

**INTERIM
UTILITY AGREEMENT**

BY AND BETWEEN

THE

UNITED STATES DEPARTMENT OF ENERGY

AND THE

**MIAMISBURG MOUND COMMUNITY
IMPROVEMENT CORPORATION**

TABLE OF CONTENTS

SECTION	PAGE
BACKGROUND	3
1. SCOPE	3
2. RATES, USAGE AND SCHEDULES	4
3. METERING, MAINTENANCE AND DISCONNECTION RESPONSIBILITIES....	5
4. ACCESS TO PROPERTY.....	6
5. CONTINUITY OF SERVICES AND LIABILITY THEREOF	6
6. NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION	7
7. CANCELLATION/DISCONTINUANCE	8
8. LIMITATIONS AND EXCLUSIONS	9
9. ADMINISTRATION AND BILLING	10
10. EXHIBITS.....	14-16

**INTERIM
UTILITY AGREEMENT
By and Between the
UNITED STATES DEPARTMENT OF ENERGY
AND
MIAMISBURG MOUND COMMUNITY IMPROVEMENT CORPORATION**

THIS AGREEMENT is executed this 18th day of March, 1999, between the U.S. Department of Energy, Ohio Field Office, hereinafter referred to as the Government, and the Miamisburg Mound Community Improvement Corporation, hereinafter referred to as the MMCIC (the parties) and serves as the agreement whereby the Government will provide to the MMCIC interim utility services for buildings and land transferred to the MMCIC, in accordance with the terms and conditions as set forth herein.

The sale of the Mound Site from the Government to the MMCIC is set forth in the "Sales Contract," dated January 23, 1998; the Government and the MMCIC entered into a "Memorandum of Agreement" dated January 23, 1998; and the Government and the MMCIC are hereby entering into this Interim Utility Agreement (the "Agreement").

It is understood by the parties that the Mound Site is undergoing remediation and closure by the Government pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act (as amended). The MMCIC is engaged in activities related to the reuse of the site and is expeditiously pursuing utility services through local utility providers.

1.0 SCOPE:

1.1 General: The Government agrees to provide the MMCIC, subject to the terms and limitations as set forth herein, interim utility services for buildings and parcels of land transferred to the MMCIC. These utility services are limited to electric, potable water, sewer, steam, and chilled water (commonly referred to as brine). Of the listed services, only those services shall be provided which are necessary to support each individual parcel as it is transferred.

1.2 Telecommunications: The MMCIC will be afforded the use of surplus telecommunications lines that exist between the Mound Site central switching center and buildings or parcels transferred to the MMCIC under the terms and limitations set forth herein. Connections from these lines to private commercial telecommunication providers will, however, be made by bypassing the Mound switching center from the point that these line mate with the switching center.

1.3 Fire Suppression Water: The MMCIC will be afforded use of fire suppression water using surplus fire suppression supply lines that exist between either a main distribution line, or the Building 56 pump house/water tank and buildings or parcels transferred to the MMCIC under the terms and limitations set forth herein.

2.0 RATES, USAGE and SCHEDULES:

2.1 Rate Setting Mechanism: The Government will make the utility services available under "prevailing local" rate schedules where such rate schedules are available, as provided in Section 2.4, Applicable Schedules. Cost of utility services to the MMCIC will be calculated by multiplying the usage in accordance with Section 2.3, Usage, times the local prevailing rates. Current rates as provided in Exhibit C are applicable, but are subject to change in accordance with Section 2.2, Rate Changes. Telecommunications usage charges to the MMCIC will be billed direct from the provider to the user with no involvement by the Government.

2.2 Rate Changes: If during the term of this Agreement, the body having jurisdiction over the prevailing local rate schedules approves any changes to the rate schedule as delineated in Section 2.4, Applicable Schedules, the Government will notify the MMCIC in writing within 30 days. The Government agrees to continue to provide services to the MMCIC in accordance with the changed rate. The MMCIC agrees to pay for such service at the changed rate as of the date when such rates are made effective by the body having jurisdiction. The MMCIC agrees to abide by any new terms, conditions and/or changes made by the body having jurisdiction.

2.2.1 Rate Review: Although it is the intention of the Parties that the Government will make the utility services available to the MMCIC under prevailing local rate schedules, the Government reserves the right to adjust the rate paid by the MMCIC.

2.3 Usage:

2.3.1 Methodology: The methodology to determine usage for these services will be by revenue meters for electrical (in KWH) and potable water (in gallons). Sewer discharge by the MMCIC will be equal to the metered potable water usage.

In the absence of revenue meters for the potable water, the usage methodology will be to prorate the total potable water usage of the system over the square footage of all connected buildings at the plant.

Steam and chilled water usage shall be based on the binning process as per the 1993 American Society of Heating Refrigerating and Air Conditioning Engineers (ASHRAE) Handbook, Fundamentals, I-P Edition Chapter 28.6, BIN METHOD. The applicable method of determining usage is as shown in Exhibit C. Exhibit C may be modified during the life of this agreement due to 1) addition/deletion of parcels/buildings, 2) changes in rates as provided in Section 2.4, Applicable Schedules, and 3) changes in building temperature set points and operating hours.

2.3.2 Building Temperature Setpoints: To calculate monthly steam and chilled water usage, which is determined by the "binned" method, the MMCIC agrees to maintain the building temperature set points and operating hours as outlined in Exhibit B. Changes to these operating parameters shall be reported to the Government in writing when the changes are made. Based on these new set points, steam and chilled water usage shall be recalculated in accordance with Section 2.3.1, Methodology, and the MMCIC will be notified of the new usage calculations.

2.4 Applicable Schedules:

Service	Local utilities used to determine "local prevailing rate"	Rate Schedule	Usage Determination
Electric	Dayton Power and Light	General Service, Secondary three phase Rate Code 137	Metered
Potable Water	City of Miamisburg	Ordinance 5278	1. Metered (Preferred) 2. Prorated (Alternate)
Sewer	City of Miamisburg	Ordinance 5279	Equal to Potable water
Steam	Dayton Power and Light	Steam Service Heating Rate "A". Rate Code 130	ASHRAE BIN Method
Chilled Water*	Dayton Power and Light & City of Miamisburg	General Service Secondary three phase Rate Code 137 & Ordinance 5278	ASHRAE BIN Method
Telecommunications	Not Applicable	Not Applicable	Not Applicable

* Cost for chilled water will be made by calculating the electrical and water usage to produce the service and then multiplying by the appropriate rate(s) listed in the schedule reference above in the column "Rate Schedule".

3.0 METERING, MAINTENANCE AND DISCONNECTION RESPONSIBILITIES:

3.1 Metering: Unless otherwise provided in Exhibit C, meters shall be installed by the MMCIC within one year from the date of building transfer, at no cost to the Government, for all services which are listed as requiring meters in Section 2.4 above. All meters shall be installed and maintained in accordance with the standards set forth by the local utility whose rate schedule was used to determine the prevailing local rate.

3.2 Maintenance Responsibilities: The MMCIC shall provide maintenance and repair to supply lines to their facilities in accordance with applicable codes. The MMCIC maintenance responsibility will begin at the point the supply line(s) enter the MMCIC's property at the boundary line. Supply lines located on the Government's property will be maintained by the Government. Where a supply line is connected to a main distribution line that runs through the MMCIC's property (under an easement to the Government) then the maintenance responsibility of the MMCIC shall begin at the point that the supply line branches off from the main line. The Government shall maintain the main line until such time that it is no longer needed by the Government for its use. At that time, maintenance and repair shall become the sole responsibility of the MMCIC for that portion contained solely within the MMCIC's boundaries. If a main distribution line is not needed by the MMCIC the Government will abandon the line in accordance with Section 3.5. A map showing the maintenance responsibilities for utilities will be incorporated in this agreement under Exhibit D prior to the transfer of any parcel of land.

3.2.1 Telecommunications Maintenance: Responsibility for maintenance of surplus telecommunications lines shall be undertaken by the MMCIC. The MMCIC agrees to acquire services from Government approved contractors for telecommunication maintenance involving surplus Government lines.

3.4 Backflow Prevention: The MMCIC shall maintain backflow prevention devices on firewater and process water supply lines in order to ensure that no cross contamination occurs.

3.5 Disconnection of Services: The Government will disconnect services upon the written notice of the MMCIC in an expeditious, a safe and cost effective manner. The MMCIC shall provide a minimum of 30 days advance notice. The Government, upon receipt of notice, will abandon subject utility lines in a safe and cost effective manner. After the date of disconnection, the MMCIC will not utilize the disconnected services and will not incur any additional charges.

4.0 ACCESS TO PROPERTY:

The MMCIC agrees to grant the Government the right of reasonable access to the MMCIC property for purposes of reading of meters, sampling of potable water and waste water, for inspections to insure the accuracy of the reporting of waste streams under EPA Form 2D, and as is necessary to comply with any other regulatory requirements. The Government agrees to provide the MMCIC with written notice of routine access to the MMCIC buildings at least two working days prior to the requested access. No notice is required for emergency access or other non-routine access but the Government will use its best efforts to make prior telephone contact with the MMCIC if the situation or event allows. This language is not intended to supercede any other easements granted to DOE.

5.0 CONTINUITY OF SERVICES AND LIABILITY THEREOF:

5.1 Continuity of Services: The Government does not guarantee uninterrupted service. The Government will use reasonable diligence at all times to provide uninterrupted service, but shall not be liable for any loss, any damages or breach of contract to the MMCIC resulting from such failure, irregular, defective, interruption, reduction or suspension of service. The Dayton, Power and Light Company, Order No. DE-AD24-97OH20066 under General Services Administration Contract No. GS-OOP-BSD-0014 dated February 20, 1997, with the U. S. Department of Energy is hereby incorporated by reference.

5.2 Interruption of Services: The Government reserves the right to curtail or temporarily interrupt service when it shall become necessary in order that repairs, replacement or changes may be made in Mound Facilities. The Government may impose reasonable restrictions on the use of service during peak periods of excessive demand or other difficulty which jeopardizes the supply of service.

5.3 Notice: The Government will immediately notify the MMCIC when any known interruption in services is anticipated.

6.0 NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION:

6.1 Permits and Permit Applications: The MMCIC agrees to utilize the utility services provided by the Government in accordance with all applicable operating and use requirements and restrictions, and further agrees to immediately notify the Government in the event that the MMCIC becomes aware of any unauthorized activity. The Government agrees to provide the MMCIC copies of all applicable permits, contract agreements, and tariffs issued to or utilized by the Government with respect to the utility services provided under this Agreement.

6.2 Compliance with Environmental Permits: The MMCIC shall obtain and comply with all required environmental permits and authorizations.

6.3 Indemnification: The MMCIC shall indemnify the Government for any fines or penalties imposed upon the Government and/or damages and costs, including the reasonable and necessary costs of investigation and sampling, caused by the MMCIC and/or its tenants' violation of environmental laws and regulations or actions on the part of the MMCIC and/or its tenants which causes the Government to violate the conditions of its permit. The Government, at its option, may permit the MMCIC to conduct the required environmental investigation and/or sampling.

6.4 Sewage Treatment System: The sewage treatment system is designed for the treatment of sanitary waste and is operated by the Government in accordance with the Government's National Pollutant Discharge Elimination System (NPDES) permit. Discharge of other than sanitary waste, including but not limited to the discharge of industrial waste, shall be requested by the MMCIC by means of a written request and the submission of a completed EPA Application Form 2D, "New Sources and New Discharges; Application for Permit to Discharge Process Wastewater," and other required information that may be necessary. Approval shall be obtained from the Contracting Officer prior to discharge into the system.

6.5 Verification of Pretreatment Systems: The Government reserves the right to require the MMCIC, at no cost to the Government, to develop an acceptable discharge and monitoring plan for waste streams entering the Government's system delivered from pretreatment systems.

6.6 Financial Responsibility: Under certain circumstances, the MMCIC may be required by the Government to demonstrate proof of an adequate level of financial responsibility to address environmental concerns relating to the sewer utility services prior to the Government permitting new businesses to operate on parcels transferred to the MMCIC. The following represents criteria that the Government will consider in determining whether the MMCIC would be required to demonstrate proof of financial responsibility; 1) any company handling hazardous waste and/or substances; 2) the type of activity; 3) any violations or citations for violations and/or Notice of Violation (NOV) of environmental and/or safety laws, including regulatory requirements that the company, including parent company, if any, has received within the last five years and any fines/penalties and the amount and proof of payment thereof; 4) information regarding the financial capability/financial responsibility/solvency of the requested user; 5) and the reasonable risks to the Government presented by the operation of the new businesses. If the Government determines that the MMCIC may be required to demonstrate proof of financial responsibility, the Government will notify the MMCIC in writing of the basis of its risk analysis and the proposed level of financial responsibility. The MMCIC will be afforded a reasonable

opportunity to respond to the Government's notification and, unless the parties otherwise mutually resolve the concerns raised, the MMCIC agrees to provide the Government with proof of financial responsibility acceptable to the Government prior to the new business conducting operations.

7.0 CANCELLATION/DISCONTINUANCE:

7.1 Cancellation Notice: The Government may cancel this agreement, in whole or in part, by giving sixty (60) days prior written notice to the MMCIC in the event the MMCIC violates any of the terms and conditions of this Agreement and continues to persist therein for sixty (60) days after notice thereof in writing by the Government.

7.2 Discontinuance And/Or Suspension Of Service(S) For Violations By The MMCIC: In addition to any other rights under this Agreement, the Government has the right to discontinue and/or suspend the provision of any or all of the services enumerated herein solely at the Government's discretion for a violation of any of the terms of this Agreement. The MMCIC shall have 30 days from the date of the notice to correct such violation before the services are discontinued and/or suspended. The time for correction may be extended only with the consent of the contracting officer.

Notwithstanding any other provision of this agreement, the Government shall have the right to discontinue the provision of any or all of the services enumerated herein without notice and without a prior opportunity to correct the violation(s) for the following reasons:

1. The MMCIC and/or its lessees creating a condition(s), in whole or in part, that causes a violation of any permits and permit applications of the DOE and/or its contractors(s); and or
2. Actions on the part of the MMCIC and/or its lessees in creating, in whole or in part, conditions that are determined to be hazardous and/or dangerous and/or create a threat to the public health and safety and/or to the environment; and or,
3. Failure to provide information and/or access to property in order to determine compliance with permit conditions and/or ensure that use of the utilities are not endangering life, health, and environment; and/or,
4. Discharge of an unapproved waste stream and/or;
5. Terms of contract/agreement/tariff with other utility providers that require discontinuance/suspension/termination of services.

Provision of the service(s) shall only be resumed after correction of the condition creating the violation(s) and/or threats to life, health, and environment. The Government shall determine if the corrective actions are sufficient to warrant resumption of the services. If a violation of a permit

term and/or condition has occurred, provision of the utilities shall resume only after compliance with the required permit conditions has been assured and the operation causing the violation has been corrected. The MMCIC shall provide proof thereof to the contracting officer. Approval to resume use of the systems and/or provide the service(s) shall not be unreasonably withheld. "Violation" shall not be construed as requiring the issuance of a Notice of Violation, or an imposition of fines and/or penalties by the appropriate regulatory body in order for the Government to discontinue/suspend provision of the service(s) without providing an opportunity to correct prior to discontinuance/suspension of the service(s).

7.3 Excusable Delays: The MMCIC shall promptly notify the Contracting Officer in writing as soon as it is reasonably possible for any delays or anticipated delays beyond their reasonable control to meet the required deadlines incorporated in this Agreement. The notification shall include rationale for the delay and a revised date. The Contracting Officer will review the notification and respond to the MMCIC within 30 days.

7.4 Cancellation Provision: Notwithstanding any provision to the contrary, the Government agrees to provide these utility services until such time as they are no longer in the Government's best interest. In considering whether to disconnect and/or cancel any or all utility services the Government will consider the following: adjustment to the utility rates, the transfer of service to the MMCIC and/or abandonment of the system, in whole or part.

In determining the Government's best interest, the Government will consider various factors including but not limited to: costs, funding, schedule, reuse of site, prime contracts/subcontracts, transition of utility services, and/or public health & safety & environment.

Should the Government elect to utilize this provision as the basis upon which to disconnect and/or cancel any utility services, the Government agrees to provide the MMCIC with a reasonable amount of time to make alternative service arrangements.

8.0 LIMITATIONS AND EXCLUSIONS:

8.1. Limitation of Government's Obligation: The Government's obligation under this agreement is contingent upon the availability of appropriated funds to perform and/or provide the functions/services described herein for the Government's operations.

8.2 Period of Performance: It is agreed to and understood by the parties, that the MMCIC shall exercise reasonable efforts and due diligence to obtain the services as quickly as possible from local utility providers. The specific time frame for obtaining the services from local providers shall be set forth in Exhibit C attached hereto upon each parcel transfer. The MMCIC shall comply with the specific schedule outlined for each parcel.

8.3 Force Majeure: In the event that the Government is unable, wholly or in part, by reason of Force Majeure to carry out its providing of services under this agreement, the obligations of the Government, so far as they are affected by such Force Majeure, shall be suspended during the

continuance of any inability so caused but for no longer period and such cause shall, as far as possible, be remedied with all reasonable dispatch.

The term "Force Majeure" as used herein shall mean acts of God, strikes, lockouts, or other industrial disturbances, acts of the public enemy, wars, blockades, insurrections, riots, epidemics, landslides, lightning, earthquakes, fires, extreme weather conditions, storms, floods, washouts, arrest and restraints of Governments and people, civil disturbance, explosions, breakage or accident to machinery or lines, the maintaining or repairing or alteration of machinery, equipment, structures or lines, pipes, etc (which maintaining, repairing or alternation shall, however, be carried out in such a manner as to cause the smallest practicable curtailments or interruption of deliveries of services), freezing of lines and/or pipes, practical or complete curtailment of deliveries under the Government's purchase contracts, inability to obtain rights of way or permits or materials, equipment or supplies, any of the above, which shall by the exercise of due diligence and care the Government is unable to prevent or overcome, and any cause other than those enumerated herein (whether of the kind enumerated herein or otherwise) which is not within the control of the Government and which by the exercise of due diligence the Government is unable to prevent or overcome. It is understood and agreed that the settlement of strikes or lockouts shall be entirely within the discretion of the persons affected, and that the above requirement that any Force Majeure shall be remedied with all reasonable dispatch shall not require the settlement of strikes or lockouts when such course of action is inadvisable in the discretion of the person affected thereby.

8.4 Government Liability: The Government shall not in any way be responsible or liable for damages or loss to or injuries sustained by the MMCIC or others, by reason of the condition or character of the MMCIC's or other's infrastructure such as wiring, lines, pipes, transformers or equipment. The Government shall not be responsible for the use, care or handling of the services delivered to the MMCIC including but not limited to electricity, water, sewer, steam, etc.

8.5 Limitations and Exclusions: This Agreement shall not be construed as or deemed to be an Agreement for the benefit of any other party of parties; and no other party or parties shall have any right of action whatsoever for any cause whatsoever.

8.6 Assignment/Non-Transferability: Neither this Agreement nor any interest therein claimed thereunder shall be assigned or transferred by the MMCIC except as expressly authorized in writing by the Contracting Officer.

9.0 ADMINISTRATION & BILLING:

9.1 Correspondence: All correspondence submitted by the parties will be subject to the following procedures:

9.1.1 DOE Technical Correspondence: Technical correspondence concerning performance of this Agreement (including correspondence which proposes or otherwise involves waivers, deviations, or modifications to the requirements, terms, or conditions of this agreement) shall be

addressed to an appointed Government's Contracting Officer's Representative (COR), with an information copy of the correspondence to the Government's Contracting Officer.

9.1.2 DOE Non-technical Administrative Correspondence: All other correspondence, shall be addressed to the designated Government's Contracting Officer, with an information copy of the correspondence to the Government's COR.

9.1.3 MMCIC Correspondence: All correspondence to the MMCIC shall be addressed to its President at the following address:

MMCIC
P.O. Box 232
Miamisburg, OH 45343-0232

9.2 Submission Of Payments:

9.2.1 General: Charges for services will be billed on a monthly basis.

9.2.2 Billing: The Government or the utility provider shall read meters within the first ten working days of the month and will provide a single bill to the MMCIC, itemized for each service, by the end of each month in which the reading was taken.

Payment by the MMCIC is due within 30 days upon receipt of bill. Payment shall be made to:

US Department of Energy
Ohio Field Office
P.O. Box 3020
Miamisburg, OH 45343-3020

The Government will impose an interest charge, the amount to be determined by law or regulation, on late payment of debts. Interest will accrue from the due date.

9.3 Agreement Administration:

9.3.1 The Agreement will be administered by:

U.S. Department of Energy
Ohio Field Office
Office of Acquisition and Asset Management
P.O. Box 3020
Miamisburg, OH 45343-3020

9.3.2 Contracting Officer's Representative (COR): The Contracting Officer's Representative will be designated by separate letter and will represent the Contracting Officer in the technical phases of the work. The COR is not authorized to change any of the terms and conditions of this

Agreement. Changes in the Scope of the Agreement on behalf of the Government will be made only by the Contracting Officer.

9.4 Modification Authority: Notwithstanding any of the other provisions of this Agreement, an Agreement administrator, who is a contracting officer, shall be the only individual authorized to a) accept nonconforming material or services b) waive any requirement of this Agreement, or c) modify any term or condition of this Agreement on behalf of the Government.

9.5 Taxes: In the event taxes are imposed by the State or its political subdivisions upon the utility services provided herein, the MMCIC shall pay promptly to the Government the amount of taxes imposed including retroactive application of the taxes as of the date of transfer.

IN WITNESS WHEREOF, the Department of Energy and the MMCIC have caused this Agreement to be fully executed on the date herein above set forth.

WITNESSES: Richard A. [Signature] [Signature]
Richard B. [Signature] Robert J. Folker
[Signature] [Signature]

Miamisburg Mound Community Improvement Corporation

By: Michael J. [Signature]
Title: President

United States of America by and through the Department of Energy:

By: Jima Brown
Title: Contracting Officer

EXHIBIT A
To
Interim
Utility Agreement
between
the U. S. Department of Energy
and
MMCIC

Copy of EPA Form 2D

EXHIBIT B
To
Interim
Utility Agreement
between
the U. S. Department of Energy
and
MMCIC

Building Temperature Set points and Operating Hours
for
Steam/Chilled Water Usage

Building	Temperature Set Points				Operating Schedule		
	Winter		Summer		Time		
	Day	Night	Day	Night	Start	Stop	Days
100*	N/A	N/A	N/A	N/A	N/A	N/A	N/A
105	70.5	65	75.5		0530	2300	6

*Has Heat Pump with no demand for chilled water or steam.

EXHIBIT C
to
Interim Utility Agreement
between
the U. S. Department of Energy
and **MMCIC**

Building	Service	Stand Alone Dates	Rate	Method	Estimated Usage
100	Electrical	12/31/99	See Note 2	Metered	120,000 KWH
	Water	09/30/99	\$0.045/Gal	Prorated Note 3	6,333 gal/Yr
	Sewer	See Note 1	\$0.036/Gal	Prorated	6,333 gal/Yr
	Fire Suppression Lines	See Note 1	N/A	N/A	N/A
105	Electrical	12/31/99	See Note 2	Metered	1,215,000 KWH/yr
	Water	09/30/99	\$0.045/Gal	Prorated Note 3	32200 gal/Yr
	Chilled Water	04/30/00	\$0.059/KW H	Binned	234,294 KWH/Yr
	Steam	12/31/99	\$10.81/ k lbs	Binned	225,200 lbs/yr
	Sewer	See Note 1	\$0.036/Gal	Prorated	32200 gal yr
	Fire Suppression Lines	See Note 1	N/A	N/A	N/A

Note 1 - These utility services are projected to be stand alone when decentralization or Mound site closure occurs.

Note 2 - Current rates per month per building:

3-Phase Fixed Charge =	\$16.00 Building
Demand Charge over 5 KW	\$14.0713/KW
Usage:	
1 st 1500 KWH	\$0.06576/ KWH
next 123,500 KWH	\$0.01388/ KWH
Over 125,000 KWH	\$0.00969/ KWH
Fuel Adjustment	Varies Semi-Annually

Note 3 - Once metered, costs will be based on metered quantities.