

**AMENDMENT #1
TO THE
SUPERFUND STATE CONTRACT
BETWEEN THE STATE OF MAINE AND THE
U.S. ENVIRONMENTAL PROTECTION AGENCY
FOR THE PERFORMANCE OF THE REMEDIAL ACTION
AND OPERATION AND MAINTENANCE
AT THE EASTERN SURPLUS COMPANY SUPERFUND SITE IN
MEDDYBEMPS, MAINE
SEPTEMBER 2018**

1. Authority. This amendment (“the First Amendment”) to the agreement entitled “Superfund State Contract Between the State of Maine and the U.S. Environmental Protection Agency for the Performance of the Remedial Action and Operation and Maintenance at the Eastern Surplus Company Superfund Site in Meddybemps, Maine,” last executed on July 18, 2001 (“Contract”), is entered into pursuant to Sections 104(a)(1), (c)(2), (c)(3), (c)(9), (d)(1) and (d)(2) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (“CERCLA”), 42 U.S.C. §§ 9604(a)(1), (c)(2), (c)(3), (c)(9), (d)(1) and (d)(2); the National Oil and Hazardous Substances Contingency Plan, 55 F.R. 8666 *et seq.* (March 8, 1990), as amended, 40 C.F.R. Part 300 (“NCP”); other applicable Federal regulations including 40 C.F.R. Part 35, Subpart O, and 40 C.F.R. Part 31; the Maine Hazardous Waste Septage and Solid Waste Management Act, 38 M.R.S. § 1301 *et seq.*; and the Maine Uncontrolled Hazardous Substance Sites Law, 38 M.R.S. §§ 1361-1371.

2. Purpose and Scope. The Contract is an agreement between the U.S. Environmental Protection Agency (“EPA”) and the State of Maine (“State”), acting by and through its Department of Environmental Protection (“DEP”), to implement Response activities at the Eastern Surplus Company Superfund Site in Meddybemps, Washington County, Maine, EPA ID MED981073711 (the “Site”). The purpose of this First Amendment is to update the Contract’s Statement of Work by replacing the existing Statement of Work with a revised Statement of Work, dated August 2018, which takes into account all revisions to the remedial action implemented through the Explanation of Significant Differences, issued in September 2017. This First Amendment also implements certain other minor revisions, as detailed below. All other provisions of the Contract remain unchanged.

3. Parties. This First Amendment is entered into by and between the EPA and the State, acting by and through its DEP.

4. References to Contract Paragraphs. For informational purposes, the parties note that the following Contract paragraphs, which are revised by Paragraph 5 (“Contract Revisions”) or referenced in Paragraph 6 (“Effective Date”), below, have the following titles:

- a. Paragraph 3 is entitled “Definitions.”
- b. Paragraph 5 is entitled “Designation of Primary Contacts and Their Responsibilities.”
- c. Paragraph 20 is entitled “Cost-Share Conditions.”
- d. Paragraph 21 is entitled “Financial Obligations of the Parties.”
- e. Paragraph 27 is entitled “CERCLA Assurance: Operation and Maintenance.”
- f. Paragraph 34 is entitled “Amendability.”
- g. Paragraph 37 is entitled “Appendices and Amendments.”

5. Contract Revisions. The Contract is hereby revised, in accordance with Paragraph 34 of the Contract, as follows:

a. Paragraph 3. Certain definitions are deleted and replaced with the following new definitions:

“Operational and Functional” shall mean when EPA, after consultation with DEP, determines that the Remedy is functioning properly and performing as designed, or one year after construction is complete, whichever is sooner, which occurred on August 22, 2002.

“Record of Decision,” “September 2000 Record of Decision” and “ROD” shall mean the Record of Decision for Remedial Action issued in September 2000, as amended by an Explanation of Significant Differences issued in September 2017, which are attached hereto and incorporated herein as Appendix C.

“Response,” “Remedy” and “Remedial Action” shall have the meaning provided for each term, respectively, under Section 101 of CERCLA, 42 U.S.C. § 9601. Further, consistent with 40 C.F.R. § 300.435(e)(3), the operation of a groundwater treatment system for a period of up to 10 years after the Remedy becomes Operational and Functional will be considered part of the Remedial Action. See also CERCLA § 104(c)(6). Remedial Action shall mean those activities described in the September 2000 Record of Decision and shall end ten (10) years after the Remedy has been determined to be Operational and Functional or when cleanup levels have been met for three (3) years, whichever is sooner. Notwithstanding the previous sentence, Remedial Action shall also mean the source control measure of *in situ* application of enhanced bioremediation and associated monitoring for two years, as described in the Explanation of Significant Differences issued in September 2017.

b. Paragraph 5.B. Paragraph 5.B is deleted in its entirety and replaced by the following new Paragraph 5.B:

EPA has designated:

Terrence Connelly, RPM
U.S. Environmental Protection Agency
5 Post Office Square, Suite 100, OSRR 07-01
Boston, MA 02109-3912
(617) 918-1373

to serve as Remedial Project Manager (“RPM”) for this Contract. The designated RPM may be changed by a letter to the State and incorporated by reference herein without amending this Contract.

c. Paragraph 20. Paragraph 20 is deleted in its entirety and replaced by the following new Paragraph 20:

The cost of the Remedial Action (excluding EPA’s indirect costs) is estimated to be \$6,000,000 (including \$600,000 per year for an estimated duration of ten (10) years) for the long-term maintenance, operation, and sampling of the groundwater extraction and treatment system installed as part of the non-time-critical removal action; and \$3,000,000

for the source control measure of *in situ* application of enhanced bioremediation and associated monitoring, as described in the Explanation of Significant Differences issued in September 2017. This cost also includes the estimated cost for ambient sampling of groundwater, surface water, sediments, and biota as well as the costs associated with the mitigation of the historic property at the Site. This cost was prepared by EPA's contractor and includes contingencies for change orders, which may or may not be invoked, and construction management services.

d. Paragraph 21.E. Paragraph 21.E is deleted in its entirety and replaced by the following new Paragraph 21.E:

Payments by the State shall be made to EPA no later than 75 days after receipt of each periodic billing. Payment shall be made payable to the U.S. Environmental Protection Agency and shall be sent to (unless otherwise indicated in the billing):

U.S. Environmental Protection Agency
Region 1 – New England
Attn: Superfund Accounting, Eastern Surplus Special Account
Cincinnati Finance Center
P.O. Box 979076
St. Louis, MO 63197-9000

e. Paragraph 27.B. Paragraph 27.B is deleted in its entirety and replaced by the following new Paragraph 27.B:

After the two years of source control measure of *in situ* application of enhanced bioremediation and associated monitoring, the State shall implement Operation and Maintenance in accordance with the Site's O&M and Long-Term Monitoring Plans.

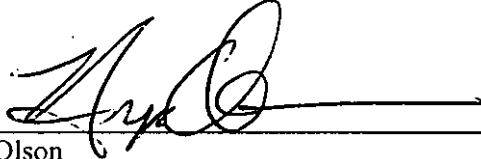
f. Paragraph 37. "Appendix B, Statement of Work," is deleted and replaced with new "Appendix B: Statement of Work (Statement of Work, dated August 2018)" attached hereto as Attachment 1. "Appendix C: Record of Decision," is deleted and replaced with "Appendix C: Record of Decision (Record of Decision for Remedial Action issued in September 2000, as amended by an Explanation of Significant Differences issued in September 2017)," attached hereto as Attachment 2.

6. Effective Date. This First Amendment shall become effective upon execution by both parties.

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In witness whereof, the parties hereto have executed this Amendment in two (2) copies, each of which shall be deemed an original:

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY



Bryan Olson
Director
Office of Site Remediation and Restoration
U.S. Environmental Protection Agency
Region 1 – New England
Boston, Massachusetts

9/10/18

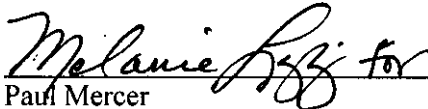
Date

STATE OF MAINE

acting by and through its

DEPARTMENT OF ENVIRONMENTAL PROTECTION

by:



Paul Mercer
Commissioner
Department of Environmental Protection
State of Maine
Augusta, Maine

9/14/18

Date

Attachments:

Attachment 1—Appendix B (Statement of Work (Statement of Work, dated August 2018))

Attachment 2—Appendix C (Record of Decision (Record of Decision for Remedial Action issued in September 2000, as amended by an Explanation of Significant Differences issued in September 2017))