped except in those cases where remedial excavation is shallower.
- O. Trees located within the areas of remedial action shall be considered as residual radioactive material and shall be removed and replaced with trees of like species, in sizes normally available from local nurseries. The replacement trees shall not exceed the sizes of the trees removed. In the event that the Owner wishes the trees to remain, an attempt will be made to save the trees by hand excavation. HOWEVER, the DOE, State, their contractors, and subcontractors shall not be liable in any manner for consequences to the trees or consequential damages occasioned by reason of attempts to save the trees and meet the EPA standards. An initial attempt to save the trees will be made by excavating to a six-inch depth within the safe working radius as determined by one foot of radius for each one inch

of radius of the trunk measured at six inches above ground level. If the initial attempt to save the trees in this manner does not result in remedial action which meets the EPA standards, the trees will be removed and replaced as stated above, or if the Owner still wishes for the trees to remain, further hand excavation shall be performed to the extent required to meet the EPA standards.

- P. Landscaping of the property to a condition as closely resembling the conditions prior to beginning remedial action as possible. Lawns will be replaced with sod.
- Q. Re-establishment of any permanent fencing removed during cleanup work.
- R. Return or replacement of property items removed during the course of remedial action.
- S. Removal of temporary safety/security fencing, if installed.
- T. Final inspection and approval (Owner will be included).

SC040892
G00429RA:POLSTA:DZ
REV030290

Copies to: *Public Chief*
Robt. Evers
Finance Dept.
Chamberlin
Shaver } 11-4-91

A G R E E M E N T

THIS AGREEMENT, made and entered into this ^{4th} day of ~~October~~ ^{November}, 1991, by and between the CITY OF GRAND JUNCTION, a municipal corporation of the State of Colorado, hereinafter referred to as the CITY and CHAMBERLIN ARCHITECTS P.C., a Professional Corporation, hereinafter referred to as ARCHITECT;

WHEREAS, the City owns, operates and maintains municipal police operations and facilities; and

WHEREAS, the City is participating in the Uranium Mill Tailings Remediation Project to remove tailings from in, under and around the police station, hereinafter referred to as station or police station; and

WHEREAS, the City desires to retain a professional architect to design the Project defined in Exhibit A which is attached hereto and incorporated herein; and

WHEREAS, the City has retained a Management Support Consultant which will administer and review the Architect's work, will coordinate the Architect's work with the City's other consultants and contractors and which will be responsible for integrating the Architect's work into a construction schedule and project management plan; and

WHEREAS, the Architect represents that it is qualified, ready, willing and able to perform the services set forth in this agreement;

NOW, THEREFORE, for and in consideration of the premises and other good and valuable consideration, the parties hereto agree as follows:

1. DEFINITIONS:

ARCHITECT'S SCOPE OF WORK - All of the work which the Architect is required to perform under this agreement which is described in Exhibit A.

DAYS - All references to days in this agreement shall mean calendar days.

MANAGEMENT SUPPORT CONSULTANT - Shall be designated as the City's representative, authorized to act on behalf of the City with respect to the project. The Management Support Consultant shall render decisions in a timely manner pertaining to documents submitted by the Architect in order to avoid unreasonable delay in the orderly and sequential progress of the Architect's services.

PROGRAM - All work associated with the design and reconstruction of the police station.

PROJECT - The project is defined in the Attached Exhibit A.

2. The City of Grand Junction, by and through the Chief of the Grand Junction Police Department, hereinafter referred to as Chief, is responsible for authorizing and approving the work performed under this agreement and hereby designates Robert Evers, as Management Support Consultant, as the authorized representative for the purpose of issuing a written notice to proceed and administering, coordinating and approving work performed by the Architect under this agreement. The Management Support Consultant is responsible for the day to day administration, coordination and approval of work performed by the Architect except for approvals which are specifically identified in this Agreement as requiring the approval of the Chief. The Chief may change his authorized representative at any time by providing the Architect with written notice of such change.

3. The Architect agrees that it will, after it receives a written notice to proceed, furnish all of the technical, administrative, professional and other labor, all supplies, materials, equipment, printing, office space and facilities, analyses, calculations and any other facilities or resources required to perform and complete the work described in the attached Exhibit A. This work is hereinafter referred to in this Agreement as the Architect's Scope of Work.

4. COMPENSATION

A. Hourly Fee Not to Exceed: The City hereby agrees to pay the Architect on an hourly basis for completing the Architect's Scope of Work described in Exhibit A. The Architect's total fee shall not exceed thirty eight thousand two hundred forty dollars (\$38,240.00) for design development and construction documents. Design development, construction documents and any additional services approved by the Chief in accordance with Exhibit B shall be compensated at the rates listed in Exhibit B. Architect shall submit to the City monthly invoices, with time sheets attached, for the work performed.

B. Additional Services: The Architect shall also perform work requested by the Management Support Consultant, hereinafter referred to as additional services, which relates to the work covered by this agreement but which either is not described in or exceeds the requirements of the Architect's Scope of Work or except as set forth in paragraph 28. If the Chief requests such work in writing or the Architect believes that certain work should be performed which falls in this category, the Architect shall submit a written description of such additional service to the Management Support Consultant along with a schedule for the performance of such services and an estimate of its cost. The Architect and the Management Support Consultant shall agree on a schedule, payment procedure and maximum cost for each such additional service and the Chief shall approve such schedule, payment procedure and cost in writing before work begins. The Architect shall be paid for approved additional services in accordance with Exhibit B of this agreement if the parties have

not agreed to a lump sum for completing the additional services. Additional services are defined in Exhibit B, hereto attached and incorporated as if fully set forth. If no lump sum fee has been agreed upon, Architect shall be paid based upon the hourly rates for personnel who perform the service which are shown in the hourly rate schedules that are in Exhibit B, plus any agreed reimbursable expenses. If compensated on an hourly basis Architect shall submit to the City monthly invoices, with time sheets attached, for the work performed. The total amount which the City may authorize under this agreement for additional services shall not exceed two (2) percent of the total cost of construction. The approval of additional services and the cost of performing them shall be paid based upon the hourly rates for personnel who perform the service which are shown in the hourly rate schedules that are in Exhibit B, plus any agreed reimbursable expenses.

C. Maximum Cost: The City shall have no liability or obligation whatsoever to pay Architect more than thirty eight thousand two hundred forty dollars (\$38,240.00) for completion of the Scope of Work. The Architect understands and agrees that the City has authorized the expenditure of ten thousand dollars (\$10,000.00) and that if further funds are not authorized the Architect shall be paid only for the work performed in furtherance of this agreement with no obligation by the City for payment of additional sums. The Architect is authorized to perform services under this agreement to the maximum value of ten thousand dollars unless and until complete authority is given by the City Council. The parties shall execute an addendum to this agreement acknowledging the intent of this agreement if such authority is given. If additional authority is not received the City shall notify Architect within seven days by certified mail, return receipt requested, of that fact. The expenditure of the full sum shall be authorized or denied by October 17, 1991 if at all.

5. TERMINATION

The City shall have the absolute right, at its sole discretion, with or without cause, to terminate this agreement or any services provided for in this agreement by giving Architect seven days prior written notice. If the City terminates this agreement, the Architect shall deliver and the City shall take possession of copies of all materials, drawings, specifications, estimates or other documents it has completed or partially completed hereunder, together with any unused materials which have been paid for by the City and all models, mockups, or dimensional representations. Any and all of these shall be the property of the City. If this agreement is terminated, Architect shall be compensated for and such compensation shall be limited to (1) the sum of the amounts contained in the invoices which it has submitted and which have been approved by the City, (2) the reasonable value to the City of the work which the Architect per-

formed prior to the date of termination, but which had not yet been approved for payment, (3) and or the cost of any work the Chief approves in writing which he determines is needed to accomplish an orderly termination of the work. If this agreement is terminated for the convenience of the City and without fault of the Architect, the Architect shall also be compensated for any reasonable costs it has actually incurred in performing the Architect's Scope of Work prior to the date of termination.

6. INDEMNIFICATION

Architect hereby agrees to indemnify and hold harmless the City, its officers, agents and employees from and against any and all loss of, or damage to, property or injuries to, or death of any person or persons, including property and employees or agents of the City and shall indemnify and hold harmless the City, its officers, agents and employees from any and all claims, suits, damages, costs, expenses, liabilities, actions or proceedings arising out of the Architect's negligent performance of this agreement or its entry of City owned property upon which the work under this agreement is performed and including acts and omissions of the Architect's officers, employees representatives, suppliers, and agents. The Architect's obligation to indemnify or hold harmless the City, its officers, agents and employees under this paragraph shall not apply to liability or damages resulting from the negligence of the City's officers, agents and employees and from the Architect's performance of work requiring the application of the Architect's professional skills, training and judgment (such as the preparation of designs, plans or opinions) if such work was not performed in a negligent manner. Inasmuch as the remodeling and or renovation of an existing building requires that certain assumptions be made regarding existing conditions and because some of these assumptions may not be verifiable without expending money or destroying otherwise adequate or serviceable portions of the facilities the City agrees that except for negligence or willful misconduct on the part of the Architect, the City will not pursue claims against the Architect arising out of the professional services provided hereunder. This paragraph shall survive the termination of this agreement.

7. INSURANCE

A. Liability Insurance: The Architect further agrees to secure and deliver to the Chief, at the time of execution of this agreement and to keep in force at all times during this agreement, a general liability policy covering all of the Architect's operations hereunder with a minimum combined single limit amount of one million (\$1,000,000.00) dollars for each occurrence and a professional errors and omissions insurance policy covering the Architect's work herein in the amount not less than two hundred fifty thousand (\$250,000.00) dollars per claim and in the aggregate with a deductible of not more than \$25,000.

The Architect shall provide the Chief with certificates evidencing the existence of insurance required above. The certificates of insurance shall contain valid provisions or endorsements stating "The insurance coverage under this policy will not be cancelled or otherwise terminated without first giving thirty days prior written notice to the Chief of the Grand Junction Police Department, 250 North 5th Street, Grand Junction, Colorado 81501, sent by certified mail, return receipt requested." The general liability policy shall contain a valid provision or endorsement stating that it includes blanket contractual liability coverage and that the coverage afforded the City as an additional insured shall be primary coverage.

B. Worker's Compensation Insurance: The Architect shall maintain adequate worker's compensation insurance with an authorized insurance company or through the Colorado State Compensation Insurance Authority or through an authorized self-insurance plan approved by the State of Colorado, insuring the payment of compensation to all its employees. The Architect shall provide the Chief with certificates showing that the Architect has the required worker's compensation insurance.

8. 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 the City to Architect at 437 Main Street, Grand Junction, Colorado 81501 and by the Architect to the Chief of the Grand Junction Police Department, 250 North 5th Street, Grand Junction, Colorado 81501 and to the Office of the City Attorney at the same address by prepaid United States mail, return receipt requested. Mailed notices shall be deemed effective upon deposit with the U.S. Postal Service.

9. ASSIGNMENT

The Architect agrees not to assign, pledge or transfer its duties and rights in this agreement, in whole or in part, without first obtaining the written consent of the Chief.

10. NO WAIVER OF RIGHTS

No assent, express or implied, to any breach of any one or more terms and conditions of this agreement shall be deemed to be or taken to be by the City a waiver of any subsequent breach of such terms or conditions.

11. INSPECTION OF RECORDS

The City shall have the right to audit, examine and copy Architect's records related to work performed under this agreement. Architect shall retain these records for three years after the

completion of the Scope of Work under this agreement.

12. STATUS OF ARCHITECT

For all purposes under this agreement, Architect shall be an independent contractor retained on a contractual basis to perform professional and technical services and it is not intended, nor shall it be construed that the Architect or its employees, agents or representatives are employees, officers or agents of the City for any purpose whatsoever.

13. CONFLICT OF INTEREST

The Architect agrees that it and its subsidiaries, affiliates, principals or employees will not engage in any transaction, activity or conduct which would result in a conflict of interest. The Architect represents that it has disclosed any and all current or potential conflicts of interest. A conflict of interest shall include transactions, activities or conduct that would affect the judgment, actions or work of the Architect by placing the Architect's own interests, or the interest of any party with whom the Architect has a contractual arrangement, specifically excluding the architectural contract between Architect and UNC/Geotech, in conflict with those of the City. The City, in its sole discretion, shall determine the existence of a conflict of interest and may terminate this agreement in the event such a conflict exists after it has given the Architect written notice which describes the conflict. The Architect shall have fourteen days after the notice is received to eliminate or cure the conflict of interest in a manner which is acceptable to the City. The above referenced contract between Architect and UNC/Geotech shall not be declared such a conflict of interest.

14. COORDINATION OF SERVICES

The Architect agrees to perform its work under this agreement in accordance with the operational requirements of Grand Junction Police Department and all work and movement of Architect's personnel on site shall be subject to the restrictions established by the Chief of the Police Department or the Management Support Consultant.

15. TAXES AND LICENSES

The Architect shall promptly pay, when they are due, all taxes, excises, license fees and permit fees of whatever nature applicable to work which it performs under this agreement and shall take out and keep current all required municipal, county and state licenses required to perform this work. The Architect shall furnish the Chief, upon request, duplicate receipts or other satisfactory evidence showing or certifying to the proper payment of all required licenses and taxes. The Architect shall promptly pay, when

due, all bills, debts and obligations it incurs performing work under this agreement and to allow no lien, mortgage, judgment or execution to be filed against the land, facilities or improvements owned by the City.

16. COMPLIANCE WITH ALL LAWS AND REGULATIONS

The Architect shall exercise that degree of care and skill possessed by reasonable licensed architects to ensure that all of the work performed under this agreement by the Architect shall comply with applicable laws, rules, regulations and codes of the United States, the State of Colorado and with the charter, ordinances, rules and regulations of the City of Grand Junction. The Architect further represents that all work performed will not intentionally violate any applicable laws, rules, regulations or codes including but not limited to the requirements of the most recently adopted Uniform Mechanical Code, National Electric Code, Uniform Building Code, Uniform Fire Code, Uniform Plumbing Code, the Americans with Disabilities Act and the Life Safety Code.

17. COMPLIANCE WITH PATENT, TRADEMARK AND COPYRIGHT LAWS

Architect agrees that all work performed under this agreement shall comply with all applicable patent, trademark and copyright laws, rules, regulations and codes of the United States. The Architect further agrees that it will not knowingly utilize any protected patent, trademark or copyright in performance of its work unless the Architect has obtained proper permission and all releases and other necessary documents. If the Architect knowingly specifies any material, equipment, process or procedure which is protected, without proper release or disclosure, the Architect shall disclose such patents, trademarks and copyrights to the City.

Architect agrees to release, indemnify and save harmless the City, its officers, agents and employees, pursuant to Paragraph 7, INDEMNIFICATION, from any and all claims, damages, suits, costs, expenses, liabilities, actions or proceedings of any kind or nature whatsoever, of or by anyone whomsoever, in any way resulting from, or arising out of, directly or indirectly, the performance of work under this agreement which infringes upon any trademark, patent or copyright protected by law.

18. PROFESSIONAL RESPONSIBILITY

The Architect shall faithfully perform the work required under this agreement in accordance with standards of care, skill, training, diligence and judgment provided by professionals who perform work of a similar nature to the work described in this agreement.

19. DISPUTE RESOLUTION

Disputes arising under or related to this agreement or the work which is the subject of this agreement shall be resolved by mediation. If mediation is unsuccessful the parties expressly reserve the right to arbitrate or file a cause of action pursuant to the Colorado Rules of Civil Procedure. The parties here to agree that a final determination from said mediation shall be a precondition to other action being taken.

20. OWNERSHIP OF WORK PRODUCT

Reproducible copies of all plans, drawings, submittals and other documents submitted to the City by the Architect become and are the property of the City and the City may make use of such documents and underlying concepts as it sees fit, without the right of sale or transfer. The Architect shall not be liable for any damage which may result from any use of said documents for purposes other than those described in this agreement. If any of the plans, drawings, submittals and other documents or any information contained therein is used on any other project, the City agrees to waive any claim against the Architect and defend, indemnify and hold the Architect harmless from any claim or liability for injury or loss alleged to arise from unauthorized use of the architect's instruments of service. The City further agrees to compensate the Architect for any time spent or expenses incurred by the Architect in defense of any such bona fide claim in accordance with the Architect's prevailing fee schedule and expense reimbursement policy. Notwithstanding any provision to the contrary, the Architect retains the right of ownership of any patentable or copyrightable drawings or designs prepared pursuant to this agreement.

21. SEVERABILITY

In the event any of the provisions, or applications thereof, of this agreement are held to be unenforceable or invalid by any court of competent jurisdiction, the validity and enforceability of the remaining provisions, or applications thereof, shall not be affected.

22. NO THIRD PARTY BENEFICIARIES

The enforcement of the terms and conditions of this agreement and all rights of action relating to such enforcement, shall be strictly reserved to the City and Architect and nothing contained in this agreement shall give or allow any such claim or right of action by any other or third person on such agreement. It is the express intention of the City and the Architect that any other person other than the City or the Architect receiving

any benefits from this agreement shall be deemed to be incidental beneficiaries only.

23. ADVERTISING AND PUBLIC DISCLOSURES

The Architect shall have the right to include representations of the design of the project, including photographs of the exterior and interior, among the Architect's promotional and professional materials. The Architect's materials shall not include the City's confidential or proprietary information if the City has previously advised the Architect in writing of the specific information considered by the City to be confidential or proprietary.

24. VENUE

This agreement shall be deemed to have been made in, and shall be construed and interpreted in accordance with the laws of the City of Grand Junction, Mesa County, Colorado.

25. TIMING

The parties agree that in the performance of the terms and requirements of this agreement by the Architect that time is of the essence.

26. INUREMENT

The rights and obligations of the parties herein set forth shall inure to the benefit of and be binding upon the parties hereto and their respective successors and assigns permitted under this agreement.

27. HEADINGS

The headings contained in this agreement are for reference purposes only and shall not in any way affect the meaning or interpretation of this agreement.

28. ENTIRE AGREEMENT

The parties acknowledge and agree that the provisions contained herein constitute the entire agreement and that all representations made by any officer, agent or employee of the respective parties unless included herein are null and void and of no effect. No alterations, amendments, changes or modifications to this agreement, except those which are expressly reserved herein to the Chief, or his designee, shall be valid unless they are contained in an instrument which is executed by all the parties with the same formality as this agreement. The City and the Architect further expressly understand and agree that this agreement may be affected by a prior and continuing contract between Architect and UNC/Geotech, the terms of which are exclusive to

that agreement and are not incorporated herein by this reference. To the extent that the Architect's performance of Additional Services would be contrary to the obligations of the Architect under its contract with UNC/Geotech or place the Architect in a conflict of interest position then the provisions of the UNC/Geotech contract shall take precedence over this agreement unless UNC/Geotech shall otherwise agree in writing.

29. EXECUTION OF CONTRACT

This agreement is expressly subject to and shall not become effective or binding on the City until it is fully executed by all signatories.

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed as of the day and year first written above.

CITY OF GRAND JUNCTION

by: Mark Achen
Mark Achen
City Manager

RECOMMENDED AND APPROVED

by: Darold C. Sloan
Darold Sloan
Police Chief

RECOMMENDED AND APPROVED

by: Robert A. Evers 11/1/91
Robert A. Evers
Management Support Consultant

ATTEST:

by: Neva B. Lockhart, CMC
Neva Lockhart
City Clerk

CHAMBERLIN ARCHITECTS, P.C.

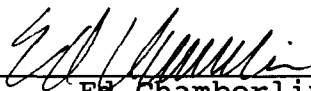
by:  10/29/91
Ed Chamberlin
Principal

EXHIBIT A
ARCHITECTS SCOPE OF WORK

PROJECT: The Grand Junction Police Department located at 625 Ute Avenue will be undergoing mill tailings remediation work during 1992 and 1993. The City by and through the Grand Junction Police Department will be remodeling and renovating the three story structure and jail facility concurrently with the mill tailings work. Architect is retained to design and consult on foundations, interior remodels, space utilization, electrical, mechanical and other design features. Architect will revise the already completed drawings prepared by it for the United States Department of Energy. Renovated remodeled building to include the following:

- Expansion of laboratory and evidence storage
- Relocation of darkroom
- Relocation of Men's lockerroom
- Relocation of Women's lockerroom
- Relocation of interview rooms
- Relocation of vault
- Relocation of new North stairway to south wall
- Raise training room floor
- Relocation of workout room
- Relocation of lunch room
- Add elevator facilities through second floor (pit and shaft)
- Enclose sallyport and replace floor
- Add windows to second level exterior walls
- Design, engineer and incorporate structural, mechanical and electrical changes to accommodate renovation/remodel

Architect's Responsibilities

1. Architect's Services

The Architect's services consist of those services performed by the Architect, Architect's employees and Architect's consultants as enumerated in Article 2 of this Exhibit A.

The Architect's services shall be performed as expeditiously as is consistent with professional skill and care and the orderly progress of the work. Upon request of the City, the Architect shall submit for the City's approval a schedule for the performance of the Architect's services which may be adjusted as the Project proceeds and shall include allowances for periods of time required for the City's review and for approval of submissions for the Project. Time limits established by this schedule approved by the City, shall not, except for reasonable cause, be exceeded by the Architect or the City.

2. Scope of Architect's Basic Services

The Architect's Basic Services consist of those described in paragraphs 2.1 and 2.2 and any other services identified as a part of basic services, including but not necessarily limited to, normal structural, mechanical and electrical engineering services.

2.1 Design Development Phase

Based on the approved Schematic Design Documents and any adjustments authorized by the City in the program schedule or budget, the Architect shall prepare, for approval by the City, Design Development Documents consisting of drawings and other documents to fix and describe the size and character of the Project as to architectural, structural, mechanical and electrical systems, materials and such other elements as may be appropriate.

2.2 Construction Documents Phase

Based on the approved Design Development Documents and any further adjustments in the scope or quality of the Project authorized by the City, the Architect shall prepare, for approval by the City, Construction Documents consisting of Drawings and Specifications setting forth in detail the requirements for the construction of the project.

The Architect shall assist the City in the preparation of the Conditions of the Contract and the form of Agreement between the City, the Department of Energy and the Contractor.

The Architect shall assist the City in connection with the City's responsibility for filing documents required for the approval of governmental authorities having jurisdiction over the Project.

Duties, responsibilities and limitations of authority of the Architect shall be restricted by the terms of this agreement, but shall not be further modified or extended without written agreement of the City and Architect.

The City shall designate a representative authorized to act on the City's behalf with respect to the Project. The City or such authorized representative shall render decisions in a timely manner pertaining to documents submitted by the Architect in order to avoid unreasonable delay in the orderly and sequential progress of the Architect's services.

The City shall furnish surveys describing physical characteristics, legal limitations and utility locations for the site. The surveys and legal information shall include, as applicable, grades and lines of streets, alleys, pavements and adjoining

property and structures; adjacent drainage; rights of way, restrictions, easements, encroachments, zoning, deed restrictions, boundaries and contours of the site; locations, dimensions and necessary data pertaining to existing buildings, other improvements and trees and information concerning available utility services and lines, both public and private, above and below grade, including inverts and depths. All information on the survey shall be referenced to a project benchmark.

Prompt written notice shall be given by the Architect to the City if the Architect becomes aware of any fault or defect in the Project.

The proposed language of certificates or certifications requested of the Architect or Architect's consultants shall be submitted to the Architect for review and approval at least 14 days prior to execution. The City shall not request certifications that would require services beyond the scope of this Agreement.

The City shall provide full information regarding the requirements for the Project, including a program which shall set forth the City's objectives, schedule, constraints and criteria including space requirements and relationships, flexibility, expandability, special equipment, systems and site requirements.

If requested by the Architect, the City shall furnish evidence that financial arrangements have been made to fulfill the obligations under this agreement.

Evaluations of the City's project, preliminary estimates of cost and or detailed estimates of cost, if any, prepared by the Architect, represent the Architect's best judgment as a design professional familiar with the construction industry. It is recognized, however, that neither the Architect nor the City has control over the cost of labor, materials or equipment, over the contractors methods of determining bid prices or over competitive bidding, market or negotiating conditions.

Terms in this agreement shall have the same meaning as those in AIA Document A201, current as of the date of this agreement.

Causes of action between the parties to this agreement pertaining to acts or failures to act shall be deemed to have accrued and the applicable statutes of limitation shall commence to run not later than either the date of substantial completion for acts or failures to act occurring prior to substantial completion or the date of issuance of the final certificate for payment for acts or failures to act occurring after substantial completion.

Unless otherwise provided, neither the Architect nor the Architect's consultants shall have responsibility for the discovery, presence, handling, removal or disposal of or exposure of persons to hazardous materials in any form at the project site, including but not limited to asbestos, asbestos products, polychlorinated biphenyls, residual radioactive materials or other toxic substances. The City shall have no responsibility for the exposure of the Architect or the Architect's consultants to hazardous materials in any form at the project site, including but not limited to asbestos, asbestos products, polychlorinated biphenyls, residual radioactive materials or other toxic substances.

EXHIBIT B

Reimbursable Expenses

Reimbursable expenses are in addition to compensation for Basic And Additional Services and include expenses incurred by the Architect in the interest of the Project as more fully identified herein.

Expense of transportation in connection with the project, including but not limited to authorized out of town travel;

Long distance communications.

Fees paid for securing approval of authorities having jurisdiction over the Project.

Expense of reproductions, postage and handling of Drawings, Specifications and other Documents.

If authorized in advance by the City, expense of overtime work.

Expense of renderings, models and mockups requested by the City.

For reimbursable expenses, as described above, compensation shall be at 1.10 times the actual expenses incurred by the Architect.

Compensation

Progress payments for Basic Services in each phase shall total the following percentages of the total Basic Compensation payable:

Design Development Phase	Fifty percent (50%)
Construction Documents Phase	Fifty percent (50%)

Total Basic Compensation	One-hundred percent (100%)

Compensation for Basic and Additional Services

For Basic Services identified herein and for Additional Services of the Architect, beyond the described Basic Services, compensation shall be computed at the following rates:

Principal Architect	\$72/hour
Project Architect	\$60/hour
Designer/Project Architect	\$44/hour
Secretarial/Drafting	\$30/hour

Additional services of consultants for architectural, structural, mechanical and electrical engineering services beyond the Architect's Basic Services, shall be compensated at 1.10 times the amount billed to Architect for such services.

Additional services are defined as:

The Architect representing, advising and consulting with the City during construction. The Architect shall have the authority during construction to act on behalf of the City only to the extent provided by written agreement.

The Architect visiting the site at intervals appropriate to the stage of construction or as otherwise agreed by the City and the Architect to become generally familiar with the progress and quality of the work completed and determine in general if the work is being performed in a manner indicating that the work when completed will be in accordance with the design specifications. The Architect shall not be required as a portion of this additional service to make exhaustive or continuous on site inspections to check the quality or quantity of the work. On the basis of on site observations as an architect, the Architect shall keep the City informed of the progress and the quality of the work and shall endeavor to guard the City against defects and deficiencies in the work.

The Architect shall not have control over or charge of and shall not be responsible for construction means, methods, techniques, sequences or procedures or for safety precautions and programs in connection with the work, since these are solely the Contractor's responsibility under the Contract for Construction. The Architect shall not be responsible for the Contractor's schedules or failure to carry out the work in accordance with the Contract Documents. The Architect shall not have control over or charge of acts or omissions of the Contractor, Sub-Contractors or their agents or employees or of any other persons performing portions of the work.

The Architect shall, if retained to perform construction phase services as an additional service, at all times have access to the work wherever it is in preparation or progress.

The Architect shall have authority, under the terms of additional service, on behalf of the City, to reject work which does not conform to the Contract Documents. The Architect has authority to require additional inspection or testing of the work in accordance with the provisions of this agreement, whether or not such work is fabricated, installed or completed. However, neither this authority of the Architect nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Architect to the Contractor.

The Architect making revisions in drawings, specifications or other documents when such revisions are inconsistent with approvals or instructions previously given, required by the enactment or revision of codes, laws or regulations subsequent to the preparation of such documents or due to changes required as a result of failure to render decisions in a timely manner.

The Architect providing services required because of significant changes in the Project including, but not limited to, size, quality, complexity.

The Architect preparing drawings, specifications and other documentation and supporting data, evaluating contractor's proposals and providing other services in connection with change orders and construction change directives.

The Architect providing services in connection with evaluating substitutions proposed by the contractor and making subsequent revisions to drawings, specifications and other documentation.

The Architect providing consultation concerning replacement of work damaged by fire or other cause during construction and furnishing services required in connection with the replacement of such work.

The Architect providing services made necessary by the default of the contractor, by major defects or deficiencies in the work of the contractor or by failure of performance of either the City or the contractor under the construction contract.

The Architect preparing documents for alternate, separate or sequential bids or providing services in connection with bidding, negotiation or construction prior to the completion of the construction documents phase.

The Architect providing analyses of the Owner's needs and programming the requirements of the project.

The Architect providing financial feasibility or other special studies.

The Architect providing planning surveys, site evaluations or

comparative studies of prospective sites.

The Architect providing special surveys, environmental studies and submissions required for approvals of governmental authorities or others having jurisdiction over the project.

The Architect providing services relative to future facilities, systems and equipment.

The Architect providing services to verify the accuracy of drawings or other information furnished by the City.

The Architect providing coordination of construction performed by separate contractors or by the City and coordination of services required in connection with construction performed and equipment supplied by the City.

The Architect providing services in connection with the work of a construction manager or separate consultants supplied by the City.

The Architect providing detailed estimates of construction cost.

The Architect providing detailed quantity surveys or inventories of material, equipment and labor.

The Architect providing analyses of owning and operating costs.

The Architect providing interior design and other similar services required for or in conjunction with the selection, procurement or installation of furniture, furnishings and related equipment.

The Architect preparing a set of reproducible record drawings showing significant changes in the work made during construction based on marked up drawings, prints and other data furnished by the contractor to the architect.

The Architect providing assistance in the utilization of equipment or systems such as testing, adjusting, balancing preparation of operation and maintenance manuals, training personnel for operation and maintenance and consultation during operation.

The Architect providing services after issuance to the City of the final certificate for payment, or in the absence of a final certificate for payment, more than 60 days after the date of substantial completion of the work.

The Architect providing services of consultants for other than architectural, structural, mechanical and electrical engineering portions of the Project provided as a part of basic services.

The Architect providing any other service not otherwise included in this agreement or not customarily furnished in accordance with generally accepted architectural practice.

Additional Provisions

If the Basic Services covered by this Agreement have not been completed within twelve (12) months of the date hereof, through no fault of the Architect, extension of the Architect's services beyond that time shall be renegotiated.

Payments are due and payable ten (10) days from the date of the Architect's invoice. Amounts unpaid thirty (30) days after the invoice date shall bear interest at the rate of twelve percent per annum. The rates and multiples set forth in this Exhibit B shall be subject to annual adjustment in accordance with annual review by the Architect.