

EXHIBIT A

LEASE DEFINITIONS

In addition to the definitions set forth in the Lease, the following capitalized terms are defined below for the purposes of this Lease.

“*Army*” means the Secretary of the Department of the Army of the United States of America.

“*Army Base*” means the Oakland Army Base.

“*CEDA*” means the Community and Economic Development Agency of the City of Oakland.

“*CEQA*” means the California Environmental Quality Act, as may be amended from time to time.

“*City*” means the City of Oakland.

“*City Building Services*” means the Building Services Division of the Community and Economic Development Agency of the City of Oakland.

“*Common Area*” or “*Common Areas*” means all areas outside the Premises and within the exterior boundary of the Army Base that are provided and designated by Landlord for the general non-exclusive use of Landlord, Tenant and other tenants of the Army Base and their respective employees, suppliers, shippers, customers, contractors, and invitees, including, but not limited to, parking areas, loading and unloading areas, trash areas, roadways, sidewalks, walkways, parkways, driveways and landscaped areas.

“*Conveyance Date*” means the date the title to the Army Base is transferred by the Army to the Oakland Base Reuse Authority.

“*Covenant to Restrict Use of Property*” means the agreement between Oakland Base Reuse Authority and Landlord and the State of California, Department of Toxic Substances Control, which restricts or prohibit various specified uses of the property at the Army Base, including the Premises. The Covenant to Restrict Use of Property (or “CRUP”) is attached to the DTSC Consent Agreement as Exhibit D and is attached hereto as Exhibit D to the Lease.

“*DTSC Consent Agreement*” means the Consent Agreement entered on September 27, 2002 between the State of California. Department of Toxic Substances Control for the purpose of imposing environmental restrictions on the use of the Army Base property, including the Premises, to protect human health and the environment and to require the remediation of hazardous substances present on the Army Base property in accordance with the Oakland Army Base Remedial Action Plan (RAP) and Risk Management Plan (RMP).

“*EBS*” means the Environmental Baseline Survey prepared by the Army.

“FEBST” the Final Environmental Baseline Survey for Transfer prepared by the Army.

“FOSET” means the Oakland Army Base environmental remediation program to remediate the hazardous materials, conditions and waste on the Army Base.

“VEPA” means the National Environmental Policy Act of 1969, as amended, and its implementing regulations.

“Landlord Conveyance Date” means the date Oakland Base Reuse Authority transferred all of its rights and obligations to portions of the Army Base to the City of Oakland Redevelopment Agency.

“OBRA” means the Oakland Base Reuse Authority.

“Prime Rate” means the rate of interest published in the “Money Rates” column of Wall Street Journal as the Prime Rate, as such rate may change from time to time (or, if such rate is no longer published in the Wall Street Journal, such reasonable substitute as Landlord may select).

“RAP/RMP” means the Oakland Army Base Remedial Action Plan (RAP) and Risk Management Plan (RMP) approved by the State of California, Department of Toxic Substances Control on September 26, 2002, which set forth the remedies for the clean up and removal of hazardous materials present on the Army Base property or which may subsequently discovered on the base property and which impose certain restrictions on the use of the base property.

“RAP/RMP Work Plan” means the environmental remediation work plan, approved by the State of California, which sets forth a schedule for the remediation of hazardous substances at the Army Base, which may include the Premises.

“Rent Adjustment” means a credit against base rent resulting by Landlord’s entry on to the Premises and the performance of environmental remediation activities that substantially interfere with Tenant’s use of the Premises. The credit will be based on the amount of square feet of the Premises affected and the number of days for which such substantial interference occurs.

“Real Property Taxes” means any form of general or special assessment, license fee, license tax, business license fee, any form of real estate tax or assessment, general, special, ordinary or extraordinary, and any license fee, commercial rental tax, improvement bond, levy or tax (other than inheritance, personal income or estate taxes) imposed on the Army Base or any portion thereof by any authority having the direct or indirect power to tax, including any city, county, state or federal government, or any school, sanitary, fire, street, drainage or other improvement district, or any other governmental entity or public corporation, as against (a) any legal or equitable interest of Landlord in the Army Base or any portion thereof, (b) Landlord’s right to rent or other income therefrom, (c) the square footage thereof, (d) the act of entering into any lease, (e) the occupancy of tenant or tenants generally, or (f) Landlord’s business. The term “real property taxes” will also include any tax, fee, levy, assessment or charge including, without limitation, any so-called value added tax, (i) which is in the nature of, in substitution for or in addition to any tax, fee, levy, assessment or charge hereinbefore included within the definition of “real property taxes,” (ii) which is imposed for a service or right not charged for prior to June 1,

1978, or if previously charged for, which has been increased since June 1, 1978, (iii) which is imposed or added to any tax or charge hereinbefore included within the definition of real property taxes as a result of a “change in ownership” of the Property or any portion thereof, as defined by applicable statutes and regulations, for property tax purposes, or (iv) which is imposed by reason of this transaction, any modification or change hereto or any transfer hereof.

“*Tenant Parties*” means Tenant and its affiliates, volunteers, employees, contractors, suppliers, agents, representatives, invitees, sublessees and assignees.

“*Year*” or “*year*” means a calendar year.

Exhibit B

OMSS A
(295,735 sq. ft.)

OMSS B
(320,572 sq. ft.)

OMSS C
(48,895 sq. ft.)

OMSS D
(31,209 sq. ft.)

Sector 2
50,266 sq. ft.

Exhibit C

ADDENDUM TO LEASE REGARDING HAZARDOUS MATERIALS

This Addendum is made and entered into by and between City of Oakland Redevelopment Agency, as Landlord, and Oakland Maritime Support Services, as Tenant, and is dated as of the date set forth on the first page of the Lease between Landlord and Tenant to which this Addendum is attached (the "**Lease**"). The promises, covenants, agreements and declarations made and set forth herein are intended to and will have the same force and effect as if set forth at length in the body of the Lease. To the extent that the provisions of this Addendum are inconsistent with the terms and conditions of the Lease, the terms of this Addendum will control.

1. **Use Restrictions.** Tenant will not use, generate, manufacture, produce, store, release, discharge or dispose of, on, under or about the Premises, or transport to or from the Premises, any Hazardous Materials or allow its employees, agents, contractors, invitees or any other person or entity to do so except in full compliance with all federal, state and local laws, regulations and ordinances and this Agreement. Without limiting the foregoing, Tenant will be responsible for obtaining, at its cost and expense, any environmental permits, plans or approvals required for its operations under this Lease and for the Premises, including, but not limited to Hazardous Materials Business Plans, Storm Water Pollution Prevention Plans, Spill Response Plans and Air Pollution Control Permits. Tenant will not discharge waste or effluent from the Premises in a manner that will contaminate streams or other bodies of water or otherwise become a public nuisance. Tenant will submit an application to the provider for discharging same to the sanitary sewer system prior to the commencement of its operations under this Lease and it will comply with all applicable laws, regulations, standards, or other requirements. Tenant will maintain the Premises so that no sediments, litter, debris or other waste material enters the storm drain system. Tenant will obtain approval in writing from Landlord before using any pesticides or herbicides at, on or upon the Premises. Only U.S. EPA and California EPA approved pesticides are authorized and application must be in accordance with the manufacturer's instructions. Empty containers or unused pesticides or other hazardous wastes must be disposed of off the Army Base in accordance with U.S. EPA and California EPA disposal standards.

2. The term "**Hazardous Materials**" will include without limitation: (1) Those substances included within the definitions of "**hazardous substances**", "**hazardous materials**", "**toxic substances**" or "**solid waste**" under CERCLA, RCRA and the Hazardous Materials Transportation Act, 49 U.S.C. Sections 1801, *et seq.*, and in the regulations promulgated pursuant to said Laws; (2) Those substances defined as "**hazardous wastes**" in Section 25117 of the California Health & Safety Code, or as "**hazardous substances**" in Section 25316 of the California Health & Safety Code, and in the regulations promulgated pursuant to said Laws; (3) Those substances listed in the United States Department of Transportation Table (49 CFR 172.101 and amendments thereto) or designated by the Environmental Protection Agency (or any successor agency) as hazardous substances; (4) Such other substances, materials and wastes which are or become regulated under applicable local, state or federal Law or the United States government, or which are or become classified as hazardous or toxic under federal, state or local Laws or regulations; and (5) Any material, waste or substance which is (i) petroleum, (ii) asbestos, (iii) polychlorinated biphenyls, (iv) designated as a "**hazardous substance**" pursuant to

Section 311 of the Clean Water Act of 1977, 33 U.S.C. Sections 1251, *et seq.* (33 U.S.C. Section 1321) or listed pursuant to Section 307 of the Clean Water Act of 1977 (33 U.S.C. Section 1317), (v) flammable explosives, or (vi) radioactive materials. Army Base accumulation points of hazardous and other waste facilities will not be used by Tenant. Tenant will not permit its hazardous wastes to be commingled with the hazardous waste of Landlord. Tenant will not construct or permit to be constructed any well within the boundary of the Premises, and will not extract, use, consume, or permit to be extracted, any groundwater below the surface of the Leased Property for any use unless prior written approval is obtained from the Landlord, California Environmental Protection Agency, Regional Water Quality Control Board RWQCB and U.S. EPA. In case such approval is obtained, the Tenant and Tenant's assigns or sublessees will be solely responsible for any costs and expenses associated with obtaining use of such water, including but not limited to, the costs of permits, studies, analysis or remediation and Landlord will bear no cost whatsoever. Tenant acknowledges that Landlord may impose any additional environmental protection conditions and/or restrictions during the term of the Lease that it deems necessary by providing written notice to Tenant of such conditions and/or restrictions to the Lease. Tenant further acknowledges that as part of the NPDES requirements it may be required to file a Notice of Intent (NOI) with the San Francisco Bay Regional Water Quality Board for general permit coverage and to follow all requirements of the general permit, under the National Storm Water Program.

3. Tenant's Indemnity. Tenant will be liable to Landlord for and indemnify and hold Landlord harmless against all damages (including investigation and remedial costs), liabilities, losses (including diminution of value of the Premises), fines, penalties, fees, and claims arising out of Tenant's and Tenant's agents' activities associated with Hazardous Materials, including all costs and expenses incurred by Landlord in remediating, cleaning up, investigating or responding to any governmental or third party claims, demands, orders or enforcement actions. In the event Tenant and/or Tenant's agents' activities with Hazardous Materials create a contamination problem on or adjacent to the Premises, the Army Base, Tenant will promptly commence investigation and remedial activities to fully clean up the problem. If appropriate or required by law, these activities will be conducted in conjunction with federal, state and local oversight and approvals. If any action of any kind is required or requested to be taken by any governmental authority to clean-up, remove remediate or monitor any Hazardous Materials (the presence of which is the result of the acts or omissions of Tenant or its agents) and such action is not completed prior to the expiration or earlier termination of the Lease, Tenant will be deemed to have impermissibly held over until such time as such required action is completed, and Landlord will be entitled to all damages directly or indirectly incurred in connection with such holding over, including, without limitation, damages occasioned by the inability to re-let the Premises or a reduction of the fair market and/or rental value of the Premises.

4. Assignment and Subletting. It will not be unreasonable for Landlord to withhold its consent to any proposed assignment or subletting if (i) the proposed assignee's or subtenant's anticipated use of the Premises involves the storage, generation, discharge, transport, use or disposal of any Hazardous Material in a greater intensity and scope than Tenant's permitted use, or (ii) the proposed assignee or subtenant has been required by any prior landlord or governmental authority to "clean-up" or remediate any Hazardous Material and has failed to do so, or (iii) the proposed assignee or subtenant is subject to a criminal investigation or

enforcement order or proceeding by any government authority in connection with the use, generation, discharge, transport, disposal or storage of any Hazardous Material.

5. List of Hazardous Materials. Upon request of Landlord, Tenant will provide Landlord with a list of Hazardous Materials (and the quantities thereof) which Tenant uses or stores (or intends to use or store) on the Premises, which list will be attached to this Lease as **Exhibit G**.

(a) Prior to Tenant using, handling, transporting or storing any Hazardous Material at or about the Premises, Tenant will submit to Landlord a Hazardous Materials Management Plan ("HMMP") for Landlord's review and approval, which approval will not be unreasonably withheld. The HMMP will describe: (aa) the quantities of each material to be used, (bb) the purpose for which each material is to be used, (cc) the method of storage of each material, (dd) the method of transporting each material to and from the Premises and within the Premises (ee) the methods Tenant will employ to monitor the use of the material and to detect any leaks or potential hazards, and (ff) any other information any department of any governmental entity (city, state or federal) requires prior to the issuance of any required permit for the Premises or during Tenant's occupancy of the Premises. Landlord may, but will have no obligation to review and approve the foregoing information and HMMP, and such review and approval or failure to review and approve will not act as an estoppel or otherwise waive Landlord's rights under this Lease or relieve Tenant of its obligations under this Lease. If Landlord determines in good faith by inspection of the Premises or review of the HMMP that the methods in use or described by Tenant are not adequate in Landlord's good faith judgment to prevent or eliminate the existence of environmental hazards, then Tenant will not use, handle, transport, or store such Hazardous Materials at or about the Premises unless and until such methods are approved by Landlord in good faith and added to an approved HMMP. Once approved by Landlord, Tenant will strictly comply with the HMMP and will not change its use, operations or procedures with respect to Hazardous Materials without submitting an amended HMMP for Landlord's review and approval as provided above.

(b) Tenant will pay to Landlord when Tenant submits an HMMP (or amended HMMP) the amount reasonably determined by Landlord to cover all Landlord's costs and expenses reasonably incurred in connection with Landlord's review of the HMMP which costs and expenses will include, among other things, all reasonable out-of-pocket fees of attorneys, architects, or other consultants incurred by Landlord in connection with Landlord's review of the HMMP, but in no event shall Tenant be liable for any actual costs above \$10,000. Landlord will have no obligation to consider a request for consent to a proposed HMMP unless and until Tenant has paid all such costs and expenses to Landlord irrespective of whether Landlord consent to such proposed HMMP. Tenant will pay to Landlord on demand the excess, if any, of such costs and expenses actually incurred by Landlord over the amount of such costs and expenses actually paid by Tenant over the amount such costs and expenses actually incurred by Landlord. Tenant will immediately notify Landlord or any inquiry, test, investigation, enforcement proceeding by or against Tenant or the Premises concerning any Hazardous Material. Any remediation plan prepared by or on behalf of Tenant must be submitted to Landlord prior to conducting any work pursuant to such plan and prior to submittal to any applicable government authority and will be subject to Landlord's consent. Tenant acknowledges that Landlord, at its election, will have the sole right to negotiate, defend, approve

and appeal any action taken or order issued with regard to any Hazardous Material by any applicable governmental authority. Landlord will have the right to appoint a consultant to conduct an investigation to determine whether any Hazardous Material is being used, generated, discharged, transported to or from, stored or disposed of in, on, over, through, or about the Premises, in an appropriate and lawful manner and in compliance with the requirements of this Lease. Tenant, at its expense, will comply with all reasonable recommendations of the consultant required to conform Tenant's use, storage or disposal of Hazardous Materials to the requirements of applicable Law or to fulfill the obligations of Tenant hereunder.

6. Provisions Survive Termination. Upon the expiration or earlier termination of the Lease, Tenant, at its sole cost, will remove all Hazardous Materials from the Premises that Tenant or its agents introduced to the Premises. The provisions of this Paragraph will survive the expiration or termination of this Lease.

Exhibit D

NOTIFICATION OF THE RESTRICTIONS ON USE OF PROPERTY

A release of hazardous substances has come to be located on or beneath some portions of the property known as the former Oakland Army Base. A summary of the releases is contained in Exhibit E of this Lease.

The following land use restrictions apply to the property known as the former Oakland Army Base.

- (a) Sensitive land uses, including, but not limited to, residential housing, schools, day-care facilities, hospitals, and hospices are prohibited.
- (b) The construction of groundwater wells and extraction of groundwater from new and existing wells for all purposes are prohibited unless specifically approved by DTSC.
- (c) Activities that disturb surface or subsurface soil, disturb existing soil covers, disturb or restrict access to groundwater monitoring wells, generate water in excavations, extract groundwater from excavations, or alter groundwater conditions are prohibited except as conducted pursuant to the RAP and RMP.
- (d) The Owner and Occupants are required to comply with the RAP and RMP, including the provisions for soil and groundwater management, maintenance of existing cover or construction of new cover, mitigation measures during earthwork, management of below grade structures, and construction dewatering.

RECORDING REQUESTED BY:
City of Oakland

WHEN RECORDED, MAIL TO:

**Department of Toxic Substances Control
Sacramento Regional Office
8800 Cal Center Drive
Sacramento, California 95826-3268
Attn: Anthony J. Landis, P.E.
Chief, Northern California Operations
Office of Military Facilities**

SPACE ABOVE THIS LINE RESERVED FOR RECORDER'S USE

COVENANT TO RESTRICT USE OF PROPERTY

ENVIRONMENTAL RESTRICTION

**Former Oakland Army Base
Oakland, California**

This Covenant to Restrict Use of Property ("Covenant") is made by and between the Oakland Base Reuse Authority and the City of Oakland by and through the Oakland Redevelopment Agency, collectively herein referred to as the "City or Covenantor," the current owner of property situated in Oakland, County of Alameda, State of California, described in Exhibit A, which is attached and incorporated here by this reference ("Property"), and the State of California, Department of Toxic Substances Control ("DTSC"). Pursuant to California Civil Code ("Civil Code") section 1471(a)(3), DTSC has determined that this Covenant is reasonably necessary to protect present or future human health or safety or the environment as a result of the presence on the land of hazardous materials, as defined in California Health and Safety Code ("Health and Safety Code") section 25260. The Covenantor and DTSC, collectively referred to as the "Parties," hereby agree that in accordance with Civil Code section 1471 and Health and Safety Code sections 25222.1 and 25355.5 that the use of the Property be restricted as set forth in this Covenant to protect human health, safety, and the environment and that this Covenant shall run with the land.

ARTICLE I STATEMENT OF FACTS

1.01 The Property, totaling 363.5 acres, is more particularly described and depicted in Exhibit A. Exhibit A contains the Property map in seven sheets showing the Property boundary and the legal description in seventeen pages. The Property is located in a developed area of the former Oakland Army Base, in the City of Oakland, County of Alameda, State of California.

1.02 The Covenantor and DTSC entered into a Consent Agreement on September 27, 2002, and subsequently by agreement modified the Consent Agreement to include new signatories and other modifications. The Consent Agreement was resigned by all signatories on May 16, 2003. The Consent Agreement establishes the process and timetable for the completion of the response and corrective actions at specified portions of the Property. The Consent Agreement is on file with DTSC and the Covenantor.

1.03 As described in the Consent Agreement, the soil and groundwater at the Property are known to be contaminated with hazardous substances, as defined in Health and Safety Code section 25316, which include, but are not limited to, the following general contaminants of concern: metals, volatile organic compound, semi-volatile organic compounds, polynuclear aromatic hydrocarbons, polychlorinated biphenyls, and petroleum hydrocarbons. Several of these hazardous substances are carcinogens. The Property has not been fully characterized with respect to nature and extent, and risk resulting from the presence of these contaminants.

Based on preliminary analyses, DTSC has concluded that use of the Property in a manner inconsistent with the restrictions set forth in Article IV of this Covenant may entail an unacceptable health risk to the users or occupants of such property operated or occupied. DTSC has further concluded that the Property operated or occupied subject to the restrictions of this Covenant and subject to the restrictions and requirements set forth in the final Remedial Action Plan (RAP) dated September 27, 2002 and accompanying Risk Management Plan (RMP) dated September 27, 2002 which the Covenantor must implement pursuant to the Consent Agreement, does not present an unacceptable threat to human safety or the environment.

The RAP describes contamination in various locations throughout the base that is known to be significant, and describes means by which such contamination will be remediated. The RMP, which covers the entire Property, is a component of the remedies selected in the RAP. The RMP serves two purposes. The first is to determine and implement presumptive style remedies for locations with standard contaminant profiles and site conditions. These remedies apply to both known and as yet unidentified contaminated locations (RMP locations). It also contains a mechanism to elevate RMP locations to RAP sites if warranted. The second purpose of the RMP is to serve as an institutional control that establishes site identification and risk management protocols.

ARTICLE II DEFINITIONS

2.01 Covenantor. "Covenantor" shall mean the Oakland Base Reuse Authority and the City of Oakland by and through the Oakland Redevelopment Agency.

2.02 DTSC. "DTSC" means the State of California, Department of Toxic Substances Control and includes its successor agencies, if any.

2.03 Occupant. "Occupant" shall mean any person or entity entitled by leasehold or other legal relationship to the right to occupy any portion of the Property.

2.04 Owner. "Owner" means the Covenantor and shall include the Covenantor's successors in interest, and their successors in interest, including heirs and assigns, during their ownership of all or any portion of the Property.

ARTICLE III GENERAL PROVISIONS

3.01 Restrictions to Run with the Land. This Covenant sets forth protective provisions, covenants, restrictions, and conditions (collectively, "Environmental Restrictions"), subject to which the Property and every portion thereof shall be improved, held, used, occupied, leased, sold, hypothecated, encumbered, and/or conveyed. Each and every Environmental Restriction: (a) runs with the land pursuant to Health and Safety Code sections 25222.1 and/or 25355.5(a)(1)(C) and Civil Code section 1471; (b) inures to the benefit of and passes with each and every portion of the Property; (c) is for the benefit of, and is enforceable by DTSC; and (d) is imposed upon the entire Property unless expressly stated in a document or an attachment that a specific portion or area is the subject of a DTSC approved waiver to allow a restricted use. Exhibit B contains a DTSC approved interim land use waiver.

3.02 Binding upon Owner and Lessees/Occupants. Pursuant to Health and Safety Code section 25355.5(a)(1)(C), this Covenant binds all Owner and Occupants of the Property, their heirs, successors, and assignees, and the agents, employees, and lessees of the owners, heirs, successors, and assignees. Pursuant to Civil Code section 1471(b), all successive owners of the Property are expressly bound hereby for the benefit of DTSC.

3.03 Written Notification of Hazardous Substance Release. The Owner and/or Occupant shall, at least thirty (30) days prior to the sale, lease, or rental of the Property, give written notice to the subsequent transferee that a release of hazardous substances has come to be located on or beneath the Property, pursuant to Health and Safety Code section 25359.7. Such written notice shall include a copy of this Covenant, and a notification of the restrictions on use of the property contained herein.

3.04 Incorporation into Deeds, Leases, or Rental Agreements. The Environmental Restrictions set forth herein shall be incorporated by reference in each and all deeds, leases, or rental agreements entered into for any portion of the Property to which they are in effect and applicable. Within ten (10) days of the effective date of this Covenant, the Covenantor shall provide a copy of this Covenant to all existing occupants on the Property.

3.05 Conveyance of Property. Until the Property has been certified as being free of known or suspected hazardous substance releases by DTSC per chapter 6.8 of the Health and Safety Code, the Owner shall provide to DTSC not less than ninety (90) days prior to any proposed conveyance of any ownership interest in the Property (excluding mortgages, liens, and other non-possessory encumbrances) notice of such proposed conveyance. The Owner shall provide notice to DTSC not later than thirty (30) days after any conveyance of any ownership interest in the Property (excluding mortgages, liens, and other non-possessory encumbrances).

3.06 Access for DTSC. DTSC shall have reasonable right of entry and access to the Property for inspection, monitoring, and other activities consistent with the purposes of this Covenant as deemed necessary by DTSC to protect the public health or safety or the environment.

ARTICLE IV ENVIRONMENTAL RESTRICTIONS

4.01 Environmental Restrictions.

- (a) Sensitive land uses, including, but not limited to, residential housing, schools, day-care facilities, hospitals, and hospices are prohibited.
- (b) The construction of groundwater wells and extraction of groundwater from new and existing wells for all purposes are prohibited unless specifically approved by DTSC.
- (c) Activities that disturb surface or subsurface soil, disturb existing soil covers, disturb or restrict access to groundwater monitoring wells, generate water in excavations, extract groundwater from excavations, or alter groundwater conditions are prohibited except as conducted pursuant to the RAP and RMP.
- (d) The Owner and Occupants are required to comply with the RAP and RMP, including the provisions for soil and groundwater management, maintenance of existing cover or construction of new cover, mitigation measures during earthwork, management of below grade structures, and construction dewatering.
- (e) The Owner is required to submit annual certification to DTSC attesting to compliance with Section 4.01 of this Covenant.

4.02 Procedures for Obtaining Waivers from DTSC.

(a) At any time before or after the effective date of this Covenant, the Owner, or with the Owner's consent, an Occupant, may request DTSC's approval of a waiver for a portion of the Property to be used in a manner inconsistent with the restrictions set forth in Section 4.01 of this Covenant or to engage in an activity prohibited by Section 4.01 of this Covenant. Such requests shall provide sufficient information to enable DTSC to evaluate the appropriateness of the request. DTSC shall act upon such requests as expeditiously as feasible, but in no event later than thirty (30) days after DTSC receives the request unless DTSC extends this period for no more than thirty (30) days upon written notice to the requesting party of the reason therefore. DTSC's extension as described above may occur more than once. DTSC shall base its decision on protection of public health and the environment.

(b) DTSC will consider any submittal of a remedial investigation workplan or remedial action decision document consistent with the RAP or RMP to be a waiver request for any included actions that are inconsistent with the restrictions set forth in Section 4.01 of this Covenant.

(c) Nothing in this Covenant shall be construed to require an Owner to apply for, or DTSC to issue, a variance, termination or release pursuant to Article VI of this Covenant, in order to obtain DTSC's approval of a request that a portion of the Property be used in a manner inconsistent with the restrictions set forth in Section 4.01 of this Covenant or to obtain DTSC's approval to engage in an activity prohibited by Section 4.01 of this Covenant.

(d) An Owner or Occupant may perform, or cause to be performed, any interior or exterior renovation, rehabilitation, or demolition without DTSC approval, as long as such activities are consistent with, and do not violate the terms of, this Covenant.

ARTICLE V ENFORCEMENT

5.01 Enforcement. Failure of the Owner to comply with any of the Environmental Restrictions specifically applicable to it shall be grounds for DTSC to obtain injunctive relief prohibiting commencement or continuation of any activities restricted by this Covenant. Actual or threatened violation of this Covenant, including but not limited to commencement or completion of any activities that violate this Covenant, may be prohibited or restrained, or the interest intended for protection by this Covenant may be enforced, by injunctive relief or any other remedy as provided by law.

ARTICLE VI VARIANCE, TERMINATION AND RELEASE

6.01 Variance. In addition to the procedures set forth in Section 4.02 of this Covenant, the Owner, or with the Owner's consent, any Occupant may apply to DTSC for a written variance from the provisions of this Covenant. DTSC will grant the variance only after finding that such a variance would be protective of human health, safety and the environment. Such application shall be made in accordance with Health and Safety Code section 25233. DTSC will grant the variance only after finding that such a variance would be protective of human health, safety and the environment.

6.02 Application for Termination. In addition to the procedures set forth in Section 4.02 of this Covenant, the Owner, or with the Owner's consent, any Occupant, may apply to DTSC for a termination of the Environmental Restrictions or other terms of this Covenant as they apply to all or any portion of the Property. Such application shall be made in accordance with Health and Safety Code section 25234.

6.03 Release. This Covenant shall continue in effect in perpetuity unless ended by law or by DTSC under this paragraph 6.03. DTSC shall provide a release, suitable for recording, of the Environmental Restrictions in this Covenant with respect to a particular portion of the Property promptly after any of the following occur:

(a) DTSC approves an application for termination of the Covenant with respect to a portion or all of the Property pursuant to Section 6.02.

(b) DTSC makes a determination pursuant to this Section 6.03(b) without receiving an application, that any or all of the Environmental Restrictions on the use of any or all parts of the Property are no longer necessary to protect present or future human health, safety, or the environment. In making a determination pursuant to this Section 6.03(b) that any or all of the Environmental Restrictions on the use of any or all parts of the Property are no longer necessary to protect present or future human health or safety or the environment, DTSC shall make a finding that the hazardous materials that caused the land to be restricted have since been sufficiently investigated, removed or altered in a manner that allows DTSC to determine there is no significant existing or potential hazard to present or future human health or safety or the environment.

ARTICLE VII MISCELLANEOUS

7.01 No Dedication Intended. Nothing set forth in this Covenant shall be construed to be a gift or dedication, or offer of a gift or dedication, of the Property, or any portion thereof to the general public or anyone else for any purpose whatsoever.

7.02 **Recordation.** The Covenantor shall record this Covenant, with Exhibits A and B, in the County of Alameda within ten (10) days of the Covenantor's receipt of a fully executed original.

7.03 **Notices.** Whenever any person gives or serves any notice ("notice" as used herein includes any demand or other communication with respect to this Covenant), each such notice shall be in writing and shall be deemed effective: (a) when delivered, if personally delivered to the person being served or to an officer of a corporate party being served, or (b) three (3) business days after deposit in the mail, if mailed by United States mail, postage paid, certified, return receipt requested:

To Covenantor: Oakland Base Reuse Authority
 700 Murmansk Street, Suite 3
 Oakland, California 94607-5009
 Attention: Aliza Gallo
 Executive Director

To DTSC: Department of Toxic Substances Control
 Sacramento Regional Office
 8800 Cal Center Drive
 Sacramento, California 95826-3268
 Attention: Anthony J. Landis, P.E.
 Chief, Northern California Operations
 Office of Military Facilities

Any party may change its address or the individual to whose attention a notice is to be sent by giving written notice in compliance with this paragraph.

7.04 **Partial Invalidity.** If any portion of this Environmental Restriction or other terms set forth herein are determined by a court of competent jurisdiction to be invalid for any reason, the surviving portions of this Covenant shall remain in full force and effect as if such portion found invalid had not been included.

7.05 **Exhibits.** All exhibits referenced in this Covenant are deemed incorporated into this Covenant by reference.

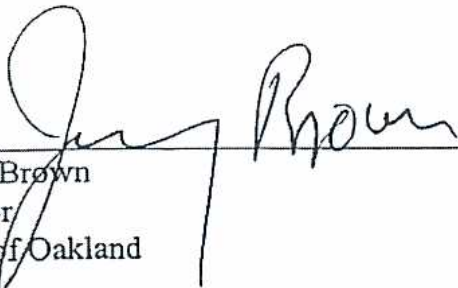
7.06 **Section Headings.** The section headings set forth in this Covenant are included for convenience and reference only and shall be disregarded in the construction and interpretation of any of the provisions of this Covenant.

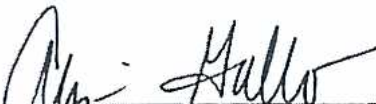
7.07 **Representative Authority.** The undersigned representative of each party to this Covenant certifies that he or she is fully authorized to enter into the terms and conditions of this Covenant and to execute and legally bind that party to this Covenant.

7.08 **Statutory References.** All statutory references include successor provisions.

IN WITNESS WHEREOF, the Parties execute this Covenant.

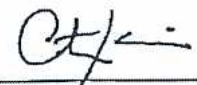
Covenantor:

By:  Date: 5-16-2003
Jerry Brown
Mayor
City of Oakland

By:  Date: 5-15-2003
Aliza Gallb
Executive Director
Oakland Base Reuse Authority

By:  Date: 5/15/03
Robert C. Bobb
City Manager/Agency Administrator
City of Oakland/Oakland Redevelopment Agency

Approved as to form and legality on _____.

By:  Date: 5-16-03
John Russo
City Attorney/Agency Council
City of Oakland/Oakland Redevelopment Agency

Department of Toxic Substances Control:

By: _____ Date: _____
Anthony J. Landis, P.E.
Chief, Northern California Operations
Office of Military Facilities

STATE OF CALIFORNIA)

COUNTY OF Alameda)

On this 15th day of May, in the year 2003, before me
Cheryl M. Moore, a Notary Public in and for said State,
personally appeared Aliza Gallo,

personally known to me (~~or proved to me on the basis of satisfactory evidence~~) to be the
person(s) whose name(s) ~~is/are~~ subscribed to the within instrument and acknowledged to me that
~~he/she/they~~ executed the same in his/her/~~their~~ authorized capacity(ies), and that by his/her/~~their~~
signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s)
acted, executed the instrument.

WITNESS my hand and official seal.

Signature

[Handwritten Signature]



STATE OF CALIFORNIA)

COUNTY OF Alameda)

On this 15th day of May, in the year 2003, before me
Cheryl Moore, a Notary Public in and for said State,
personally appeared Robert C. Bobb,

personally known to me (~~or proved to me on the basis of satisfactory evidence~~) to be the
person(s) whose name(s) is/~~are~~ subscribed to the within instrument and acknowledged to me that
he/~~she/they~~ executed the same in his/~~her/their~~ authorized capacity(~~ies~~), and that by his/~~her/their~~
signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s)
acted, executed the instrument.

WITNESS my hand and official seal.

Signature

Cheryl Moore



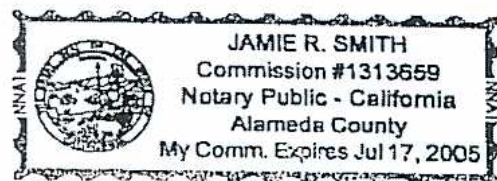
STATE OF CALIFORNIA)

COUNTY OF ALAMEDA)

On this 16TH day of MAY, in the year 2003, before me
JAMIE R. SMITH, a Notary Public in and for said State,
personally appeared JERRY BROWN,

personally known to me (or proved to me on the basis of satisfactory evidence) to be the
person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that
he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their
signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s)
acted, executed the instrument.

WITNESS my hand and official seal.



Signature Jamie R. Smith

STATE OF CALIFORNIA)

COUNTY OF)

ALAMEDA

On this 16TH day of MAY, in the year 2003, before me

JAMIE R. SMITH

, a Notary Public in and for said State,

personally appeared CURTIS S. KIDDER,

personally known to me (or proved to me on the basis of satisfactory evidence) to be the

person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that

he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their

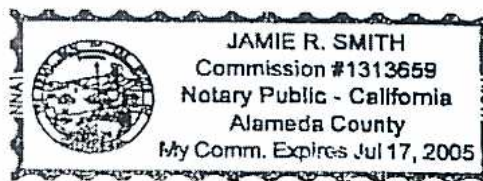
signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s)

acted, executed the instrument.

WITNESS my hand and official seal.

Signature

Jamie R. Smith



STATE OF CALIFORNIA)

)

COUNTY OF _____)

On this _____ day of _____, in the year _____, before me
_____, a Notary Public in and for said State,
personally appeared _____,

personally known to me (or proved to me on the basis of satisfactory evidence) to be the
person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that
he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their
signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s)
acted, executed the instrument.

WITNESS my hand and official seal.

Signature _____

EXHIBIT E

Summary of Oakland Army Base Remedial Action Plan/Remedial Management Plan ("RAP/RMP")

Environmental Condition and Remedy Selection for RAP Sites

Former Oil Reclaiming Plant (ORP)/Building 1 Area

The former ORP consisted of a building and several aboveground tanks in the vicinity. Waste disposal practices likely resulted in the release of tarry residue to ground adjacent to these operations, which was covered by fill to construct Building 1 in 1941. On several occasions, the tarry residue has migrated to the surface under and around Building 1 and has been detected in 1994, 1998, 2000, and 2002. Laboratory analysis of the tarry residue has confirmed the presence of lead, polycyclic aromatic hydrocarbons (PAHs), polychlorinated biphenyls (PCBs), polychlorinated dibenzodioxins (PCDDs), and polychlorinated dibenzofurans (PCDFs) at concentrations of concern. One sample also showed the presence of 1,2,3-trichloropropane (TCP). The tarry residue is very acidic with measured pH of 1 in some locations. The tarry residue is a Resource Conservation and Recovery Act (RCRA) hazardous waste subject to land ban restrictions when excavated.

The proposed remedial action for the tarry residue is to excavate and neutralize, as needed for transport, the pH of the material and high concentrations of lead with lime, fly ash, or other appropriate binders. It is assumed that this neutralized material would be disposed as a RCRA hazardous waste at an off-site permitted facility. Five years of post remediation groundwater monitoring is included for this RAP site.

The viability of this proposed remedial action depends upon obtaining a variance from federal land disposal restrictions (LDR) treatment standards for PAHs, PCDDs, and PCDFs in the tarry residue. Without a variance, the tarry residue may have to be incinerated to achieve LDR treatment standards for these underlying hazardous constituents. Incineration of the tarry residue is likely to be cost prohibitive and may necessitate that the untreated material be left in-place at the OARB, which would severely restrict redevelopment opportunities for the OARB. Therefore, the LDR variance is considered a critical component of this remedial action.

VOCs in Groundwater at Eastern End of Building 807

Volatile Organic Compounds (VOCs) in the shallow water-bearing zone were discovered by the Army in 1992 and consist primarily of vinyl chloride, cis-1,2-dichloroethene (cis-1,2-DCE), trans-1,2-dichloroethene (trans-1,2-DCE), trichloroethene (TCE), and 1,1,2,2-tetrachloroethane. The VOCs do not appear to be migrating; however, the residual VOC concentrations in groundwater may pose a vapor intrusion threat to building occupants if a building is constructed over the area in the future.

Therefore, in-situ chemical oxidation/reduction is proposed as the remedial action for the VOCs in groundwater here. Treatability studies, if needed, will be conducted to establish the types and amounts of oxidants or reductants required and the approximate grid spacing of injection points across the surface area of the impacted shallow water-bearing zone. Five years of groundwater monitoring is included for this RAP site.

VOCs in Groundwater Near Buildings 808 and 823

Vinyl chloride and lesser concentrations of other VOCs are present in shallow groundwater in an area north of Building 808 and south of Building 823. The VOCs are not migrating, but the VOC-impacted groundwater poses a potential vapor intrusion threat.

Therefore, in-situ bioremediation of vinyl chloride in groundwater by injecting oxygen release compound (ORC) or another appropriate oxidant into the subsurface is proposed for this site. Five years of groundwater monitoring is included for this RAP site.

VOCs in Groundwater Near Building 99

An area of the shallow water-bearing zone near Building 99 is impacted with VOCs, including vinyl chloride and cis-1,2-DCE. No source or significant soil contamination has been identified; however, VOC-impacted groundwater poses a vapor intrusion threat.

Because vinyl chloride and cis-1,2-DCE are amenable to aerobic degradation by microorganisms, the proposed remedy for this site is in-situ bioremediation with ORC to remove or significantly reduce remaining chemical of concern (COC) quantities prior to redevelopment. Five years of groundwater monitoring is included for this RAP site.

Benzene and MTBE in Groundwater Near Former USTs 11A/12A/13A

Following removal of former fuel underground storage tanks (USTs) in the area near Building 828, significant concentrations of petroleum hydrocarbons, and benzene, toluene, ethylbenzene, and xylenes (BTEX) were found to remain in soil and shallow groundwater near the location of the former tanks. Additionally, methyl tertiary butyl ether (MTBE), which is a fuel oxygenate, was also detected in the shallow water-bearing zone.

Because impacted soil may act as a source of petroleum hydrocarbons and fuel constituents that could migrate to groundwater, the proposed remedy is to excavate contaminated soil in the vicinity of the former location of the tanks. Benzene and MTBE remaining in the shallow water-bearing zone is proposed to be treated by in-situ bioremediation using ORC. Five years of groundwater monitoring is included for this RAP site.

Building 991 Area

Building 991 was used as a locomotive engine maintenance shop. Petroleum hydrocarbons, pesticides, and lesser concentrations of other COCs have impacted soil and groundwater in the vicinity. MTBE has also been detected at low concentrations in the groundwater.

The proposed remedy is to excavate contaminated soil containing petroleum hydrocarbons, pesticides, or other COCs that may continue to leach COCs to groundwater and dispose of the soil as non-RCRA hazardous waste at an off-site permitted facility. Residual petroleum hydrocarbons in groundwater are proposed to be addressed by in-situ bioremediation using ORC. Five years of groundwater monitoring is included for this RAP site.

Building 99

Building 99 was initially used for ship manufacturing, then metalworking before the Army converted it to a vehicle and electrical maintenance shop, which included such activities as sand blasting, metal spraying, steam cleaning, and tractor-trailer repair. Analytical results of available soil samples do not suggest significant releases of VOCs, PAHs, total petroleum hydrocarbons (TPH) or metals have occurred from the building.

However, given the historical uses at Building 99 and the limited nature of the investigations, additional sampling at Building 99 is warranted. The proposed remediation, if required, consists of excavating soil with COCs greater than site-specific remediation goals after Building 99 has been demolished.

Environmental Condition and Remedy Selection for RMP Locations

Washracks, Sumps, Oil/Water Separators, and Miscellaneous Operations

Approximately 82 washracks, sumps, oil/water separators, and miscellaneous structures or activity areas have been identified at approximately 55 locations. These locations include: (1) areas requiring the removal of an existing subsurface structure, (2) areas requiring additional characterization, (3) areas where residual, impacted soil is anticipated and will be removed when encountered during infrastructure installation or redevelopment, and (4) areas with no currently identified environmental issues but which will be inspected for undiscovered contamination in accordance with the soil management protocols in the RMP.

For sites requiring removal of an existing structure or sites where impacted soil is anticipated, the proposed remedy assumes that an average of approximately 50 cubic yards (cy) of debris and contaminated soil will be removed at each site and disposed as non-RCRA hazardous waste at an off-site permitted facility. For sites requiring additional characterization, the site will be inspected and sampled during redevelopment as outlined in the RMP. Finally, for RMP locations where no contamination has been found to date, the area will be inspected and sampled in accordance with the RMP during redevelopment to confirm no contamination exists above the remediation goals at these locations.

Tanks

Approximately 93 USTs and aboveground storage tanks (ASTs) have been identified at approximately 73 locations on the OARB. These locations include: (1) tank sites that

potentially require the removal of an existing tank, (2) former tank sites where residual, impacted soil is anticipated and will be excavated and disposed, when encountered, during infrastructure installation or redevelopment, and (3) former tank sites anticipated to possibly require excavation of residual, impacted soil or groundwater monitoring, and (4) former tank sites with no currently identified environmental issues but which will be inspected and sampled for undiscovered contamination in accordance with the soil management protocols in the RMP.

With respect to the proposed remediation, removal of any remaining USTs, including removal and disposal of impacted soil will be performed during infrastructure replacement or when otherwise encountered during new building construction as redevelopment proceeds. Soil containing petroleum hydrocarbons will be managed and disposed at a permitted off-site facility. Additionally some of these tank sites will require groundwater monitoring to meet regulatory closure requirements specified by the RWQCB. Tank sites with no currently identified issues will be inspected and sampled in accordance with the RMP during redevelopment to confirm no contamination exists above the remediation goals at these locations.

Former Industrial and Chemical Handling Locations

There are seven such locations, and although no significant contamination was known to exist at these sites, historical operations suggested the likelihood for past chemical releases.

1. **Debris Area Near Building 99:** Approximately 15 tons of soil mixed with so-called "boiler debris" was excavated by the Army and disposed as a non-RCRA hazardous waste from a debris area near Building 99. Samples of the remaining debris in this area contained visible indication of slag-like material with lead, other metals, and benzo(a)pyrene at concentrations greater than the remediation goals. Other PAHs were detected but at concentrations below the remediation goals. In addition, petroleum hydrocarbons were found.

The proposed remedy for this site assumes that approximately 200 cy of soil mixed with debris will be excavated and disposed as non-RCRA hazardous waste at an off-site permitted facility. Recent Phase II sampling has indicated this volume may be greater than originally estimated and some portion of it may be RCRA hazardous waste when excavated. The RMP provides mechanisms to address encountered field conditions for sites such as this with DTSC oversight as redevelopment proceeds.

2. **Building 85:** Although this building was used chiefly to carry out administrative functions, it was equipped with a photograph-processing laboratory and may have been used historically as a printing plant. No COCs were detected at concentrations greater than the remediation goals. However, some remediation may be necessary during site preparation for redevelopment, and the proposed remedy assumes approximately 100 cy of contaminated soil will be excavated and disposed as non-RCRA hazardous waste at an off-site permitted facility, if such

material is encountered.

3. **Building 812:** This building was used by the Army as an “ordnance” (meaning vehicles) maintenance shop and contained a welding booth, machine shop, and two repair and grease areas. Used oil tank 8A was formerly located at the southwest corner of the building. No contamination greater than remediation goals has been identified near Building 812.

Nevertheless, the proposed remedy assumes approximately 100 cy of contaminated soil will be excavated and disposed as non-RCRA hazardous waste at an off-site permitted facility, if such material is encountered during redevelopment.

4. **Building 823:** This building contained a paint room, paint booth finishing room, and carpenter shop. It also may have been used as a heavy equipment maintenance facility. Identified chemical release sites near Building 823 include former UST A and the VOC-impacted groundwater near Buildings 808 and 823. No other residual chemical sources in soil have been identified.

The proposed remedy assumes approximately 200 cy of contaminated soil will be excavated and disposed as non-RCRA hazardous waste at an off-site permitted facility, if such material is encountered during redevelopment.

5. **Potential Drum Drainage Area East of Buildings 805 and 806:** In this area, Army personnel reportedly allowed damaged drums of chemicals to drain onto railroad track ballast. COC impacts appear minor and limited primarily to shallow soil where VOCs such as toluene, ethylbenzene and xylene have been found. The proposed remedy assumes the presence of VOCs renders approximately 250 cy of excavated soil as RCRA hazardous waste that will be disposed at an off-site permitted facility. Residual VOCs in the shallow water-bearing zone are proposed to be addressed through in-situ chemical oxidation/reduction, if needed.

6. **Former Motor Pool and Salvage Operations at Building 640:** The former Army motor pool and salvage area included a gasoline station possibly with a UST, a motor repair shop, a paint spray booth, several grease racks and washracks, vehicle storage sheds, gasoline pipeline, and several salvage warehouses, which were demolished when the Army constructed Building 640 in 1945. Although only low concentrations of petroleum hydrocarbons, PAHs and other COCs have been detected, the need for limited soil remediation is assumed.

The proposed remedial action assumes that approximately 250 cy of contaminated soil will be excavated and disposed as non-RCRA hazardous waste at an off-site permitted facility. In addition, in-situ bioremediation of the shallow water-bearing zone is assumed to be necessary, if COCs greater than remediation goals are encountered during redevelopment. Five years of groundwater monitoring is

included for this RAP site.

7. **Benzidine at Former Used Oil Tank 21:** Former used oil tank 21 was part of a facility constructed by the Army in 1986 for preparing privately owned vehicles for overseas transport and included a washrack and an oil/water separator. Structures were removed and contaminated soils were remediated in 1997. Following this cleanup, the soil contained residual concentrations of petroleum hydrocarbons, lead, and PAHs. However, residual concentrations of benzidine were also reported in the excavated area and stockpiled soil, which the Army disposed of at an off-site, permitted waste management facility.

Further testing will be performed here. The proposed remedy assumes approximately 50 cy of contaminated soil will be excavated and disposed as non-RCRA hazardous waste at an off-site permitted facility, if COCs such as benzidine are encountered at greater than remediation goals.

Historical Spills and Stains

Numerous spills and stains have been observed over the years at the OARB, as found on historical photographs or Army records. Given the use history of the OARB, most of these releases in stained areas likely involved petroleum hydrocarbons associated with diesel fuel or motor oil. Many were sampled during the Phase II investigations in 2002. As a consequence, under the proposed remedy, soil excavated during new construction will be inspected for staining or other signs of contamination. Protocols for inspecting, sampling and managing contaminated soil encountered during and after redevelopment are specified in the RMP.

Lead in Soil Around Buildings

The Army has identified the buildings that may contain Lead Based Paint based upon surveys and the age of construction. Redevelopment includes demolition of many of these buildings.

Under the proposed remedy, excavated soil with representative total lead concentrations less than 350 mg/kg may be reused anywhere on-site provided such reuse complies with the risk-based remediation goals and applicable law and regulations. Excavated soil with representative total lead concentrations between 350 mg/kg and the lead remediation goal of 750 mg/kg will be disposed at an off-site permitted facility unless specifically exempted by DTSC. Soil with representative lead concentrations exceeding the site-specific remediation goal of 750 mg/kg will be excavated and disposed at an off-site permitted facility.

Former PCB-Containing Transformers and Equipment Locations

Existing inventories list approximately 110 pieces of electrical transformers or other equipment that may have, or still, contain PCBs.

Under the proposed remedy, electrical equipment at the OARB that still contains PCBs will be removed from service and managed in accordance with TSCA regulations prior to

building demolition. Outdoor areas where transformers were located will also be inspected and sampled for the presence of PCBs in concrete, asphalt, and underlying soil as specified in the RMP before improvements are razed. Soil containing PCBs greater than remediation goals will be excavated and disposed at an off-site permitted facility. Management of PCB-containing equipment and media contaminated by PCBs is also subject to U.S. EPA requirements under TSCA.

Storm Drains and Sanitary Sewers

The storm drain system at the OARB consists of approximately 110,000 linear feet (lf) of pipe that conveys water to the San Francisco Bay. The sanitary sewer system consists of approximately 25,000 lf of pipe and four pump or lift stations, which convey sewage to the EBMUD wastewater treatment plant. Army studies indicate that both the storm drain and sanitary sewer systems are in poor condition and presence of contamination in and around the pipes has been documented.

Under the proposed remedy, investigation of sediment inside the storm drains will be conducted in advance of infrastructure replacement. Interim remedial actions will be performed if COC-containing sediment is discovered. Such actions may consist of flushing segments of storm drain line with water to remove and capture the contaminated sediments for disposal at an off-site permitted facility. Alternatively, cement grout or similar means can be used to seal the ends of storm drain branch lines that are collapsed or otherwise can be removed from service without exacerbating flooding concerns.

Railroad Tracks

Approximately 26 miles of railroad track remain at the OARB. In addition, former railroad track ballast is covered with imported gravel in the former Baldwin Railyard. Typical contamination in old railyards can include petroleum hydrocarbons, PCBs, metal and asbestos, solvents, benzene, toluene, ethylbenzene, and xylenes (BTEX), and other VOCs. Additionally, surface soil in railyards may become contaminated with creosote, pentachlorophenol (PCP) or chromated copper arsenate (CCA) that originate from railroad ties. Herbicides sprayed near tracks may also be present. Testing at OARB indicates that benzo(a)pyrene, lead, and arsenic were detected at concentrations greater than remediation goals in some track locations.

The railroad tracks at the OARB will be removed or replaced during redevelopment. Protocols for inspecting and testing potentially contaminated railroad track sub-ballast have been established in the RMP. Under the proposed remedial action, sub-ballast found during redevelopment to contain COCs greater than remediation goals will be excavated for disposal at an off-site permitted facility or, if specifically approved by DTSC, may be incorporated into the on-site railroad beds upon which new tracks will be laid and covered with clean ballast.

Marine Sediments

The Army has identified COC impacts to marine sediments near storm drain outfalls from the portions of the OARB being transferred via EDC (Outfalls 5 through 7) as well as the adjacent Outfalls 8 through 11). These outfalls discharge to the Oakland Outer

Harbor in San Francisco Bay.

The Army has concluded that marine sediments at Outfalls 5 through 7 “are unlikely to result in unacceptable adverse effects on aquatic or wildlife receptors,” therefore, no further action is proposed for those sediment locations.

Contaminants of concern have been detected at Outfalls 8 through 11, and the Army concludes from its ecological risk assessment that marine “sediments at Outfalls 8 through 11, if not capped in the future, may result in limited impacts to aquatic communities.” The Port of Oakland intends to fill 26 acres to provide additional terminal capacity and create two berths in the Oakland Outer Harbor (New Berth 21) as outlined in its Seaport Plan for 2020 and the EIR. The Port of Oakland’s project will result in covering the marine sediments adjacent to Outfalls 8 through 11, thereby addressing potential impacts.

**Exhibit I to Lease Agreement
Rules & Regulations**

This exhibit, entitled "Rules & Regulations", is and shall constitute Exhibit I to that certain Lease Agreement dated August 7, 2006 (the "Lease"), by and between Oakland Base Reuse Authority, a Joint Powers Authority ("Landlord"), and Oakland Maritime Support Services, a California corporation ("Tenant"), for the leasing of certain premises located at 2500 Alaska Street, Oakland, California, 94607 (the "Premises"). The terms, conditions and provisions of this Exhibit I are hereby incorporated into and are made a part of the Lease. Any capitalized terms used herein and not otherwise defined herein shall have the meaning ascribed to such terms as set forth in the Lease:

1. Landlord reserves the right to make modifications hereto and such other and further rules and regulations as in its sole judgment may be required for the safety, care and cleanliness of the Premises and the Building and for the preservation of good order therein. Tenant agrees to abide by all such rules and regulations.
2. Tenant shall not use, keep or permit to be used or kept any foul or noxious gas or substance or any flammable or combustible materials on or around the Premises, except as described in Exhibit G.
3. All goods, including material used to store goods, delivered to the Premises of Tenant shall be immediately moved into the Premises and shall not be left on Burma Road overnight.
4. Tenant is responsible for the storage and removal of all trash and refuse. All such trash and refuse shall be contained in suitable receptacles.
5. Tenant shall not store or permit the storage or placement of goods, or merchandise or pallets or equipment of any sort outside of the Premises. No displays or sales of merchandise shall be allowed outside of the Premises.
6. Landlord is not responsible for the violation of any rule contained herein by any other Tenant.
7. Landlord may waive any one or more of these rules for the benefit of any particular Tenant, but no such waiver shall be construed as a waiver of Landlord's right to enforce these rules against any or all Tenants occupying the Building.

Exhibit J

Move Out Standards

This "Move Out Standards" (Exhibit J) is dated August 7, 2006, for reference purposes, and is made between Oakland Base Reuse Authority, a Joint Powers Authority ("Landlord"), and Oakland Maritime Support Services, a California corporation ("Tenant"), to be a part of that certain Standard Industrial Lease (the "Lease") concerning a portion of the Property more commonly known as 2500 Alaska Street, California, 94607 (the "Premises"). Landlord and Tenant agree that the Lease is hereby modified and supplemented as follows:

At the expiration of this Lease, Tenant shall surrender the Premises in the same condition as they were upon delivery of possession thereto under this Lease, reasonable wear and tear excepted, and shall deliver all keys to Landlord. Before surrendering the Premises, Tenant shall remove all of its personal property and trade fixtures and such alterations or additions to the Premises made by Tenant as may be specified for removal thereof. If Tenant fails to remove its personal property and fixtures upon the expiration of this Lease, the same shall be deemed abandoned and shall become the property of Landlord.

Tenant shall surrender the Premises, at the time of the expiration of the Lease, in a condition that shall include, but is not limited to, addressing the following items:

- | | |
|-------------------------|--|
| 1. Signs: | All exterior signs must be removed. |
| 2. Overall Cleanliness: | Remove all pallets and debris from the Premises. |
| 3. Upon Completion: | Contact Landlord's property manager to coordinate date of turning off power, turning in keys, and obtain final Landlord inspection of Premises which, in turn, will facilitate refund of security deposit. |