



ENVIRONMENTAL
PROTECTION

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AllWest Environmental, Inc.

Specialists in Environmental Due
Diligence and Remedial Services

One Sutter Street, Suite 600
San Francisco, Ca 94104
Tel 415.391.2510
Fax 415.391.2008

SOIL & GROUNDWATER INVESTIGATION

**Technical & Cost Proposal
for
6301 San Pablo Avenue
Oakland, California**

PREPARED FOR:

**Mr. Ken Evans
ECRU, Inc.
1611 South Airport Way
Stockton, California 95206**

95057.23

March 6, 1995



AllWest

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March 6, 1995

Mr. Ken Evans
ECRU, Inc.
1161 South Airport Way
Stockton, CA 95206

**Re: 6301 San Pablo Avenue, Oakland, California
AllWest Proposal 95028.23**

Dear Mr. Evans,

Thank you for requesting this proposal from *AllWest*. We have thoroughly reviewed the project information and submit this proposal to initiate the site investigation in conformance with directives received by ECRU from Alameda County.

Our proposal package is organized for clarity. Following our fee estimate are sections detailing our recent case closure accomplishments, insurance coverages, resumes and references.

The references I've provided include attorneys and clients of recent projects where hydrocarbon contamination, the Reimbursement Fund and regulatory agencies are common elements. While the initial scope of the project is straight forward, ECRU will benefit from retaining a consulting firm that has been at the table with regulatory agencies and other concerned parties and has been successful in attaining site closure. I am particularly proud to inform you of four case closures AllWest has negotiated for clients over the past six months. Client advocacy is a particular strength of my firm along with the ability to deliver services at a reasonable cost.

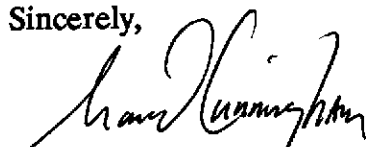
I have included two resumes for your review: Long Ching, P.E., and my own. Undoubtedly there will be others on my staff involved if we are awarded the project but at this juncture I cannot say just who it will be. Long and I both are the most experienced in these types of projects and will be intimately involved with the work from day one.

Among his other qualifications, Long has significant experience in hydrocarbon type site investigations. Prior to joining AllWest he oversaw investigations similar to this proposed project on over 35 ARCO AM/PM Markets. Currently, Long is overseeing two UST Reimbursement Fund cases as well as two other UST non-Fund investigations. My role in the proposed project will be to administer the budget and oversee the written report, two crucial elements of client satisfaction.

I am happy to note that AllWest's insurance coverage exceeds most client requirements. We maintain a two million dollar policy for both errors/ommissions and contractor liability and five million for general liability. Other coverage is at the statutory level.

Mr. Evans, thank you in advance for your every consideration of *AllWest*.

Sincerely,



Marc D. Cunningham
President

MDC/am

Enclosures

WA\95057-23.wa



AllWest Environmental, Inc.

Specialists in Environmental Due
Diligence and Remedial Services

One Sutter Street, Suite 600
San Francisco, Ca 94104
Tel 415.391.2510
Fax 415.391.2008

March 6, 1995

AUTHORIZATION FOR WORK

Mr. Ken Evans
President
ECRU, Inc.
1611 South Airport Way
Stockton, CA 95206

**RE: 6301 San Pablo Avenue, Oakland, CA
ALLWEST PROPOSAL 95057.23**

DESCRIPTION: Environmental Site Services to provide a physical evaluation and written report which addresses potential groundwater and soil contamination at the site.

Our proposed scope of work is based on Alameda County's November 21, 1994 correspondence and includes the following:

- Attain work permits from City Departments;
- Write site Health & Safety Plan;
- Arrange drilling contractor;
- Conduct utility scan for subsurface conduits;
- Drill 5 soil borings to approximately 25 feet below the surface;
- Drill 3 borings to 25 feet below the surface and construct 3 monitoring wells;
- Collect up to 16 soil and 3 groundwater samples;
- Maintain samples under Chain-of-Custody protocol;
- Deliver the samples to a state certified laboratory for appropriate chemical analysis; and
- Well head survey.

The samples will be chemically analyzed for the following constituents:

- Total petroleum hydrocarbons as gasoline (EPA m-8015);
- Gasoline constituents: BTEX;
- Total petroleum hydrocarbons as diesel;
- Oil and Grease;
- Lead.

AllWest will prepare a report describing the work performed, sampling methods, chain of custody documentation, laboratory results and our conclusions. AllWest can report verbal results within 6 days of the collection of the soil and water samples. The written report will be available within 8 days of the verbal report. All work will be performed to the satisfaction of the Alameda County and Regional Water Quality Control regulators.

THIS AUTHORIZATION FOR: New Work

The above work is budgeted as follows:

AllWest Environmental Professional Services	\$ 4,190
Drilling Subcontractor	\$ 4,400
Laboratory services subcontractor	\$ 2,170
Material/costs/subsurface utility scan	<u>\$ 1,466</u>
	\$12,006

Note: Disposal of soil cuttings and purge water is not included in this estimate. Disposal of the spoils will be addressed in a letter report pending chemical analysis.

The above fees provide for a realistic budget. However, actual costs are directly related to the amount of time involved to perform the work. AllWest will bill ECRU on a time and material basis based upon the enclosed fee schedule. A fee schedule is attached for your reference. More or less time than estimated may be required to complete the project depending upon conditions encountered at the site.

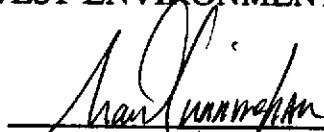
TERMS:

1. Authorization and Terms & Conditions shall be signed and returned.
2. All permits and agency fees associated with this project will be billed at cost plus 5%. All subcontractors will be billed at cost plus 5%.
3. Client invoices will be in a format acceptable to the State Reimbursement Fund.

4. We await your Authorization and retention payment of \$3,000.00 before commencing work (facsimile of proposal is satisfactory).

ALLWEST ENVIRONMENTAL INC.

By:



Marc D. Cunningham
President

By:

ECRU

Date:

MDC/am

Enclosures:

Fee Schedule
Terms & Conditions

WA\95057-23.wa



AllWest Environmental, Inc.

Specialists in Environmental Due
Diligence and Remedial Services

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March 6, 1995

AUTHORIZATION FOR WORK

Mr. Ken Evans
President
ECRU, Inc.
1611 South Airport Way
Stockton, CA 95206

**RE: 6301 San Pablo Avenue, Oakland, CA
ALLWEST PROPOSAL 95057.28**

DESCRIPTION: Groundwater monitoring. AllWest proposes to:

- Inspect the wellhead conditions;
- Purge and sample 3 Monitoring Wells;
- Perform subject analyses.

The samples will be chemically analyzed for the following constituents:

- TPH-Gasoline/BTEX;
- TPH-Diesel;
- Oil & Grease;
- Lead.

Prepare a written report.

AllWest will prepare a report describing the work performed, sampling methods, chain of custody documentation, laboratory results and our conclusions. AllWest will report verbal results within 6 days of sample collection. The written report will be available 3 days post verbal report.

THIS AUTHORIZATION FOR: NEW WORK

The above work is budgeted as follows:

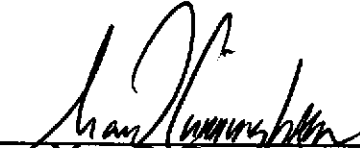
AllWest Environmental Professional Services	\$1,170
Laboratory Services Subcontractor	\$ 390
Equipment/Materials	<u>\$ 381</u>
TOTAL AMOUNT PER QUARTER:	\$1,941

NOTE: Disposal of rinsate water is not included in this estimate. Disposal of the water will be addressed pending lab analysis.

TERMS:

1. Authorization and Terms and Conditions shall be signed and returned (facsimiles are acceptable).
2. We await your Authorization before commencing work.

ALLWEST ENVIRONMENTAL, INC.

By: 

Marc D. Cunningham
President

By: _____
ECRU, Inc.

Date: _____

MDC/am

Enclosure: Terms & Conditions



AllWest

1995

MODIFIED HOURLY RATE SCHEDULE

**for 6301 San Pablo Avenue
Oakland Proposal**

ALLWEST ENVIRONMENTAL, INC.

Principals	\$95
Registered Engineer/Geologist	\$90
Associates	\$85
Senior Geologist	\$80
Project Geologists	\$75
Industrial Hygienist	\$65
Site Technician	\$55
Draftsman	\$45
Administrative	\$40
Expenses	Costs + 5%



AllWest

1995

EQUIPMENT COSTS SCHEDULE

ALLWEST ENVIRONMENTAL, INC.

<u>EQUIPMENT</u>	<u>DAILY RATE</u>
OVM 580A	\$50.00
SOIL SAMPLING KIT	\$35.00
HAND PUMP	\$20.00
WATER LEVEL METER	\$25.00
CONDUCT. TEMP. PH. METER	\$35.00
COMPANY VEHICLE	\$50.00
BAILER, TEFLON	\$10.00
BAILER, DISPOSABLE	\$ 7.00
WATER SAMPLE SUPPLIES	\$ 5.00
SOIL SAMPLE SUPPLIES	\$10.00
SMALL TOOLS	\$40.00
ELECTRICAL PUMP	\$50.00
GENERATOR	\$25.00
SAFETY CONES	\$ 5.00
SUMP PUMP	\$ 5.00

ACORD CERTIFICATE OF INSURANCE

ISSUE DATE (MM/DD/YY)

3/01/95

PRODUCER

DEALEY, RENTON & ASSOCIATES
Insurance Brokers J. Ward
P.O. Box 12675
Oakland, CA 94604-2675
510-465-3090

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

COMPANIES AFFORDING COVERAGE

COMPANY LETTER	A	Fireman's Fund Insurance Co.
COMPANY LETTER	B	Guaranty National Ins Co
COMPANY LETTER	C	American Insurance Co.
COMPANY LETTER	D	Reliance National Indemnity C
COMPANY LETTER	E	Associated Indemnity Corp.

INSURED

ALLWEST ENVIRONMENTAL, INC.
1 Sutter Street, Suite 600
San Francisco, CA 94104

COVERAGE

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED, NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN. THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS

OR TH	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS
A	GENERAL LIABILITY	MOX80551001	2/22/95	2/22/96	GENERAL AGGREGATE \$ 1000000
	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY				PRODUCTS-COMP/OP AGG \$ 1000000
	<input type="checkbox"/> CLAIMS MADE <input checked="" type="checkbox"/> OCCUR				PERSONAL & ADV. INJURY \$ 1000000
	OWNER'S & CONTRACTOR'S PROT.				EACH OCCURRENCE \$ 1000000
					FIRE DAMAGE (Any one fire) \$ 50000
					MED EXPENSE (Any one person) \$ 5000
C	AUTOMOBILE LIABILITY	MOX80134118	2/22/95	2/22/96	COMBINED SINGLE LIMIT \$ 1000000
	<input checked="" type="checkbox"/> ANY AUTO				BODILY INJURY (Per person) \$
	<input type="checkbox"/> ALL OWNED AUTOS				BODILY INJURY (Per accident) \$
	<input checked="" type="checkbox"/> SCHEDULED AUTOS				PROPERTY DAMAGE \$
<input checked="" type="checkbox"/> HIRED AUTOS					
<input checked="" type="checkbox"/> NON-OWNED AUTOS					
<input type="checkbox"/> GARAGE LIABILITY					
B	EXCESS LIABILITY	UMC1006504	2/22/95	2/22/96	EACH OCCURRENCE \$ 5000000
	<input checked="" type="checkbox"/> UMBRELLA FORM				AGGREGATE \$ 5000000
	OTHER THAN UMBRELLA FORM				
E	WORKER'S COMPENSATION AND EMPLOYERS' LIABILITY	WZP80644017	7/01/94	7/01/95	<input checked="" type="checkbox"/> STATUTORY LIMITS
					EACH ACCIDENT \$ 1000000
					DISEASE-POLICY LIMIT \$ 1000000
					DISEASE-EACH EMPLOYEE \$ 1000000
D	OTHER	NTF163442001	2/22/95	2/22/96	\$2,000,000 PER CLAIM AND ANNUAL AGGREGATE
	PROFESSIONAL LIAB. & CONTRACTORS POLLUTION LEGAL				

DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/SPECIAL ITEMS

CERTIFICATE HOLDER

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING COMPANY WILL ENDEAVOR TO MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO MAIL SUCH NOTICE SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE COMPANY, ITS AGENTS OR REPRESENTATIVES

*****SAMPLE CERTIFICATE*****

Actual Certificate Will Be Sent At The Request of AllWest Environmental, Inc.

AUTHORIZED REPRESENTATIVE

DEALEY, RENTON & ASSOCIATES 90504000

BY *J. Ward*

© ACORD CORPORATION 1990

GENERAL CONDITIONS TO THE WORK AUTHORIZATION

AGREEMENT

It is hereby agreed that the Client retains AllWest to act for and represent it in all matters set forth in the Work Authorization attached hereto (the "Work"). Such contract of retainer shall be subject to and is conditioned upon the following terms, conditions, and stipulations, which terms, conditions and stipulations will also apply to any further agreements, purchase orders, or documentation regarding the Work unless modified by a writing signed by both Parties to this Agreement. Signature by client on work authorization constitutes agreement with General Conditions as stated here.

It is recognized and agreed that AllWest has assumed responsibility only for making the investigations, reports and recommendations to the Client included within the Scope of Work. The responsibility for making any disclosures or reports to any third party and for the taking of corrective, remedial, or mitigative action shall be solely that of the Client.

REIMBURSABLE COSTS

1. Reimbursable Costs will be charged to the Client in addition to the fees for the basic services under this Agreement and all Additional Services under the Agreement. Reimbursable Costs include, but are not limited to, expenses for travel, including transportation, meals, lodging, long distance telephone and other related expenses, as well as the costs of reproduction of all drawings for the Client's use, costs for specifications and type-written reports, permit and approval fees, automobile travel reimbursement, costs and fees of subcontractors, and soil and other materials testing. No overtime is accrued for time spent in travel. All costs incurred which relate to the services or materials provided by a contractor or subcontractor to AllWest shall be invoiced by AllWest on the basis of cost plus twenty percent (20%). Automobile travel reimbursement shall be at the rate of thirty-five cents (\$.35) per mile. All other reimbursable costs shall be invoiced and billed by AllWest at the rate of 1.1 times the direct cost to AllWest. Any rates set forth in this Agreement are subject to reasonable increases by AllWest upon giving thirty days' written notice to Client. Reimbursable costs will be charged to the client only as outlined in the attached proposal if the work is a for Phase I Environmental Site Assessment.

WARRANTY AND LIMITATION OF LIABILITY

2. AllWest hereby warrants that it will perform the Work with the usual degree and standard of care and skill observed by members of AllWest's profession in the same geographic area on projects of the type engaged in by AllWest. AllWest's financial liability including attorney fees shall not exceed the dollar value of the project and shall be limited to direct damages. All other damages such as loss of use, profits, anticipated profits and like losses are consequential damages for which AllWest is not liable. Client's sole remedy under this Agreement shall be to request that AllWest repeat or correct any of the Work performed by AllWest which fails to meet these standards. Any such request by the Client must be made to AllWest within twenty (20) days of its occurrence, or else the liability of AllWest on such services performed shall be forever waived by the Client. Client hereby releases AllWest from all liability and damage incurred by the Client or other person which are associated with the services provided by AllWest, or the employees, agents, contractors or subcontractors of AllWest, under this Agreement.

Further, Client hereby releases AllWest from any and all liability for risks or damages to the Project site. AllWest assumes no liability or duties regarding the Project site by reason of its performance of the Work at the Project. Client shall hold AllWest harmless from any liability or duties with respect to the work or the Project. Client shall further release, Indemnify and hold AllWest harmless from any and all claims, liabilities or damages resulting from AllWest's use of technological or design concepts, or any other concepts or uses which, though acceptable and standard at the time the decision to use them was made, are unacceptable or non-standard beginning at the time work commences or any time thereafter. If AllWest must incur additional expenses in the Work by reason of the need to incorporate new or different technologies into the Work, whether necessitated by new laws, regulations or guidelines, or by the desire of Client, Client agrees to reimburse AllWest for such expenses, as well as provide compensation for AllWest's services at the rates set forth in the Work Authorization.

Client acknowledges that AllWest and its sub-contractors have played no part in the creation of any hazardous waste, pollution sources, nuisance, or chemical or industrial disposal problem, which may exist, and that AllWest has been retained for the sole purpose of assisting the Client in assessing any problem which may exist and in assisting the Client in formulating a remedial program, if such is within the Scope of Work which AllWest has assumed. Client recognizes that while necessary for investigations, commonly used exploration methods, may penetrate through contaminated materials and serve as a connecting passageway between the contaminated material and an uncontaminated aquifer or groundwater, possibly inducing cross contamination. While back-filling with grout, or other means, according to a state of practice design, is intended to provide a seal against such passageway, it is recognized that such a seal may be imperfect and that there is an inherent risk in drilling borings of performing other exploration methods in a hazardous waste site.

TERMINATION

3. This Agreement may be terminated by either party upon seven (7) days' written notice should the other party substantially fail to perform in accordance with its terms through no fault of the party initiating the termination. In the event of termination which is not the fault of AllWest, AllWest shall be paid no less than eighty percent (80%) of the contract price, provided, however, that if AllWest shall have completed more than eighty percent of the Work at the time of said termination, AllWest shall be compensated as provided in the Work Authorization for all services performed prior to the termination date which fall within the scope of work described in the Work Authorization and may as well, at its sole discretion and in accordance with said Schedule of Fees, charge Client its reasonable costs and labor in winding up its files and removing equipment and other materials from the Project.

AllWest may issue notice to other consultants, contractors, subcontractors and to governing agencies having jurisdiction over the Project and take such other actions as are reasonably necessary in order to give notice that AllWest is no longer associated with the Project and to protect AllWest from claims of liability from the work of others.

DOCUMENTS

4. Any documents prepared by AllWest, including but not limited to proposals, project specifications, drawings, calculations, plans and maps, and any ideas and designs incorporated therein, as well as any reproduction of the above are and shall remain the property of AllWest whether or not said documents are actually utilized in connection with the Project. The Client shall be permitted to retain a copy of any documents provided to the Client by AllWest, but said documents may not be used by the Client on the Project or on other projects or for any other purpose, except by agreement in writing with AllWest and with appropriate compensation to AllWest.

Client shall furnish, or cause to be furnished to AllWest, all documents and information known to Client that relate to the identity, location, quantity, nature, or characteristics of any asbestos, PCBs, or any other hazardous materials or waste at, on or under the site. In addition, Client will furnish or cause to be furnished such reports, data, studies, plans, specifications, documents and other information on surface or subsurface site conditions, e.g., underground tanks, pipelines and buried utilities, required by AllWest for proper performance of its services. AllWest shall be entitled to rely upon Client - provided documents and information in performing the services required in this Agreement; however, AllWest assumes no responsibility or liability for their accuracy or completeness. Client-provided documents will remain the property of the Client.

ACCESS TO PROJECT

5. Client grants to AllWest the right of access and entry to the Project at all times necessary for AllWest to perform the Work. If Client is not the owner of the Project, then Client represents that Client has full authority to grant access and right of entry to AllWest for the purpose of AllWest's performance of the Work. This right of access and entry extends fully to any agents, employees, contractors or subcontractors of AllWest upon reasonable proof of association with AllWest.

CONFIDENTIAL INFORMATION

6. Both Client and AllWest understand that in conjunction with AllWest's performance of the Work on the project, both Client and AllWest's performance of the Work on the project, both Client and AllWest may receive or be exposed to Proprietary Information of the other. As used herein, the term "Proprietary Information" refers to any and all information of a confidential, proprietary or secret nature which may be either applicable to, or relate in any way to: (a) the personal, financial or other affairs of the business of each of the Parties, or (b) the research and development or investigations of each of the Parties. Proprietary Information includes, for example and without limitation, trade secrets, processes, formulas, data, know-how, improvements, inventions, techniques, software technical data, developments, research projects, plans for future development, marketing plans and strategies. Each of the Parties agrees that all Proprietary Information of the other party is and shall remain exclusively the property of that other party. The parties further acknowledge that the Proprietary Information of the other party is a special, valuable and unique asset of that party, and each of the Parties hereto agrees that at all times during the terms of this Agreement and thereafter to keep in confidence and trust all Proprietary Information of the other party, whether such Proprietary Information was obtained or developed by the other party before, during or after the term of this Agreement. Each of the Parties agrees not to sell, distribute, disclose or use in any other unauthorized manner the Proprietary Information of the other party. AllWest further agrees that it will not sell, distribute or disclose information or the results of any testing obtained by AllWest during the performance of the Work without the prior written approval of Client unless required to do so by federal, state or local statute, ordinance or regulation.

ADDITIONAL SERVICES

7. In addition to the services to be performed by AllWest as described in the Work Authorization, the following items shall for the purposes of this Agreement be termed "Additional Services": (a) work resulting from changes in scope or magnitude of the Work as described therein, (b) work resulting from changes necessary because of construction cost over-runs, (c) work resulting from implementation of alternative or different designs from that first contemplated by the Parties, (d) work resulting from corrections or revisions required because of errors or omissions in construction by the building contractors, (e) work due to extended design or construction time schedules, (f) layout surveys in review of in-place constructed elements, and (g) services as an expert witness in connection with any public hearing, arbitration or proceedings of a court of record with respect to the Work on the Project.

AllWest will be compensated by Client for any Additional Services as provided under the Work Authorization.

DISPOSAL OF CONTAMINATED MATERIAL

8. Client understands and agrees that AllWest is not, and has no responsibility as, a generator, operator, treater, storer, transporter or disposer of hazardous or toxic substances found or identified at the site, including investigation-derived waste. The Client shall undertake or arrange for handling, removal, treatment, storage, treatment of hazardous material shall be the sole responsibility of Client. AllWest's responsibilities shall be limited to recommendations regarding such matters and assistance with appropriate arrangements if authorized by Client.

INDEPENDENT CONTRACTOR

9. Both Client and AllWest agree that AllWest will act as an independent contractor in the performance of the Work under this Agreement. All persons or parties employed by AllWest in connection with the Work are the agents, employees or subcontractors of AllWest and not of Client. Accordingly, AllWest shall be responsible for payment of all taxes arising out of AllWest's activities in performing the Work under this Agreement.

NOTICES

10. (a) All notices, demands or requests provided for or permitted to be given pursuant to this Agreement must be in writing and shall be deemed to have been duly given on the date of service if served personally on the party to whom notice is to be given, or if mailed by first class certified mail, return receipt requested, and properly addressed as follows:

To Client:
To AllWest: AllWest Environmental, Inc.
1 Sutter Street, Suite 600
San Francisco, California 94104

when either (i) the return receipt is signed by the addressee, (ii) the mailing is refused by the addressee, or (iii) the mailing is not delivered because the addressee moved and left no forwarding address.

b) By giving the other party to this Agreement ten (10) days' written notice thereof, the parties hereto and their respective successors and assigns shall have the right from time to time and at any time during the term of this Agreement to change their respective addresses and each shall have the right to specify as its address any other address within the United States of America.

ENTIRE AGREEMENT

11. This Agreement contains the entire agreement between the Parties pertaining to the subject matter contained in it and supersedes all prior and contemporaneous agreements, representations and understandings of the Parties. The terms of this Agreement are contractual and not a mere recital. The undersigned have carefully read and understand the contents of this Agreement and sign their names to the same as their own free act. This Agreement was entered into following negotiations between the Parties.

MODIFICATION / WAIVER / PARTIAL INVALIDITY

12. The terms of this Agreement may be modified only by a writing signed by both Parties. No consent or waiver, express or implied, by either party to or of any breach or default by another in the performance by the other of its obligations hereunder shall be deemed or construed to be a consent or waiver to or of any other breach or default in the performance by such other party of the same or any other obligations of such party hereunder. Failure on the part of either party to complain of any act or failure to act of the other, or to declare the other party in default, shall not constitute a waiver by such party of its rights hereunder. If any provision of this Agreement or the application thereof to any person or circumstances shall be invalid or unenforceable to any extent, the remainder of this Agreement and the application of such provisions to other persons or circumstances shall not be affected thereby and shall be enforced to the greatest extent permitted by law.

INUREMENT / TITLES / ATTORNEYS' FEES

13. Subject to any restrictions on transfers, assignments and encumbrances set forth herein, this Agreement shall inure to the benefit of and be binding upon the undersigned Parties and their respective heirs, executors, legal representatives, successors and assigns. Paragraph titles or captions contained in this Agreement are inserted only as a matter of convenience, and for reference only, and in no way limit, define or extend the provisions of any paragraph. If any legal action or any arbitration or other proceeding is brought for the enforcement of this Agreement, or because of an alleged dispute, breach, default or misrepresentation in connection with any of the provisions of this Agreement, the successful prevailing party shall be entitled to recover reasonable attorneys' fees and other costs incurred in that action or proceeding, in addition to any other relief to which it or they may be entitled. In addition, AllWest shall be entitled to be reimbursed by the Client for any attorneys' fees or other costs reasonably incurred in enforcing the terms of this Agreement in the event such fees are incurred without resorting to arbitration or litigation.

INTERPRETATION / ADDITIONAL DOCUMENTS

14. The words "Client" and "AllWest" as used herein shall include the plural as well as the singular. Words used in the neuter gender include the masculine and feminine. Words used in the masculine gender include the feminine and neuter. If there is more than one Client or Consultant, the obligations hereunder imposed on Client or AllWest or Consultant shall be joint and several. Although the printed provisions of this Agreement were drafted by the attorneys for AllWest, the terms of this Agreement were fully negotiated by the Parties and shall not be construed for or against the Client or AllWest but shall be interpreted in accordance with the general meaning of the language herein contained in an effort to reach the intended result. Each of the Parties hereto shall upon request execute and/or acknowledge and/or deliver to each other Party or to its representatives any and all further documents which may now or hereafter be necessary to enable any of the Parties to effectuate any of the provisions of this Agreement.

AUTHORITY

15. Each of the persons executing this Agreement on behalf of a corporation does hereby covenant and warrant that the corporation is duly authorized and existing under the laws of its respective state of incorporation, that the corporation has and is qualified to do business in its respective state of incorporation, that the corporation has the full right and authority to enter into this Agreement, that the Board of Directors if required pursuant to the bylaws or resolution of the corporation approved this Agreement, and that each person signing on behalf of the corporation is authorized to do so. If the Client is a joint venture or a general partnership, the signatories below warrant that said joint venture or general partnership is properly and duly organized and existing under the laws of the respective state of its formation and pursuant to the joint venture agreement or a partnership agreement as well as by virtue of the laws of the respective state of its formation, said signatory is a joint venturer or a general partner of said joint venture or general partnership and has the power and authority to bind the joint venture or the general partnership.

COUNTERPARTS / ABSENCE OF PARTNERSHIP OR JOINT VENTURE

16. This Agreement may be signed in counterparts by each of the Parties hereto and, taken together, the signed counterparts shall constitute a single document. It is expressly understood that the Client does not, in any way or for any purpose, become a partner of AllWest in the conduct of its business, or otherwise, or joint venturer or a member of a joint enterprise with AllWest. It is expressly understood that AllWest do not, in any way or for any purpose, become a partner of the Client in the conduct of Client's business, or otherwise, or joint venturer or a member of a joint enterprise with Client.

THIRD PARTY BENEFICIARIES / CONTROLLING LAW

17. There are no intended third party beneficiaries of this Agreement. The services, data & opinions expressed by AllWest are for the sole use of the client, are for a particular project and may not be relied upon by anyone other than the client. This Agreement shall be controlled by the law of the State of California and any action by either party to enforce this Agreement shall be brought in San Francisco County, California.