



OVERSIGHT AGREEMENT BETWEEN LOWRY ASSUMPTION, LLC AND CITY AND COUNTY OF DENVER FACT SHEET

September 2008

OVERVIEW: This document provides a summary of the Oversight Agreement (“Agreement”) between the City and County of Denver (“Denver”) and Lowry Assumption, LLC (“LAC”), effective November 30, 2005. The Agreement requires that LAC oversee any excavation of soils on property that is owned by Denver or will be owned by Denver on the former Lowry Air Force Base (“Lowry”). The Agreement further requires LAC to manage environmental contamination on those properties in accordance with the Consent Agreement among LAC, the Lowry Redevelopment Authority (“LRA”), and the State of Colorado Department of Public Health and Environment (“CDPHE”) for a term of 10 years. The Agreement also provides payment to Denver for remedial, administrative and legal fees associated with the environmental issues related to Lowry.

BACKGROUND: Lowry, a military installation since 1937, closed September 30, 1994. The Air Force began performing steps necessary to transfer the former base property, including continuing environmental investigations and cleanup where necessary. Because the pace of cleanup and the transfer of property from the Air Force to the LRA did not keep pace with the redevelopment, the LRA, working with LAC, proposed outsourcing the environmental services, including clean up of contaminated groundwater and closure of the landfill in order to accelerate cleanup and speed transfer of property. This process is also known as "privatization."

In 2002, the Air Force privatized the cleanup of the landfill and groundwater at the former base to LAC, and in 2005 privatized the remainder of known additional environmental work at Lowry. This action provided funding for cleanup of potential future environmental issues discovered during the 10-year term of the 2005 privatization. The 2005 privatization facilitated transfer of all property to the LRA, whether or not the environmental work on the property was completed, and included a scope for environmental cleanup of known concerns and potential future issues. As described in the Consent Agreement with CDPHE, the scope of the known additional environmental work at Lowry included investigation and remediation of the remaining parcels located in the Northwest neighborhood; remediation and closure of Building 606; the remediation of the former outdoor firing range; the cleanup associated with the former fire training zone; investigation and cleanup of the former Building 898; and the investigation, remediation and closure of facilities identified in the Final RCRA Facility Assessment as needing further investigation.

OVERSIGHT: An additional requirement of the Consent Agreement requires LAC to address “other contaminated media identified on [Lowry] AFB” during the term of the privatization. A Soils Management Program was developed in order to minimize and mitigate the potential impact of future environmental discoveries at Lowry, and to ensure that such future discoveries are handled expeditiously and in accordance with appropriate statutes and regulations. LAC implements the Soils Management Program by performing construction oversight, whereby an inspector, certified in both asbestos and hazardous materials, oversees all soil-disturbing activities at Lowry. The Soils Management Program also provides a procedure for investigating and cleaning up any newly identified environmental issues. LAC entered into Oversight Agreements with all landowners and developers at Lowry requiring notification to LAC when soil-disturbing activities are being performed to ensure compliance with the Soils Management Program. To date, LAC has spent more than 40,000 hours performing construction oversight.

The Oversight Agreement between Denver and LAC was negotiated as part of the privatization, due to the number of properties owned or to be transferred to Denver. In addition to providing construction oversight, LAC provided \$1 million in funding to Denver for the City and County’s remedial, administrative and legal fees associated with Lowry in addressing future potential environmental issues after the 10 year period of the privatization expires. Due to the multi-year funding of the privatization, the parties agreed to certain payment dates. The terms of Agreement require that LAC make the full payment by the end of the 10-year period—November 29, 2015; however, those payment due dates could be accelerated based on rezoning of certain parcels at Lowry, including the former landfill. The Agreement only provides for acceleration of the timing of payments. It does not and cannot provide for any agreement regarding zoning. Zoning is subject to a separate and independent approval process requiring City Council approval. *It is important to emphasize that there were not any promises for any approvals for zoning and that the payments are due regardless of whether City Council approves zoning changes.* To date, LAC has paid Denver \$750,000.00 under this Agreement.