

## AMENDMENT TO THE FEDERAL FACILITY AGREEMENT

### ALAMEDA NAVAL AIR STATION

#### ALAMEDA, CALIFORNIA

Whereas, on July 5, 2001, the United States Environmental Protection Agency (EPA) and the United States Department of the Navy (Navy), entered into a Federal Facility Agreement (FFA) under Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) Section 120, to address contamination at the Alameda Naval Air Station, now known as Alameda Point (Site) consisting of approximately 2,806 acres of real property;

Whereas, in 2005, the State of California Environmental Protection Agency Department of Toxic Substances Control (DTSC) and the San Francisco Bay Regional Water Quality Control Board (Water Board) signed the FFA;

Whereas, the United States Department of Veterans Affairs (VA) requested a no-cost agency-to-agency transfer of approximately 624 acres of land that is part of the Site, hereinafter called the “VA Property,” as more particularly depicted in Attachment A, attached hereto and made a part hereof, and the United States Office of Management of Budget approved Navy’s request to transfer the Property without reimbursement to VA for use as a Veterans Health Administration outpatient clinic, a National Cemetery, and a Veterans Benefits Administration office;

Whereas, on June 27, 2014, Navy and VA entered into a “Memorandum of Understanding between the Department of Navy, Base Realignment and Closure Program Management Office and VA regarding the Interagency Transfer of Property at the Former Naval Air Station Alameda, Alameda, California” (MOU) which is attached as Attachment B;

Whereas, on June 27, 2014, VA also accepted transfer of the VA Property and assumed all real property accountability for the VA Property as provided in the MOU;

Whereas, Navy continues to carry out its responsibilities under the FFA for the remaining portion of the Site;

Whereas, for the VA Property where environmental responsibility transferred to the VA in accordance with the MOU, VA will assume such responsibility; and

Now, therefore, the Parties agree as follows:

#### VA’s Assumption of Responsibility

With respect to the VA Property, VA is in the same position as Navy would have been had the VA Property remained under Navy’s exclusive jurisdiction. VA is the lead Federal agency for the conduct of future response actions consistent with CERCLA Section 120 at the VA Property portion of the Site.

#### Terminology throughout the FFA

The substance and text of the FFA will remain unchanged, except as necessary to accommodate the transfer of responsibilities from Navy to VA for the VA Property portion of the Site. Throughout

the FFA, when the term Navy is used it shall mean “Navy for Navy Property and VA for VA Property.” Throughout the FFA, when the matter is applicable to the VA Property portion of the Site, the following two changes shall apply: (1) the terms “Party” or “Parties” shall include EPA and DTSC and Water Board (CA agencies collectively referred to as “the State”), and VA (and exclude Navy); and (2) the term “Navy” shall be superseded by the term “VA” (and exclude the “Navy”).

### Amendment of Specific Provisions

The provisions of the FFA are amended, as set forth below.

#### Section 2 (Definitions)

The following definitions will be added:

- (vv) “VA” shall mean the United States Department of Veterans Affairs, its employees, members, successors and authorized representatives, and assigns.
- (xx) “VA Property” shall mean approximately 624 acres of the Site that have been transferred to VA as shown by Attachment A of this Amendment.
- (yy) “Navy Property” shall mean the approximately 2,182 acres of the Site retained by Navy, including property that already transferred or will transfer to Federal and non-Federal recipients, as shown by Attachment C, and property that has been transferred to the VA but as to which the Navy retained responsibility in accordance with the MOU.
- (zz) “Land Use Controls” or “LUCs” shall mean any restriction or control, including engineering and institutional controls, arising from the need to protect human health and the environment.

#### Section 3.1 (Parties Bound)

Replace Section 3.1 with the following: The Parties to this Agreement are EPA, Navy, VA, DTSC and Water Board. The terms of this Agreement shall apply to and be binding upon EPA, Navy, VA, DTSC and Water Board.

#### Section 6 (Findings of Fact)

- Replace the third sentence of the second paragraph of Section 6.1 as follows: On June 27, 2014, Navy transferred 624 acres of the Site to VA. The remaining acreage of the Site has been or will be conveyed in phases to Federal and non-Federal recipients via Economic Development Conveyance, Public Benefit Conveyance, or other mechanisms.
- Replace the fourth and fifth paragraphs of Section 6.1 as follows: At the time of signing this FFA Amendment, the Site consists of thirty-four Installation Restoration (IR) Sites 1-17 and 19-35. A map of the thirty-four IR Sites and the Operable Units (OUs) is shown in Attachment D.

#### Section 7 (Determinations)

- Add the following to the end of Section 7(a): VA is a “person” as defined in Section 101(21) of CERCLA, 42 U.S.C. Section 9601(21).

- Add the following to the end of Section 7(c): VA is charged with fulfilling the obligations of the owner/operator under CERCLA at the Site for VA Property.

#### Section 9 (Work to be Performed)

- Replace the second 9.3(d) with 9.3(e).
- Add a Section 9.3(f) that states as follows: Monitor, enforce, report, preserve, or otherwise comply with any LUC component of response action pertaining to lands managed by Navy for Navy Property and VA for VA Property.

#### Section 12 (Budget Development and Amendment of Site Management Plan)

- Add the following word to the beginning of the heading to 12.1: “Navy”
- Move the language that is currently in 12.1 to 12.1.a
- Move the language that is currently in 12.2. to 12.1.b
- The following should replace the language in 12.2 (that was moved to 12.1.b, above): VA.
- Add the following to 12.2.a: VA, as a Federal agency, is subject to fiscal controls. The Parties agree that each Party should consider the factors listed in Subsection 11.3, including Federal fiscal constraints as well as each of the other factors, in their priority-setting decisions. Initial efforts to close any gap between cleanup needs and funding availability shall be focused on the identification and implementation of cost savings.
- Add the following to 12.2.b: In order to promote effective involvement by the Parties in the budget process, the Parties will meet at the Project Manager level for the purpose of developing a list of requirements/work to be performed at the Site and associated costs for inclusion in VA budget process for the year currently under consideration. Unless the Parties agree a meeting is not necessary, the annual budget consultation must occur at least ten (10) days prior to VA Project Manager’s initial budget submission to the Engineering Service Chief in Northern California Health Care System and facility Leadership. If a major repair is required on the Site, the Project Manager and Engineering Chief shall submit a supplemental budget request at the time of the event to trigger the major repairs. In the event that the Project Managers cannot agree on funding levels required to perform all work outlined in the Site Management Plan (SMP), the Parties agree to make reasonable efforts to informally resolve these disagreements, either at the immediate or secondary supervisor level; this would also include discussions, as necessary, with the facility and Veterans Integrated Service Network (VISN) and the Memorial Service Network (MSN) Leadership. If all Parties do not concur in the resolution, VA Project Manager will forward through facility Leadership its budget request with the views of the Parties not in agreement and also inform VISN Leadership of the possibility of future enforcement action should the funding requested not be sufficient to perform the Work subject to disagreement. In addition, if the budget submission for Northern California Health Care System and facility Leadership to VISN Leadership relating to the terms and conditions of this Agreement does not include sufficient funds to complete all work in the existing SMP, such budget submission shall include supplemental reports that fully disclose the work required by the existing SMP, but which are not included in the budget request.

- Replace the title Navy Budget for Cleanup Activities with: 12.3 Budget for Cleanup Activities
- Move 12.3 to 12.3.a. At the beginning, after 12.3. add Navy.
- Add the following to 12.3.b: VA. VA Project Manager shall forward to the other Parties documentation of the budget requests (and any supplemental reports) for the Site, as submitted by VA Project Manager to facility and VISN Leadership, within 14 days after the submittal of such documentation. VA Project Manager shall submit an annual budget request which shall be for the subsequent Fiscal Year. These annual requests shall be submitted to facility and VISN Leadership by June 30 of each year. VA Project Manager shall provide final approved budget information to the Parties within 14 days of receipt from VISN Leadership.

### Section 16 (Project Managers)

Replace the contacts listed in Section 16.8 as follows:

- (a) For Navy: Cecily Sabedra, Department of the Navy, Base Realignment and Closure, Program Management Office West, 33000 Nixie Way, BLDG 50, Suite 207, San Diego, CA 92147, cecily.sabedra@navy.mil, (619) 524-4569.
- (b) For VA: Kevin C. Maxson, PE, Engineering and Facility Management Service, Northern California Health Care System, Department of Veterans Affairs, 10535 Hospital Way, Mather, CA 95655, kevin.maxon@va.gov, (916) 843-2774.
- (c) For EPA: Xuan-Mai Tran, SFD- 8-3, 75 Hawthorne Street, San Francisco, CA, 94105, tran.xuan-mai@epa.gov, (415) 972-3002.
- (d) For California Department of Toxic Substances Control: Mark Malinowski, Chief, Northern California Cleanup Division, Site Mitigation and Restoration Program, 8800 Cal Center Drive, Sacramento, CA 95826, mark.malinowski@dtsc.ca.gov, (916) 255-3607.
- (e) For California Regional Water Quality Control Board: Yemia Hashimoto, Regional Water Quality Control Board, San Francisco Bay Region, 1515 Clay Street, Suite 1400, Oakland, CA 94612, Yemia.Hashimoto@Waterboards.ca.gov, (510) 622-2756.

### Section 22 (Dispute Resolution)

For purposes of Dispute Resolution, replace or add the appropriate contacts for Navy and VA as described below.

- Section 22.4: Change Navy's designated member on the DRC to the Director, Department of the Navy, BRAC Program Management Office or his/her delegate.
- Section 22.4: Add after equivalent Navy statement, "With respect to disputes regarding VA Property, VA's designated member of the DRC is the Northern California Healthcare System (NCHCS) Director or his/her delegate.
- Section 22.4: Remove: "The State will designate its representative to the DRC after it signs this Agreement by submitting a written statement to EPA and the Navy." Replace with: "The California Regional Water Quality Control Board representative on the DRC is the Division Chief of the Groundwater Protection Division. The DTSC representative on the

DRC is the Branch Chief, Site Mitigation Branch and Restoration Program, Berkeley Office Region 2.”

- Section 22.6: Change Navy’s designated representative on the SEC to the Deputy Assistant Secretary of Navy (Environment) or his/her delegate.
- Section 22.6: Add, after equivalent Navy statement, “With respect to disputes regarding VA Property, VA’s representative on the SEC is the VA Sierra Pacific Network Director or his/her delegate. Add at the end of the fifth sentence, “and the VA Sierra Pacific Network Director.” In the tenth sentence, after “Secretary of the Navy,” add “or VA.” Add, at the end of the paragraph: “Throughout the SEC process for disputes regarding VA Property, the VA Sierra Pacific Network Director will have the same responsibilities and be entitled to the same notice as specified for the Deputy Assistant Secretary of the Navy (Environment), in this paragraph.”
- Section 22.6: Remove: “The State will designate its representative to the SEC after it signs this Agreement by submitting a written statement to EPA and the Navy.” Replace with: “The California Regional Water Quality Control Board representative on the SEC is the Assistant Executive Officer. The DTSC representative on the SEC is the Northern California Division Chief.”

Section 22.7: Replace existing Section 22.7 with: “Upon escalation of a dispute to the Administrator of EPA pursuant to Subsection 22.6 above, the Administrator will review and resolve the dispute within twenty-one (21) days. Upon request, and prior to resolving a dispute regarding Navy Property, the EPA Administrator shall meet and confer with the Secretary of the Navy and the State Representatives to discuss the issue(s) under dispute. Upon request, and prior to resolving a dispute regarding VA Property, the EPA Administrator shall meet and confer with the Secretary of VA and the State Representatives to discuss the issue(s) under dispute. Upon resolution, the Administrator shall provide the other Parties with a written final decision setting forth the resolution of the dispute. The duties of the Administrator pursuant to this paragraph may be delegated only to the EPA Assistant Administrator for Enforcement and Compliance Assurance. The duties of the Secretary of the Navy pursuant to Subsections 22.6 and 22.7 may be delegated only to the Assistant Secretary of the Navy (Energy, Installations and Environment). The Duties of the Secretary of VA pursuant to Subsections 22.6 and 22.7 may only be delegated to the Under Secretary for Health. Written notice of any delegation of authority from a Party’s designated representative shall be provided to all other Parties in writing before the delegation takes effect.

- Section 22.10: Add, after “Navy” in the first sentence, “for Navy Property, and VA, for VA Property.”

#### Section 28 (Reimbursement of State Services)

Replace existing Section 28.1 to Section 28.5 with the following language:

- Section 28.1 Navy and State agree to use the Defense State Memorandum of Agreement, DSMOA, for reimbursement of services provided in direct support of Navy environmental restoration activities at the Site pursuant to this Agreement.

- Section 28.2 VA agrees to reimburse DTSC and Water Board for all costs incurred by DTSC and Water Board, respectively, related to the implementation of this Agreement.
- VA acknowledges receipt of the Water Board's *Reimbursement Process for Regulatory Oversight* and cover letter August 23, 2018, concerning cost reimbursement for Water Board staff costs involved with oversight of cleanup and abatement efforts at the Site. VA understands the reimbursement process and billing procedures as explained in the letter and attachments. VA is willing to participate in the cost recovery program and pay all subsequent billings quarterly in accordance with the terms in the letter and attachments and to the extent required by law.
- Billings for payment of oversight costs should be mailed to the following individual and address:

Billing contact: GEMS Environmental Manager, Safety & Emergency Management Service, Northern California Health Care System

Billing address: GEMS Environmental Manager (SAFETY), VA Sacramento Medical Center, 10535 Hospital Way, Mather, CA 95655

- Section 28.4 For the purposes of budget planning only, DTSC shall annually provide VA before June 30 a written estimate of DTSC's projected costs to be incurred in implementing this Agreement in the upcoming fiscal year.
- Section 28.5 For the purposes of budget planning only, Water Board shall annually provide VA before June 30 a written estimate of Water Board's projected costs to be incurred in implementing this Agreement in the upcoming fiscal year.

\* \* \*


## Conclusion

By signing below, VA, Navy, State, and EPA indicate their consent to the FFA as described herein. Pursuant to Section 39.1 (Amendment of Agreement) of the FFA, this amendment shall be effective on the third business day following the date on which EPA signs below. As the last signing party, EPA will provide notice to each signatory of the effective date pursuant to the notice provisions of Section 16. Within 30 days of the effective date, VA will issue public notice of VA's new role and entry into the FFA.

Each of the undersigned representatives of the Parties certifies that he or she is authorized to enter into the terms and conditions of this amended FFA and to bind such Party to this amended FFA.

Amendment to the Federal Facility Agreement  
Alameda Naval Air Station  
Alameda, California

IT IS SO AGREED:

By:   
Richard A. Stone M.D.  
Executive in Charge (10)

12/12/19  
Date

Amendment to the Federal Facility Agreement  
Alameda Naval Air Station  
Alameda, California

IT IS SO AGREED:

By: Karnig H. Ohannessian

30 APR 2019

Karnig H. Ohannessian

Date

Deputy Assistant Secretary of the Navy (Environment)



Amendment to the Federal Facility Agreement  
Alameda Naval Air Station  
Alameda, California

IT IS SO AGREED:

By: 

Deborah Jordan

Deputy Regional Administrator

U.S. Environmental Protection Agency, Region IX

6/26/2019

Date

Amendment to the Federal Facility Agreement  
Alameda Naval Air Station  
Alameda, California

IT IS SO AGREED:

By: Julie Pettijohn

Julie Pettijohn

Acting Branch Chief

Site Mitigation and Restoration Program- Region 2

Department of Toxic Substances Control

April 22, 2019

Date

Amendment to the Federal Facility Agreement  
Alameda Naval Air Station  
Alameda, California

IT IS SO AGREED:

By: \_\_\_\_\_



Michael Montgomery

Executive Officer

California Regional Water Quality Control Board

San Francisco, Bay Region

3/20/19

\_\_\_\_\_  
Date