

AGREEMENT

This AGREEMENT, effective September 20, 1979 by and between THE UNITED STATES OF AMERICA (hereinafter called the "Government"), acting through the UNITED STATES DEPARTMENT OF ENERGY (hereinafter called the "DOE"), and Tobar Construction Co. Inc. (hereinafter called the "Principal"), with a mailing address of P.O. Box 2011, Morristown, N.J. 07960, and the STATE OF NEW JERSEY, DEPARTMENT OF ENVIRONMENTAL PROTECTION (hereinafter called the "State"):

WITNESSETH THAT:

WHEREAS, it has been determined by the DOE that small quantities of low level radioactively contaminated material (hereinafter called the "material") constituting a potential minimal public health risk exist on certain portions of property owned by Pierpont Associates, as outlined on portions of the attached map;

WHEREAS, the parties have agreed that such material should be removed from the Site (hereinafter called the "remedial action");

WHEREAS, the Principal has agreed to furnish equipment, services and labor necessary to accomplishing such remedial action to move the material from the site;

WHEREAS, the DOE has agreed, under the terms of this agreement, to reimburse the Principal for the furnishing of such equipment, services, and labor; and,

WHEREAS, the parties have agreed that the State and DOE will jointly supervise the remedial action.

NOW THEREFORE, in consideration of the mutual promises, the parties hereto agree as follows:

1. DOE has provided remedial decontamination instructions in the form of an Engineering Plan in performance of the remedial action efforts. These instructions specify conditions of the site necessary for unrestricted use.
2. The remedial action criteria upon which the instructions are based has been provided to and approved by the State as per the letter from George Tyler to William Mott, dated September 19, 1979.
3. DOE, in conjunction with the State, will monitor each stage of the procedure for the removal of the material.

4. The Engineering Plan has been reviewed by the Principal and the State to assure understanding of the scope and procedure.

5. The State will assist DOE in overcoming any transportation restrictions that may apply to the movement of the material.

6. DOE will arrange physical storage facilities to receive the material from the site and dispose of the material.

7. The Principal agrees to provide the earth moving equipment, other equipment or vehicles, labor, as needed, and to remove the material from its location, load it into approved containers and transport it to a selected site.

8. The DOE will furnish drums in its possession for containment of the material. If additional drums are needed, the Principal will obtain them per DOE's instructions.

9. Radiological monitoring will be the responsibility of DOE who will provide data to the City of Jersey City and the State.

10. DOE will conduct a final radiological site survey immediately upon completion of the remedial action, and after concurrence by the State will issue a certification to the property owner and the City of Jersey City that the site meets the State approved remedial action criteria for unrestricted use as reflected in paragraph 2 above.

11. DOE will reimburse the Principal for costs incurred on a time plus materials basis only per attached Form 60, as authorized by attached Form 799A.

12. The Principal will furnish DOE with copies of time records showing length of time spent on jobs covered by their agreement and normal hourly wages paid each worker. Reimbursement will be made on the basis of each hour worked plus any quarterly fraction thereto. The Principal will also furnish copies of all receipts or other forms of evidence of material purchased for the job covered by this agreement.

13. The DOE reserves the right to review, audit, and disapprove of any charges submitted by the Principal for

reimbursement under this agreement which DOE feels are unreasonable, or excessive.

14. 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.

15. The Principal 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. For breach or violation of this warranty, the Government shall have the right to annul this agreement without liability or in its discretion to deduct from the agreement price or consideration or otherwise recover, the full amount of each such commission percentage, brokerage, or contingent fee.

16. Effective and based upon issuance by DOE of the certification and payment provided in paragraphs 9 and 10 above, the Principal hereby releases the State and DOE, its contractors and subcontractors from all claims respecting personal injury, or damage to property arising out of, based on, or attributable to the work performed under this agreement except with respect to any claim or claims resulting from willful misconduct on the part of the State and DOE, its contractors, and subcontractors.

17. The implementation of this agreement does not in any way constitute or form the basis for any estoppel of the State, DOE, or the Principal or be admitted as evidence of any legal responsibility of the State, DOE, or the Principal (other than an action by the Principal to enforce the agreement) for any public health risk created or otherwise, or give any third parties any rights or claims whatsoever.

18. This agreement shall terminate on 11/30/79 or such earlier time upon issuance by DOE of the certification provided in paragraph 9 above, unless the parties by mutual written consent extend its term.

IN WITNESS WHEREOF, THE PARTIES HAVE EXECUTED THIS AGREEMENT
IN SEVERAL COUNTERPARTS --

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

BY:

BY:

Kenneth Chasman

TITLE: _____

TITLE: _____

TOBAR CONSTRUCTION CO. INC.

BY:

Anthony ...

TITLE: _____

STATE OF NEW JERSEY

BY:

*For George J. Tyler, Director
Division of Environmental Quality
by Frank J. Corolito, Bureau of Radiation Protection*

TITLE:

CORPORATE CERTIFICATE

I, Patricia A. Szerlip, certify that I am the duly qualified Secretary of the corporation named herein as the Principal; that Anthony ... who signed this Agreement on behalf of the Principal was then Secretary/Treasurer of said corporation Tobar Co. Inc.; that said Agreement was duly signed for and in behalf of said corporation by authority of its governing body and is within the scope of its powers.

Witness my hand and the seal of said corporation.

Patricia A. Szerlip

PATRICIA A. SZERLIP
NOTARY PUBLIC OF NEW JERSEY
My Commission Expires August 9, 1983