CITY OF GAINESVILLE AGREEMENT FOR CONSULTING SERVICES

This AGREEMENT made and entered into this	of	_, by and between the
CITY OF GAINESVILLE (CITY), and Water a	nd Air Research,	a corporation of the
State of Florida (CONSULTANT).		

WHEREAS, CITY is desirous of utilizing CONSULTANT to provide consulting services to conduct an Industrial Use Study to satisfy the requirements of the moratorium on industrial development within the City of Gainesville; and

WHEREAS, CONSULTANT is willing and capable to perform such services,

NOW, THEREFORE, CITY and CONSULTANT agree as follows:

I. SCOPE OF SERVICES

CONSULTANT shall provide CITY with services as requested in the CITY's Generalized Scope of Services for Industrial Consultant (Exhibit A) and the CONSULTANT's proposal dated June 18, 2001 incorporated herein by reference (Exhibit B). The Scope of Services may be amended by mutual written agreement between the parties.

II. TERM

The term of this AGREEMENT shall be effective as of the execution date hereof, and continue until completion of the project. In no case will the contract term extend beyond September 24, 2001 for the study or January 2002 for presentations to the City Plan Board and City Commission without written amendment. Should CITY and CONSULTANT agree to add additional tasks or extend the AGREEMENT, any changes to this AGREEMENT must be evidenced by a written amendment.

III. COMPENSATION/PAYMENT

CONSULTANT shall be paid a maximum of \$24,700.00 for services rendered under this agreement. CONSULTANT shall be compensated monthly based upon percentage of completion of the tasks as outlined in the CONSULTANT's price proposal.

Each month the CONSULTANT shall provide the CITY with an invoice. The CITY shall make payment within 30 days of receipt of the invoice.

IV. DEFAULT

Failure to perform any responsibility under this AGREEMENT shall place the non-performing party in default. Upon written notice by the non-defaulting party, the party in default shall have ten (10) days to correct the default. If the default is not corrected, this AGREEMENT may be terminated at the option of the non-defaulting party.

V. TERMINATION

Either Party may terminate this AGREEMENT with or without cause by providing 30 days written notice to the other party. CONSULTANT shall be entitled to compensation in accordance with Section III of this AGREEMENT for services completed prior to termination.

VI. INDEPENDENT CONTRACTOR

CONSULTANT shall be considered as an independent contractor and as such shall not be entitled to any right or benefit to which CITY employees are or may be entitled to by reason of employment. CONSULTANT shall be solely responsible for the means, method, techniques, sequences, and procedures utilized by the CONSULTANT in the full performance of this AGREEMENT.

VII. INDEMNIFICATION

The CONSULTANT shall indemnify and hold harmless the CITY and any of its agencies, officials, officers or employees from and against damages, liability losses, and reasonable costs and expenses, including reasonable attorneys' fees, arising out of or resulting from the negligence of the CONSULTANT, its employees, agents, or subconsultants or others for whom the CONSULTANT is legally liable.

VIII. SOVEREIGN IMMUNITY

Nothing in this AGREEMENT shall be interpreted as a waiver of the CITY's sovereign immunity as granted under Section 768.28 Florida Statutes.

IX. TIMELINESS

The CITY and CONSULTANT further agree that time is of the essence in performance of work and that work under this AGREEMENT is required to be performed in an expeditious manner and with care reasonably expected of a CONSULTANT performing these duties.

X. VALIDITY

If any provision of this AGREEMENT is contrary to, prohibited by, or deemed invalid by applicable law, rules or regulations of any jurisdiction in which it is sought to be enforced, then such provision shall be deemed inapplicable and omitted, and shall not invalidate the remaining provisions of this AGREEMENT.

XI. CONTACT PERSONS

The parties hereto designate the following persons to be contacted regarding the performance of this agreement:

CITY OF GAINESVILLE

Ralph Hilliard City of Gainesville MS # 11 P.O. Box 490 Gainesville, FL 32602-0490

CONSULTANT

Dr. William C. Zegel Water and Air Research, Inc. 6821 S.W. Archer Road Gainesville, Florida 32608

XII. ENTIRE AGREEMENT

This AGREEMENT constitutes the entire AGREEMENT between the CITY and CONSULTANT. Any modifications, amendments or alterations shall be in writing and executed by both parties prior to becoming effective.

IN WITNESS WHEREOF, the parties hereto have executed this AGREEMENT the day and year first written above.

Water and Air Research, INC.	CITY OF GAINESVILLE
By Title:	By Title:
WITNESS:	WITNESS:

Exhibit A

Generalized Scope of Service for Industrial Consultant

Introduction

The City of Gainesville has placed a moratorium on 48 manufacturing uses. During the moratorium, the City wishes to determine whether the 48 manufacturing uses as well as any other allowed uses in the City's industrial zones, should, based on their environmental or nuisance impacts be prohibited, restricted as a special use, or allowed subject to performance standards. While the primary concern is with the City's list of allowed manufacturing uses, the review should include other uses allowed in the industrial zone to see if any other uses pose similar concerns.

The scope of services will include:

Task 1 A review of the city's industrial areas and the surrounding land uses with a special emphasis placed on the environmental and existing built character of these areas and the uses surrounding these areas.

Task 1 Approach and Deliverables

Water & Air will work with the City (Planning/Graphics) to review each of the City's industrial areas and surrounding land uses. The review will include collection of the following data:

- ♦ Acreage of existing uses (by SIC or DOR code) within each industrial area
- ♦ Acreage of existing and future land uses in proximity to (distance to be determined) industrial areas detailed by major land use categories (residential, commercial/office, institutional, and conservation)
- ♦ Location relative to City's Overlay Districts (Surface Waters and Wetlands, Greenway and Nature Park Districts)
- ♦ Acreage within Wellfield Districts (primary, secondary, and tertiary zones)

The City will provide spreadheets with acreages discussed above and maps identifying land uses discussed above. Water & Air shall prepare a summary report that characterizes existing industrial areas and surrounding land use including a discussion of mobile sources and power plants.

Task 2 & 3 Provide an analysis of the 48 listed uses subject to the moratorium and other uses allowed in the industrial zones, to determine whether those uses are appropriate for the areas designated for industrial given the location of residential and other uses near these areas (Task 2).

A determination as to what impacts the uses will have on our present air quality, groundwater (wellfield protection) and other environmental impacts, and impacts from traffic (trucks) and any other nuisance impact such as noise, dust, odor or vibrations (Task 3).

Task 2 & 3 Approach and Deliverables

Each of the 48 uses, as well as other uses allowed in the industrial zones, will be characterized in terms of their potential environmental and nuisance impacts including potential impacts to air quality, groundwater, and surface water, and from noise, vibrations, odor, truck traffic and other nuisance impacts. The 48 uses and other uses allowed in the industrial zone will be qualitatively assessed based on their potential environmental and nuisance impacts. This information will be summarized in a matrix format.

Based on the environmental and nuisance impact potential, the uses will be evaluated for their appropriateness for the areas designated for industrial given the uses in and surrounding industrial areas.

Water & Air will provide an Excel spreadsheet with 48 uses and other uses allowed in industrial areas providing a matrix of environmental and nuisance impacts and a summary report evaluating appropriateness of industrial uses given location of residential and other uses near these areas.

Provide a brief assessment of federal, state and local environmental regulations that apply to the impacts of industrial uses, and enforcement mechanisms as it relates to the recommendations for review of the City's industrial regulations. Provide a brief explanation of what other review mechanisms will regulate industrial uses in addition to the City zoning rules. This information will assist in analysis of what uses should be prohibited (if any), and what performance standards should be adopted by the City, if any.

Task 4 Approach and Deliverables

Water & Air will provide a brief assessment of the major environmental regulations that apply to the environmental affects of industrial uses. For each of the environmental and nuisance impacts identified in Task 2 and 3, the environmental regulation that addresses that impact will be noted. This will be summarized in a matrix format.

Prepare a final report that details changes (and the basis for those changes) that need to be made to the City's industrial zoning regulations, including whether any of the currently allowed uses should be prohibited, allowed only by special use, allowed only subject to performance standards, or allowed only in certain locations due to particular air quality problems or other nuisance or environmental factors

(e.g., noise, odor, truck traffic, vibration or other characteristics) at particular locations. The report should recommend the performance standards to be used.

Task 5 Approach and Deliverables

Water & Air will prepare a final report providing analysis and recommendations for changes to the City's industrial zoning regulations. The report will be based on the inventory and analysis conducted in Tasks 1 to 4. The report will indicate uses that should be prohibited (if any), allowed only by special use, allowed only subject to performance standards, or allowed only in particular locations due to localized issues. Where uses are recommended to be allowed subject to performance standards, the report will provide examples of the type of performance standards that may be used by the City of Gainesville. The report will indicate whether certain uses should be allowed only in certain locations (or regulated differently in certain locations) based on particular air quality or other nuisance or environmental factors.

Task 6 Attend workshops and public hearings to present results findings of study.

Task 6 Approach and Deliverables

Two senior personnel from W&AR will attend up to two workshops and two public hearings to present findings of study.

Schedule

Tasks 1 to 5

Completion of study by September 23rd, 2001. Attend City Plan Board and Commission Meetings as scheduled.

Cost Estimate

Task 1	\$ 1,000.00
Task 2 & 3	\$ 5,200.00
Task 4	\$ 3,500.00
Task 5	\$11,200.00
Task 6	\$ 3,800.00
Total	\$24,700.00

Timeline for Industrial Zoning Code Changes

City Commission Authorization of the Contract with WAR July 23, 2001

City Commission authorize the City Attorney to prepare an ordinance to extend the moratorium timeframe.

July 23, 2001

Sign Contract with WAR July 24, 2001

Consultant Study (2 months)

July 24 - September 24, 2001

Final Consultant Report Due September 24, 2001

Plan Board Hearing (Special Meeting) October 11, 2001

City Commission Public Hearing (Special Meeting) October 29, 2001

City Commission 1st Ordinance Reading November 26, 2001

City Commission 2nd Ordinance Reading December 10, 2002

ORDINANCE NO. 001066 0-01-25

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An ordinance of the City of Gainesville, Florida, imposing a temporary moratorium on building permits, zoning permits, site plan approval and any other official action of the City of Gainesville permitting or having the effect of permitting certain industrial development or use on all real property located in whole or in part within the "I-1: Limited industrial district" and the "I-2: General industrial district" of the City of Gainesville, as more specifically set forth in this ordinance; providing a procedure for extraordinary hardship; providing severability clause; and providing an immediate effective date.

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WHEREAS, the City of Gainesville on November 13, 1991 adopted the City of Gainesville 1991-2001 Comprehensive Plan (hereinafter, the "Comprehensive Plan") which contained among other matters goals, objectives and policies with respect to future land use in accordance with the Local Government Comprehensive Planning and Land Development and Regulation Act, Florida Statutes 163.3161 through 163.3215 ("the Act"); and

WHERAS, pursuant to the Act, certain real property within the City of Gainesville is designated for industrial use with the zoning categories of "I-1: Limited industrial district" and the "I-2: General industrial district"; and

WHEREAS, it is the policy of the Comprehensive Plan that the City adopt regulations to determine the appropriate scale of uses and consider the externalities of the uses in the industrial land use and corresponding zoning district categories; and

WHEREAS, the City of Gainesville on June 10, 1992, adopted the City of Gainesville 26 -Land Development Code (hereinafter, the "Code") which identifies and creates certain zoning districts, namely the "I-1: Limited industrial district" and the "I-2: General industrial district", and;

	1	WHEREAS, the "I-1: Limited industrial district" and the "I-2: General industrial
	2	district" identify certain specific uses and categories of development and uses which could cause
	3	harm to the public health, safety and welfare of the community, negatively impact adjoining uses
	4	and development, and otherwise be detrimental to the environment; and
	5	WHEREAS, the City Commission finds that it is essential to protect and preserve the
	6	environment and the public health, welfare and safety of the City and its citizenry, that it is in the
	7	City's best interest, and that it is consistent with the Comprehensive Plan for the City to study th
	8	potential impact of certain uses and development within the I-1 and the I-2 districts on the
	9	environment and surrounding land uses; and
	10	WHEREAS, the City Commission has heard testimony and received evidence from its
	11	professional plauning staff and professional consultant that certain uses within the I-1 and I-2
	12	Districts may cause harm to the environment through undesirable air, odor, toxins, and noise
	13	emissions and otherwise be incompatible with surrounding land uses; and
	14	WHEREAS, a legal advertisement was placed in a newspaper of general circulation
	15	notifying the public of this proposed Ordinance and of the Public Hearing to be held in the City
	16	Commission Auditorium, First Floor, City Hall, of the City of Gainesville approximately seven
	17	days after the day the first legal advertisement was published; and
	18	WHEREAS, a second legal advertisement was placed in the aforesaid newspaper
	19	the hold approximately five days after the
	20	day the second legal advertisement was published; and
	21	WHEREAS, the two Public Hearings were held pursuant to the published notices
	22	described above at which hearing the parties in interest and all others had an opportunity to be
•	23	and were, in fact, heard.

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NOW, THEREFORE, BE IT ORDAINED BY THE CITY COOMMISSION OF THE CITY OF GAINESVILLE, FLORIDA:

Section 1. The City Commission adopts the foregoing findings.

Purpose Section 2. 4

- The purpose of this Ordinance is to enable the City of Gainesville sufficient time to review, study, hold public hearings, and prepare and adopt an amendment or amendments to the City of Gainesville Code of Ordinances, including the Land Development Code, relating to the allowance or development of certain manufacturing uses, as more specifically defined herein, within the "I-1: Limited industrial district" and the "I-2: General industrial district" in the City of Gainesville. During this time period, the city will not take any action on any application for development permit or issue any development order which has the effect of allowing or permitting the development of those certain manufacturing uses in the aforesaid zoning districts within the City. It is not the purpose of this Ordinance to deny development orders and permits for other uses that are permitted by right or special use permit and that otherwise comply with all applicable codes, ordinances, regulations, and policies of the City of Gainesville and other 15 regulatory agencies. 16
- It is further the purpose of this Ordinance to fulfill the City's constitutional charge 17 and statutory obligations to protect and preserve the environment and the public health, welfare 18 and safety of the citizens of the City of Gainesville, and in particular to protect the public health, 19 Î welfare and safety of the citizens and value, use and enjoyment of property in the City of 20 Gainesville during the interim period described in this Ordinance, and thus defer official 21 governmental action until the City of Gainesville has properly reviewed, studied, held public 22

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- hearings and adopted amendments, if any, to the City of Gainesville Code of Ordinances, as necessary.
- 3 Section 3. Definitions
- 4 (a) "Application for development permit" means any application for building permit,
- 5 zoning pennit, preliminary or final development plan review, special use permit, variance, or any
- 6 other official action of the City of Gainesville having the effect of permitting the use or
- 7 development of land.
- 8 (b) "Development" has the meaning given it in Section 380.04, Florida Statutes
- 9 (2000).
- 10 (c) "Development Order" means any order granting, denying, or granting with
- 11 conditions an application for development permit.
- 12 (d) "Development permit" includes any building permit, zoning permit, development
- plan approval, special use permit, variance, or any other official action of the City of Gainesville
- 14 having the effect of permitting the use or development of land, but does not include subdivisions
- and Zoning Compliance forms issued under Chapter 30, and occupational licenses issued under
- 16 Chapter 25 of the Gainesville Code of Ordinances.
- (e) "Moratorium area" means all that real property located in whole or in part within
- the "I-1: Limited industrial district" and the "I-2: General industrial district" as identified on the
- 19 City of Gainesville Zoning Map Atlas on file in the office of the Clerk of the Commission.
- 20 Section 4. Imposition of Moratorium
- 21 (a) For a period of 182 days from and after the adoption date of this ordinance,
- 22 ending at 11:59 p.m. on Monday, November 12, 2001:

	(1) No application for development permit may be filed, accepted, or
,	I for east development of those certain uses as specifically described in Exhibit "A",
ļ	attached hereto and made a part hereof as if set forth in full, located in the Moratorium area by
4	any Department, Board, Commission, or Agency of the City of Gainesville, except as provided
5	in Paragraph (b) below and Section 5 of this ordinance.

(2) No development order may be issued for any use or development of those certain uses as specifically described in Exhibit "A", located in the Moratorium area unless an application for development permit was properly filed with the City of Gainesville on or before 5:00 p.m. on Monday, February 12, 2001, except as provided in Paragraph (b) below and Section 5 of this ordinance.

(b) The imposition of the moratorium is not intended to affect: 1) either the processing of any application for development permit or the issuance of development orders on any development within the Moratorium area for which an application for development permit was properly filed with the City of Gainesville on or before 5:00 p.m. on Monday, February 12, 2001; 2) the processing of an application for and approval of a minor review of a development plan, that conforms to a prior approved master plan, as provided in Sections 30-159 and 30-164 of the Land Development Code; 3) the processing of an application for and issuance of a building permit associated with such minor development plan; or 4) the processing of an application for and issuance of a building permit for safety modification for an existing process or use, including but not limited to, a fire suppression system or secondary containment, as otherwise permitted by the City's building or fire codes."

Section 5. Alleviation of Hardship

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ı	(a) The City Commission of the City of Gainesville may authorize exceptions to the
2	moratorium imposed by this ordinance when it finds, based upon substantial competent evidence
3	presented to it, that deferral of action on an application for development permit and the deferral
4	of the issuance of a development order for the duration of the moratorium would impose an
5	extraordinary hardship on a landowner or developer.

- A request for an exception based upon extraordinary hardship shall be filed with (b) the City Manager or designee, including a fee of \$300.00 by the landowner, or the developer with the consent of the landowner, to cover processing and advertising costs, and shall include a recitation of the specific facts that are alleged to support the claim of extraordinary hardship, and shall contain such other information as the City Manager shall prescribe as necessary for the City Commission to be fully informed with respect to the application.
 - A public hearing on any request for an exception for extraordinary hardship shall (c) be held by the City Commission at the first regular meeting of the City Commission that occurs after the expiration of the period for publication of notice of the request for an exception.
- Notice of the filing of a request for an exception, and the date, time, and place of 15 the hearing thereon shall be published once at least 10 days prior to the hearing in a newspaper of 16 general circulation within the City limits of the City of Gainesville, Florida, 17
- In reviewing an application for an exception based upon a claim of extraordinary 18 hardship, the City Commission shall consider the following criteria:
- The extent to which the applicant has, prior to Monday, February 12, (1)20 2001, received City of Gainesville permits or approvals for the proposed development. 21
- The extent to which the applicant has, prior to Monday, February 12, (2) 22 2001, made a substantial expenditure of money or resources in reliance upon permits or other 23

	approvals of the City of Gainesville directly associated with physical improvements on the land,
ì	approvals of the City of Gamesville directly associated with provements.
2	such as grading, installation of utility infrastructure or any other public improvements.
3	(3) Whether the applicant, prior to Monday, February 12, 2001, has
4	contractual commitments in reliance upon permits or other approvals of the City of Gainesville
5	to complete a structure(s).
6	(4) Whether the applicant, prior to Monday, February 12, 2001, has in
7	reliance upon permits or other approvals of the City of Gainesville incurred financial obligations
8	to a lending institution which, despite a thorough review of alternative solutions, the applicant
9	cannot meet unless development proceeds.
10	(5) Whether the moratorium will expose the applicant to substantial monetary
11	liability to third persons; or would leave the applicant completely unable, after a thorough review
	of alternative solutions, to earn a reasonable investment backed expectation on the property.
12 13	(f) The City Commission shall consider the following non-exclusive factors under
14	the criteria set forth in subsection (e) above:
15	(1) The history of the property;
16	(2) The history of any development on the property;
17	(3) The history of the property's Future Land Use Map classification;
18	(4) The history of the property's zoning;
19	(5) Any change in development when property ownership changed; and
20	(6) The present nature, size and use of the property.
21	(g) At the conclusion of the Public Hearing and after reviewing the evidence and
22	testimony placed before it, the City Commission shall act upon the request either to approve,
- 23	done in part the request made by the applicant.

1	Section 6. If any w	ord, phrase, clause, paragraph, section of provision of this	
2	ordinance or the application hereof to any person or circumstance is held invalid or		
3	unconstitutional, such finding shall not affect the other provisions or applications of the		
4		effect without the valid or unconstitutional provisions or	
5	application, and to this end the provisions of this ordinance are declared severable.		
6	Section 7. This ordinance shall become effective immediately upon final adoption.		
7	PASSED AND ADO	PTED this 14th day of May, 2001.	
s		7.4	
9		Paula M. DeLaney, Mayor	
10		Paula M. Dellancy, Wayor	
11 12	ATTEST:	APPOVED AS TO FORM AND LEGALITY:	
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14	14/1/1/10	a DEM	
15	THIII.	- Culius on -	
16 17	Kurt Larinon	Marion J. Radson, City Attorney MAY 1 5 2001	
18	Clerk of the Commission		
19		4. 44.000	
20	This ordinance passed on fir	t reading this 23rd day of April, 2001	
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22	This ordinance passed on sec	ond reading this 14th day of May, 2001	
23		Programme and the second secon	

EXHIBIT "A"

- 1. Primary production of aluminum (IN. 3334)
- 2. Primary smelting and refining of copper (IN. 3331)
- 3. Petroleum refining (IN, 2911)
- 4. Pulp mills (IN. 2611)
- 5. Steel works, blast furnaces, and rolling mills (IN. 3312)
- 6. Cellulosic manmade fibers (2823)
- 7. Phosphatic fertilizers (IN. 2874)
- 8. Paper mills (IN. 2621)
- 9. Alkalies and chlorine (IN. 2812)
- 10. Inorganic pigments (IN. 2816)
- 11. Paperboard mills (IN. 2631)
- 12. Plastic materials and synthetic resins, and nonvulcanizable elastomers (IN. 2821)
- 13. Nitrogenous fertilizers (IN. 2873)
- 14. Cement, hydraulic (IN. 3241)
- 15. Manmade organic fibers, except cellulosic (IN. 2824)
- 16. Electrometallurgical products, except steel (IN, 3313)
- 17. Products of petroleum and coal not elsewhere classified (IN. 2999)
- 18. Gum and wood chemicals (IN. 2861)
- 19. Lime (IN, 3274)
- 20. Industrial inorganic chemicals, not elsewhere classified (IN. 2819)
- 21. Aluminum sheet, plate and foil (IN. 3353)
- 22. Glass containers (IN. 3221)
- 23. Flat glass (IN. 3211)
- 24. Cyclic organic crudes and intermediates, and organic dyes and pigments (IN. 2865)
- 25. Primary smelting and refining of nonferrous metals, except copper and aluminum (IN. 3339)
- 26. Brick and structural clay tile (IN. 3251)
- 27. Medicinal chemicals and botanical products (IN. 2833)
- 28. Synthetic rubber (IN. 2822)
- 29. Secondary smelting and refining of nonferrous metals (IN. 3341)
- 30. Explosives (IN. 2892)
- 31. Aluminum rolling and drawing, not elsewhere classified (IN. 3355)
- 32. Carbon black (IN. 2895)
- 33. Asphalt paving mixtures and blocks (IN. 2951)
- 34. Industrial organic chemicals, not elsewhere classified (IN. 2869)
- 35. Gray and ductile iron foundries (IN. 3321)
- 36. Minerals and earths, ground or otherwise treated (IN, 3295)
- 37. Gypsum products (IN. 3275)
- 38. Pesticides and agricultural chemicals, not elsewhere classified (IN. 2879)
- 39. Rolling, drawing, and extruding of copper (IN. 3351)
- 40. Pharmaceutical preparations (IN. 2834)
- 41. Steel wiredrawing and steel nails and spikes (IN. 3315)
- 42. Asphalt felts and coatings (IN. 2952)

NOTE: IN. and MG refer to the Standard Industrial Classification Manual (1987 Edition), as provided in Sec. 30-22 of the Land Development Code.

(Exhibit "A" page 2 of 2)

- 43. Pressed and blown glass and glassware, not elsewhere classified (IN. 3229)
- 44. Cold-rolled steel sheet, strip, and bars (IN. 3316)
- 45. Chemicals and chemical preparations, not elsewhere classified (IN. 2899)
- 46. Mineral wool (IN. 3296)
- 47. Tires and inner tubes (IN. 3011)
- 48. Mining and quarrying of nonmetallic minerals except fuels (MG 14)