

24 June 1996

MEMORANDUM

From: Jim Colter (Code 1821/JLC)
To: Ralph Lombardo (Code 09C/RL)
Via: (1) Code 1821/RFL
(2) Code 182

Subj: AGREEMENT BETWEEN NAVY AND BETHPAGE WATER DISTRICT FOR AN AIR STRIPPING TREATMENT SYSTEM AT BETHPAGE PUBLIC WATER SUPPLY PLANT #5

1. This memorandum is being submitted as requested to document that this Code has reviewed the water district's design for the subject treatment system and their proposals for capital costs and operations and maintenance costs of the system.
2. The justification for the subject treatment system has been documented and is consistent with the contents of the Record of Decision (ROD) dated May 1995. The ROD was jointly prepared by the New York State Department of Environmental Conservation (NYSDEC) and representatives of the Department of the Navy and was subsequently reviewed by the Bethpage Water District.
3. Code 182, in conjunction with Code 4023 and our environmental consultant, had previously reviewed the district's design and had found it to be acceptable for its intended use. We had also previously reviewed the district's engineering estimate for the construction of the system and had several comments regarding its reasonableness. A meeting was held with the water district in November 1995 to discuss their cost estimate and it was agreed to, at that time, to use the actual low bid estimates as the basis for the capital costs.
4. The results of the bidding and the resultant low bids were submitted to Code 1821 via a letter from H2M, Inc. dated March 25, 1996. After reviewing the summation of the low bids, Code 182 has found that the capital cost total of **\$2,092,211.97** is acceptable.
5. This Code had also asked our environmental consultant, Brown & Root Environmental, to review the district's estimate for operations and maintenance of the system. After reviewing the input from our consultant, Code 182 has determined that the estimate of **\$62,801** per year for O&M is fair and reasonable.
6. The above annual O&M figure was based on an estimated discount rate of 6.0%. Subsequent to the submission of the H2M, Inc. letter, this Command and the Bethpage Water District have agreed to use the current value of the 20-year treasury note, as of the signing date of the agreement, as the basis for determining a fair discount rate. At present, the 20-year treasury note is at 7.09%. By using 7.09 as the discount rate, Code 182 has calculated the present worth factor for the O&M to be 12.2977, which corresponds to a present worth value for O&M costs equal to **\$772,316.16**. (# of YEARS ASSUMED = 30)

Subj: AGREEMENT BETWEEN NAVY AND BETHPAGE WATER DISTRICT FOR AN AIR
STRIPPING TREATMENT SYSTEM AT BETHPAGE PUBLIC WATER SUPPLY PLANT #5

7. The following is a list of documents prepared by our environmental consultant, on behalf of Northern Division, NAVFAC, which documents the existence of the contaminants and the likelihood that those contaminants emanated from source areas located within the property known as the Naval Weapons Industrial Reserve Plant (NWIRP) Bethpage, New York:

- Final Remedial Investigation Report, dated May 1992
- Phase 2 Remedial Investigation Report, dated October 1993
- Feasibility Study Report dated March 1994
- Record of Decision between Navy and NYSDEC, dated May 1995

8. If you have any questions or require additional information, please give me a call on 0567, extension 163.

✓ James L. Colter
Remedial Project Manager

Copy to:
Code 18

1821 JLC
1821

August 12, 1996

MEMORANDUM

From: NORTHDIV 09C/RL

To: NORTHDIV 00

Subj: Reimbursement Agreement

Ref: (a) OPNAV INSTRUCTION 5090.1B ¶15-6.2 j

Encl: (1) Reimbursement and Contribution Agreement
(2) 24 June 1996 Memo Fr: Jim Colter, Northdiv 1821/JLC
(3) NAVFAC Asst. Counsel and OGC-I&E E-Mails
(4) 12 August 1996 Memo Fr: R. Lewandowski Northdiv 1821/RFL

1. Enclosure (1) has been negotiated in order to satisfy Navy obligations outlined in a Record of Decision (ROD) executed between the Navy and the New York Department of Environmental Conservation on May 25, 1995. The ROD is provided as an exhibit to Enclosure (1).

2 The total amount to be obligated by encl. (1) is \$2.75 million dollars. That amount represents both the fixed design and construction costs and a one time payment (discounted to present value) for the installation and (long term) operation of the Interim Remedial Measures required in the ROD. Enclosure (2) provides technical and fiscal review of anticipated costs. I have been advised that current fiscal year funding is available for this matter (encl. (4)).

3. In accordance with reference (a), enclosure (1) was provided to NAVFAC Office of Counsel, CNO-N45, NAVFAC Code 40 and OGC-I&E for review. Enclosures (3) & (4) provide their comments and concurrence. Accordingly, it is recommended that enclosure (1) be forwarded to the Bethpage Water District for forwarded for signature.


Ralph Lombardo

cc: 09C, 18

REIMBURSEMENT AND CONTRIBUTION AGREEMENT
Between Bethpage Water District and The United States of America

This **REIMBURSEMENT and CONTRIBUTION AGREEMENT** ("Agreement") is entered into as of the day of August 19, 1996 (the "Effective Date") between the parties, Bethpage Water District, a municipal corporation located at 25 Adams Avenue, Bethpage, New York ("Water District") and the United States of America, by and through Northern Division, Naval Facilities Engineering Command, United States Department of the Navy ("Navy").

WHEREAS, certain contaminants have been found to be currently existing in the ground water in Bethpage Water District, as more particularly described in the hydrogeological surveys prepared by the United States Geological Service and the New York State Department of Environmental Conservation, and

WHEREAS, a Water District well located at the District's Well Site Plant No. 5 is down gradient from a potential source of said contaminants, and

WHEREAS, the potential impact to Well Site No. 5 may result in a serious shortage in the potable water available to the Water District for delivery to its customers, and

WHEREAS, a potential source of the contaminants, the Naval Weapons Industrial Reserve Plant ("NWIRP"), Bethpage NY, has been located on property owned by Grumman, the United States Navy, and Hooker/Rucco and possibly others as has been indicated in studies (identified in the list provided as **EXHIBIT A** to this Agreement) performed by the State of New York and the Federal government, and

WHEREAS, a Record of Decision ("ROD", attached as **EXHIBIT B** and incorporated fully into this agreement) dated May 1995 was jointly issued by the Navy and The New York State Department of Environmental Conservation which identified that certain interim remedial measures ("IRM") will be conducted to address migrating contamination, and

WHEREAS, to complete the IRM, the ROD requires the Navy to fund a treatment system for Well Site Plant No. 5 consisting of either an air stripping or granular activated carbon treatment system as selected by the Water District.

WHEREAS, the Water District represents that under local law and policy no entity other than the Water District is legally permitted to design, work on or construct additions, alterations or physical changes to Well Site Plant No. 5.

WHEREAS, the Water District has begun the process of design and construction of an air stripping tower which is designed to treat up to 600 parts per billion of the type of contaminants which have been identified to date. Such design and construction is being conducted to implement the IRM.

NOW THEREFORE, the Navy and the Water District, by entering this Agreement, intend to resolve all present and future reimbursement and contribution claims between the Navy and the Water District arising out of implementation of the IRM as required by the ROD without litigation and without the admission of any issue of law or fact, or waiver of any defense. Accordingly, the parties to this Agreement represent and agree to the following:

1. The Water District has solely and independently designed, managed and initiated the IRM at the Well Site Plant No. 5 consistent with the ROD. In implementing the IRM, the Water District has conducted the work in the manner it determined necessary and appropriate.
2. In return for the promise of the Navy to make the payment agreed to in Paragraph 6 below, the Water District shall be fully responsible, for all expenses incurred in connection with implementing the IRM as described in the ROD, except as modified by this agreement.
3. The Water District hereby represents that the entirety of the payment provided

for in Paragraph 6, below, is for the reimbursement of all costs which the Water District has or is expected to incur as the result of implementing the IRM.

4. The Water District further represents that all costs identified by it as of the effective date of this Agreement relate to implementation of the IRM, and that such costs are consistent with both the National Contingency Plan, 40 C.F.R., Part 300, and the ROD.

5. Upon receipt of the payment agreed to in Paragraph 6, below, the Water District agrees to release and hold harmless the Navy from any and all claims, demands, fines, penalties, assessments, and charges arising out of their implementation of the IRM and covenants not to sue the Navy for contribution or recovery of any costs arising out of or associated with activities taken by the Water District to implement or operate the IRM as of the effective date of this Agreement and provided that the known contaminants do not exceed 600 parts per billion and current drinking water standards permit removal to 5 parts per billion. Further, the Water District assumes all responsibilities for the treatment effectiveness and efficiency of the IRM and agrees that the Navy shall not be responsible for such treatment effectiveness and efficiency and agrees to hold the Navy harmless for any failure of the IRM to achieve the adequate treatment of up to 600 parts per billion of the type of contaminant which have been identified to date. The Water District also agrees to assume all costs to make any necessary corrections to the IRM if such corrections are necessary to achieve the current drinking water standard (< 5ppb of the identified contaminants from raw water containing up to 600 parts per billion of the type of contaminant which have been identified to date.

6. The Navy agrees to pay to the Water District the sum of TWO MILLION, SEVEN HUNDRED, FIFTY THOUSAND DOLLARS (\$2,750,000.00) which represents the total past, present and future costs associated with implementation of the IRM, including but not limited to design, construction, management, and all costs associated with continuing and future operation and maintenance of the IRM except as provided in paragraph 5 of this Agreement. That payment shall be made as soon as practicable.

7. The Navy is currently developing a Remedial Investigation/Feasibility Study Report (RI/FS) for

the New York State Department of Environmental Conservation (DEC). The Navy has informed the Water District that the RI/FS will not be finalized for some time. The Navy further agrees to comply with all other terms and conditions of any remediation order issued by DEC or EPA, if such terms and conditions are agreed to by the Navy, where they may effect the Water District's interests.

8. Notwithstanding any of the above, nothing contained in this agreement shall in any way imply consent by the Water District to jurisdiction of, or participation in, any DEC or EPA remediation plan.

9. The provisions of this agreement only cover the type, level and location of the contaminants that exist at Well Site No. 5 as currently revealed in the studies and ROD referred to above.

10. The parties to this Agreement acknowledge and agree that the payments to be made by the Navy pursuant to this Agreement represent a fair, reasonable, and equitable discharge of the reimbursement and contribution claims addressed in this Agreement. The parties to this Agreement agree that the Navy, as of the effective date of this Agreement, is entitled to such contribution protection as is available pursuant to CERCLA section 113(f), 42 U.S.C. § 9613(f), and any other applicable provision of law, including federal common law, limiting or extinguishing the Navy's liability to persons not party to this Agreement.

11. Nothing in this Paragraph shall constitute or be construed as releasing or providing contribution protection to any person or entity other than the Navy. The Water District reserve their right to bring or continue any action against any person or entity other than the Navy to recover response costs related to implementation of the IRM.

12. Nothing in this Agreement shall be construed to release any person or entity not executing this Agreement from any liability whatsoever.

13. Nothing in this Agreement shall be construed to make any other person or entity not executing

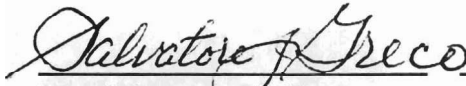

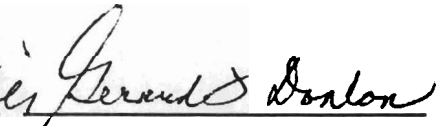
this Agreement a thirdparty beneficiary to this Agreement.

14. The payment made under this Agreement by the Navy is subject to the availability of appropriated funds. No provision of this Agreement shall be interpreted as, or shall constitute a commitment or requirement that the Navy obligate or pay funds in contravention of the Anti-deficiency Act, 31 U.S.C. § 1341, 1342 and 1511 - 1519 or any other applicable provision of law.


15. The Agreement contains the entire agreement between the Water District and the Navy with all matters related herein. All prior discussion, drafts and writings are specifically superseded by this Agreement and may not be used to vary or contest the terms of the Agreement.

SO AGREED, as of the effective date of this Agreement.

FOR THE BETHPAGE WATER DISTRICT:

		
Mr. Salvatore J. Greco Commissioner	Mr. William F. Ellinger Commissioner	Mr. Gerard F. Donlon Commissioner

FOR THE NAVY:



Captain Paul D. Chamberlin, CEC, USN
Commanding Officer
Northern Division, Naval Facilities Engineering Command

*List of Studies Supporting the Selection of the Interim Remedial
Action for Naval Weapons Industrial Plant, Bethpage, NY*

1. **Final Remedial Investigation Report, Naval Weapons Industrial Plant, Bethpage, NY - May 1992 Contract No. 62472-90-D-1298, Contract Task Order 0003**
2. **Phase 2, Final Remedial Investigation Report For Naval Weapons Industrial Plant, Bethpage, NY - October 1993 Contract No. 62472-90-D-1298, Contract Task Order 0089**
3. **Feasibility Study Report For Naval Weapons Industrial Plant, Bethpage, NY - March 1994 Contract No. 62472-90-D-1298, Contract Task Order 0089**

ANTHONY J. SABINO

Attorney at Law

(516) 939-0736 Office
(516) 939-0186 Fax

P.O. BOX 400
14 RUSSELL AVENUE
BETHPAGE, NEW YORK 11714
(516) 939-0736

January 10, 2000

Ms. Sue McCormick
New York State Dept. of
Environmental Conservation
Div. of Hazardous Waste Reduction
50 Wolf Road
Albany, New York 12233

*file # 130003 A
for table*

Re: Grumman Aerospace Project No. NY00803

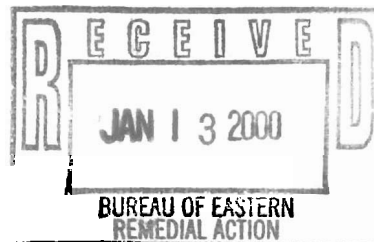
Dear Ms. McCormick:

Enclosed herewith you will find a copy of the three Agreements which cover the reimbursement and operation of the Bethpage Water District treatment facilities. I have highlighted the operation and maintenance section of each Agreement for your convenience.

The Water District is appreciative of your efforts during this final phase of this project and we are encouraged by attitude of the Department concerning the continued operation of our facilities as well as the additional matters discussed last week.

Very truly yours,

Anthony J. Sabino



5/90

THIS AGREEMENT dated the 22 day of May, 1990, between GRUMMAN AEROSPACE CORPORATION, a New York corporation with its principal place of business at Bethpage, New York, ("Grumman"), and the BETHPAGE WATER DISTRICT, a municipal corporation located at Bethpage, New York ("The Water District"),

W I T N E S S E T H A S F O L L O W S :

WHEREAS, certain contaminants have been found to be currently existing in the ground water in an area of the Bethpage Water District, as more particularly described in the hydrogeological survey prepared by Dr. Paul Grosser, Drawing # BPWD 8705.DWG, annexed hereto and incorporated herein; and

WHEREAS the two wells located at the Water District's well site No. 6 have been temporarily off-line because of the presence and level of said contaminants found in the ground water under such well site; and

WHEREAS a continued shutdown of Well Site No. 6 could result in a serious shortage in the potable water available to the Water District for delivery to its customers; and

WHEREAS Grumman is the largest user of potable water supplied by the Water District, and its current and prospective operations, including presently planned new commercial development at its large industrial plant near well site No. 6, could be seriously impaired by any such shortage of potable water; and

WHEREAS Grumman wishes to secure the Water District's capability for continued uninterrupted supply of potable water to Grumman as well as to all other customers within the Bethpage Water District by contributing to the economic costs associated with the design, construction and operation at Well Site No. 6 of an appropriate air stripping tower; and

WHEREAS the Water District's air stripping tower is designed in accordance with current standards to achieve present drinking water standards by treating up to 300 parts per billion of the type and level of contaminants which have been identified on Dr. Grosser's hydrogeological map.

N O W T H E R E F O R E

It is agreed as follows:

1. Grumman shall contribute to the costs of designing and building the air stripping tower at Well Site No. 6 in the amount of One Million, Five Hundred Thousand Dollars (\$1,500,000) over a period of ten (10) years at the rate of One Hundred Fifty Thousand Dollars (\$150,000) per year.

2. Grumman shall also contribute to the estimated costs of the operation of the air stripping tower. Such contribution shall be at the rate of Twenty Thousand Dollars (\$20,000) per year of operation for a period of ten (10) years or until the water as pumped at Well Site No. 6 meets drinking water standards

without being processed in the air stripping tower, whichever is less.

3. The annual payments required above shall be collected as an additional water charge on the Water District's regular water bill to Grumman. One quarter of the required annual payments will be added to all other water charges for each quarterly bill. If during the course of this agreement the normal quarterly billing periods are changed, the required annual payments specified above shall be spread evenly over the number of billings sent to Grumman for each year. If during the course of this agreement Grumman relocates or fails for any other reason to actually consume water from the Water District, the required annual payments shall be due on January 1st of each year of this agreement. The annual contributions herein shall not be prepaid or discounted or reduced to a lump sum payment.

4. The Water District represents that the air stripping tower has been successfully tested and has received preliminary operational approval by the Nassau County Department of Public Health. Once placed on line, Well Site No. 6 will be reintegrated with the District's distribution system and will be utilized at the District's sole municipal discretion for the best interests of the District. Pursuant to the District's present standard operating procedures, those wells which must be treated or blended to achieve drinking water standards are designated by

the District as reserve wells. Consistent with this standard operating procedure, it is the present intention of the District to engage Well Site No. 6 as a back-up well to alleviate potential District wide shortages of potable water during periods of peak summer demand.

5. Grumman is currently developing a Remedial Investigation/Feasibility Study (RI/FS) with respect to its own Bethpage premises (which include the premises described in the annexed Schedule A) for the New York State Department of Environmental Conservation (DEC). Grumman has informed the Water District that the study will not be finalized for some time and agrees to supply the Water District with a copy of the DEC consent decree when executed. Grumman agrees to continue its own well pumping operation at its own Bethpage site for as long as such may be required, and in a manner and to the degree which may be required by the DEC or the U.S. Environmental Protection Agency (EPA).

Grumman further agrees to comply with all other terms and conditions of any remediation order issued by DEC or EPA specifically including any off site remediation of the contaminants identified on Dr. Grosser's hydrogeological map as same may affect the Water District's interests. The parties recognize that DEC or EPA or another appropriate governmental agency may issue an off site remediation plan for Grumman's Bethpage premises which incorporates participation by the Water District

itself. In that event, the Water District reserves all of its rights to claim over against Grumman for all additional monitoring and remediation costs, including allowable engineering, administration and legal expenses which the District incurs under any such remediation plan. Notwithstanding any of the above, nothing contained in this agreement shall in any way imply consent by the Water District to jurisdiction of or participation in any DEC or EPA remediation plan or an admission by Grumman of the validity of any such claim over.

6. The provisions of this agreement only cover the type, level and location of the contaminants that exist at Well Site No. 6 as shown on Dr. Grosser's map. Four areas of damage are specifically not covered by this agreement:

First, any damages which may be incurred by the Water District for any further migration of the existing contamination beyond that currently shown on Dr. Grosser's map.

Second, the parties agree that the air stripping tower has been designed to produce potable water at current drinking water standards of 5 parts per billion of principle organic contaminant as defined by the New York State Health Department. The air stripping tower has also been designed to treat the existing levels of contaminants identified on Dr. Grosser's map in conformity with present air pollution standards. The design capability of the air stripping tower can achieve current air and

drinking water standards by treating up to 300 parts per billion for the existing contaminants. Accordingly, this agreement specifically does not cover any damages incurred by the Water District caused by the discovery of any new contaminants or an increase in the current levels of the already identified contaminants in Dr. Grosser's map to a total of over 300 parts per billion, excluding pollution from sources other than Grumman. Further, this agreement does not cover any additional damages incurred by the Water District should the air stripping tower either become obsolete or require modifications by virtue of any appropriate municipal authority instituting more stringent standards in the future (i.e., less than 5 parts per billion of principle organic contaminant and/or less than one pound per hour of volatile organic chemicals in air discharge). Upon request, the District will supply Grumman with copies of the results of water samples and pumpage data from Well Site No. 6.

Third, any damages which may arise from the discovery of contaminants in any other part of the Water District not shown on Dr. Grosser's map.

Fourth, any additional damages incurred by the District not already enumerated herein arising from the contamination presently located on Dr. Grosser's map, including but not limited to claims by third parties and costs incurred by the District from any governmental remediation program as set forth in

paragraph 4.

With respect to any damages not covered by this agreement, the Water District reserves all of its rights to seek legal redress against any responsible party, including Grumman.

Subject to the conditions contained herein, the Water District hereby waives and releases Grumman from any liability on account of any claim or causes of action in law or equity or under the CERCLA statute or any other statute of the United States or the State of New York for damages, remediation or other remedy, which the Water District may have against Grumman solely for the pollution of the water supply at Well Site No. 6 caused solely by the type and level of contaminants identified on Dr. Grosser's map. Nor will the District seek any damages from Grumman for the prior construction of Well No. BGD-1.

7. Grumman agrees not to interpose the defense of statute of limitations to the extent that any claim by the Water District against Grumman for future damages to Well Site No. 6 shall not accrue until the Water District discovers or reasonably should have discovered that the air stripping tower cannot achieve present or future drinking water standards by virtue of either an increase in the stringency of drinking water standards or an increase in the existing levels of contaminants identified in Dr. Grosser's map to be over 300 parts per billion.

8. Grumman has informed the Water District of its tentative plans to develop a new office park in and around approximately 200 acres of its airplane runway area. The Water District is currently participating in the Draft Environmental Impact review with the lead agency, Town of Oyster Bay. Nothing whatsoever in this agreement shall be deemed or construed in any way as the issuance of a certificate of water availability or any type or form of commitment by the Water District to provide water for Grumman's proposed commercial development.

9. Nothing in this agreement shall in any way be considered or construed to be a private contract to supply water from the Water District to Grumman. Grumman's privilege to receive water is equivalent to that enjoyed by all other consumers of the Water District under the statutory and common law of the State of New York.

10. Nothing contained in this agreement shall be construed as barring, diminishing, adjudicating or in any way affecting any legal or equitable rights or claims, actions, suits, causes of action or demands whatsoever that the Water District may have against anyone other than Grumman.

11. Nothing contained in this agreement shall be construed as barring, diminishing, adjudicating or in any way affecting the Water District's right to exercise all of its rights at law or in equity to enforce the terms and conditions set forth in this

agreement, including the right to obtain appropriate injunctive relief. The Water District also reserves all of its rights to collect the annual payments of any sums due hereunder to the same extent it enjoys under law to collect water charges due from any of its consumers.

12. Nothing contained in this agreement shall be construed as constituting an admission by Grumman of any liability or the violation of any law.

13. Form and venue for all disputes arising hereunder is designated as Supreme Court, Nassau County, New York, and/or the United States District for the Eastern District of New York, Nassau or Suffolk courthouse.

14. This agreement shall constitute the complete and entire understanding between the parties, and the terms hereof shall inure to the benefit of their heirs, successors or assigns, as a covenant running with the land. This agreement specifically supercedes the written memorandum of understanding executed by the parties on December 4, 1989, which document is hereby rendered null and void for all purposes. No terms, conditions, understandings or agreements purporting to modify or vary the terms hereof shall be binding unless made in writing and subscribed by the party to be bound.

15. All appropriate corporate and municipal resolutions attesting to the validity of this agreement, consenting to the

terms hereof and authorizing signature hereto are annexed and incorporated herein.

IN WITNESS WHEREOF the parties hereto have caused this Agreement to be executed by the officers thereof duly authorized to do so:

GRUMMAN AEROSPACE CORPORATION

By [Signature]
Vice President

Attest:

Secretary

BETHPAGE WATER DISTRICT

By [Signature]
Commissioner

By [Signature]
Commissioner

By [Signature]
Commissioner

ACKNOWLEDGEMENTS

STATE OF NEW YORK, COUNTY OF NASSAU) SS:

On the 14 day of May, 1990, before me personally came Jacob J. Bussolini, to me known, who, being by me duly sworn, did depose and say that he resides at No. 599 Caledonia Road,

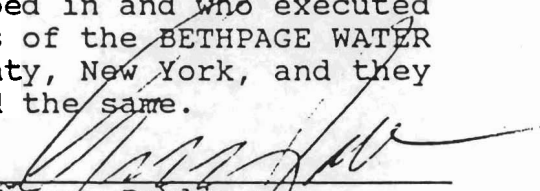
Dix Hills, New York; that he is the Vice President of GRUMMAN AEROSPACE CORPORATION, the corporation described in and which executed the foregoing instrument; and that he signed his name thereto by order of the Board of Directors of said corporation.

[Signature]
Notary Public

MADLINE ZEBROWSKI
NOTARY PUBLIC, State of New York
No. 4643419
Qualified in Nassau County
Commission Expires 10/31/91

STATE OF NEW YORK, COUNTY OF NASSAU) SS:

On the *22* day of *May*, 1990, before me personally came SAL J. GRECO, JR., GERARD F. DONLON and WILLIAM J. ELLINGER, to me known to be the individuals described in and who executed the foregoing instrument as Commissioners of the BETHPAGE WATER DISTRICT, Town of Oyster Bay, Nassau County, New York, and they severally acknowledged that they executed the same.



Notary Public

ANTHONY J. SABINO
NOTARY PUBLIC, State of New York
No. 4518
Qualified in Nassau County
Commission Expires 12/31/1993

SCHEDULE A

ALL that certain plot, piece or parcel of land situate, lying and being at Bethpage in the Town of Oyster Bay, County of Nassau and State of New York known and designated on the land and tax map of the County of Nassau:

Section 46 Block 323 Lots 16A, 16C, 17E, 17G

Section 46 Block G Lots 8, 49 & 50

11/94

located on property owned by Grumman, the United States Navy, Hooker/Ruco and possibly others, as has been indicated in studies performed by the State of New York and the Federal government, and

WHEREAS Grumman wishes to secure the Water District's capability for continued uninterrupted supply of potable water to Grumman, as well as to all other customers within the Water District, by contributing to the economic costs associated with the design, construction and operation of an appropriate air stripping tower at Well Site No.4, and

WHEREAS the Water District's air stripping tower is designed to treat up to 600 parts per billion of the type of contaminants which have been identified to date.

N O W T H E R E F O R E

It is agreed as follows:

1. a. Grumman shall contribute to the costs of designing and building of the air stripping tower at Well Site No. 4 in the amount of approximately One Million, Five Hundred Ninety Thousand Seven Hundred Fifty Four Dollars (\$1,590,764.00) plus interest thereon. The exact amount of said contribution shall equal the actual cost of the design, engineering, construction, construction administration and supervision, legal, landscaping and contingency costs. Said sum is to be paid by Grumman as set forth in Paragraph 2, over a period of twenty (20) years, at the rate equal to the Water District's bond payment to the Towns of Oyster Bay and Hempstead in

proportion to the above sum and the total amount borrowed by the Water District inclusive of bond interest. Grumman acknowledges and agrees that the bond issue contemplated by the Water District will include administrative and legal fees which will be included in the amount financed. The computation of the Grumman payment will include Grumman's pro rata share of said fees. In addition to the above, Grumman shall pay to the District the amount of Ten Thousand (\$10,000.00) per year, representing operational and maintenance expenses, for a twenty-year period.

b. In the event the Water District's cost of design, engineering, construction, construction administration and supervision, legal, landscaping and contingencies of said tower exceeds \$1,590,765 as outlined in the Capital Cost Summary of H2M Group dated October 14, 1993, attached hereto as Exhibit 1, Grumman agrees to pay said additional cost, if said cost is reasonable and approved by Grumman after review of itemized invoices detailing the additional charges. Grumman may, at its sole option, rely on the opinion of Geraghty and Miller P.C. as to the reasonableness of any additional costs. Said approval will be made in good faith and not unreasonably withheld.

2. The annual payments required under Paragraph 1 shall be collected as a water charge on the Water District's regular water bill to Grumman. One quarter of the required annual payment will be itemized and added to all other water charges for each quarterly bill. If, during the course of this

agreement, the normal quarterly billing periods are changed, the required annual payment specified above shall be spread evenly over the number of billings sent to Grumman for each year.

If, during the course of this agreement, Grumman relocates or fails for any other reason to actually consume water from the Water District, the required annual payments due under Paragraphs 1 and 2 above shall be due on January 1 of each year of this agreement.

Any principal amount pursuant to this agreement, by Grumman or other party, may be prepaid to the District without interest or penalty.

3. Grumman is currently developing a Remedial Investigation/Feasibility Study (RI/FS) for the New York State Department of Environmental Conservation (DEC). Grumman has informed the Water District that the study will not be finalized for some time. Grumman agrees to continue its well pumping operation at its Bethpage site for as long as and in the manner which may be required by the DEC or the U.S. Environmental Protection Agency (EPA). Grumman further agrees to comply with all other terms and conditions of any remediation order issued by DEC or EPA as it may effect the Water District's interests.

The parties recognize that DEC or EPA or other appropriate governmental agency may issue an off-site remediation plan which incorporates participation by the Water District. In that event, Grumman, if it is the responsible party, will reimburse the Water District for all additional

monitoring and remediation costs which the Water District incurs under any remediation plan for the site including all reasonable administrative, engineering and legal expenses if said participation is related to a plan consented to by Grumman. In the event that a party or parties other than Grumman is responsible for all or any part of the costs incurred by the Water District under such a remediation plan, Grumman will make its best effort to assist the Water District in securing appropriate reimbursement from said party or parties.

Notwithstanding any of the above, nothing contained in this agreement shall in any way imply consent by the Water District to jurisdiction of the DEC or EPA over the Water District, or participation in any DEC or EPA remediation plan. Moreover, notwithstanding any of the above, nothing contained herein shall in any way imply admission by Grumman of the validity of any claim against Grumman by the Water District.

4. The provisions of this agreement only cover the type, level and location of the contaminants that exist at Well Site No. 4 as currently revealed in the remedial studies referred to above. Five areas of damage are specifically not covered by this agreement:

First, any damages which may be incurred by the Water District for the migration of the existing contamination.

Second, the parties agree that the design capability of the air stripping tower is 600 parts per billion for the existing contaminants. Accordingly, this agreement

specifically does not cover any damages incurred by the Water District caused by the discovery of any new contaminants or an increase in the present levels of the already identified contaminants to a total of over 600 parts per billion, excluding pollution from sources other than Grumman.

Third, this agreement does not cover any additional costs incurred by the District should the air stripping towers become obsolete or require modifications by virtue of any new drinking water standards imposed by regulating authorities (1994 air and drinking water standards apply to this agreement.)

Fourth, any damages which may arise from the discovery of contaminants in any other part of the Water District not already described in the above mentioned studies.

Fifth, any additional damages incurred by the District not enumerated herein, arising from the contamination referred to herein, including but not limited to claims by third parties and costs incurred by the District as a result of government remediation programs.

With respect to any damages not covered by this agreement, the Water District reserves all of its rights to seek legal redress against any responsible party, including Grumman, and Grumman reserves all of its rights to seek legal redress against any other responsible party, including the Water District.

The Water District will make no other claim or

demand against Grumman for the pollution of the water supply at Well Site No. 4 for the contaminants identified to date, providing that such contaminants do not exceed 600 parts per billion; or as otherwise provided for in this agreement; nor will the District seek any damages from Grumman for the prior construction of Well No. BGD-1.

5. The Water District represents that Well Site No. 4 is a primary water storage and pumping facility. As such, Water District supply and pressure demand require primary use of this facility at the present time. The Water District agrees to use its best efforts to maintain such status of Well Site No. 4 in the future. However, the Water District has the right to exercise its judgment as to when and how frequently Well Site No. 4 will be used by the Water District, subject only to the standard operating procedures of the Water District.

The Water District agrees that, within three (3) days of exercising its judgment to change the use of Well Site No. 4 to less than a primary water storage and pumping facility, it will provide written notice of such planned change in use to Grumman.

The Water District further agrees that it will promptly provide Grumman with copies of Well Site No. 4 test and pumpage data upon Grumman's request.

6. Grumman shall indemnify and hold the Water District harmless, including reasonable attorney's fees, from all claims, suits, actions, damages, and costs whatsoever

arising out of the existence or migration of the contaminants identified in the reports mentioned above except for direct actions or omissions for failure to operate the tower.

7. Grumman agrees not to interpose the defense of statute of limitations to the extent that any claim by the Water District against Grumman for future damages to Well Site No. 4 shall not accrue until the Water District discovers or reasonably should have discovered that the stripping towers cannot achieve present or future drinking water standards for any reason including an increase in the existing contaminant level over 600 parts per billion.

8. Nothing contained in this agreement shall be construed as barring, diminishing, adjudicating or in any way affecting any legal or equitable rights or claims, actions, suits, causes of action or demands whatsoever that (a) the Water District may have against anyone other than Grumman and (b) Grumman may have against anyone other than the Water district.

9. Nothing contained in this agreement shall be construed as barring, diminishing, adjudicating or in any way affecting (a) the Water District's right to enforce against Grumman, or (b) Grumman's right to enforce against the Water district, at law or in equity, the terms and conditions set forth in this agreement, in the event that either party shall fail to fulfill any of its obligations hereunder.

10. Nothing contained in this agreement shall be construed as constituting an admission by Grumman of any

liability or the violation of any law. Grumman shall have the absolute and exclusive right to pursue its remedies against other responsible parties for the damages provided for in this agreement.

11. This agreement shall constitute the complete and entire understanding between the parties, and the terms thereof shall inure to the benefit of their heirs, successors or assigns. No terms, conditions, understandings or agreements purporting to modify or vary the terms hereof shall be binding unless made in writing and subscribed by the party to be bound.

12. Grumman agrees to provide the Water District with collateral for the purpose of securing the obligations of Grumman to the Water District provided for in this agreement in the form of a performance bond or letter of credit. Said security shall be provided to the Water District within thirty (30) days of the occurrence of any of the following events:

- i. Cessation of Grumman (or any corporate successor of Grumman) to be "Investment Grade". For purposes hereof "Investment Grade" means that the senior debt of Grumman is rated BBB or higher by Standard & Poors.
- ii. From the date of this agreement forward, transfer a total of 200 acres or more of the Bethpage facility to parties other than

Grumman or its affiliates or any corporate successor of Grumman. In order that the Water District may track dispositions of Grumman Bethpage property, Grumman agrees to provide the Water District with notice of each sale or long-term (51 years or more) lease of parcels within the Bethpage facility.

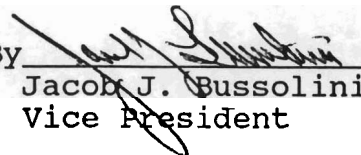
iii. Material default of any of the terms and conditions of this agreement.

13. The forum and venue of all disputes arising out of this agreement is designated as the Supreme Court of the State of New York and/or the United States District Court for Eastern District of New York, Nassau or Suffolk Courthouse.

14. Grumman Aerospace Corporation represents that it is the fee owner or the owner of all of the shares of stock of the fee owner of the lands described in Exhibit 2 attached hereto, except for the Grumman Corporate Headquarters facility and associated property.

IN WITNESS WHEREOF the parties hereto have caused this Agreement to be executed by the officers thereof duly authorized to do so:

GRUMMAN AEROSPACE CORPORATION

By 

Jacob J. Bussolini
Vice President

Attest:

Secretary

BETHPAGE WATER DISTRICT

By John J. Greco Jr
Commissioner

By Gerard S. Danton Jr
Commissioner

By William J. Ellyer
Commissioner

EXHIBIT 2

That certain plot, piece or parcel of land situate, lying and being at Bethpage in the Town of Oyster Bay, County of Nassau and State of New York known as designated on the land and tax map of the County of Nassau:

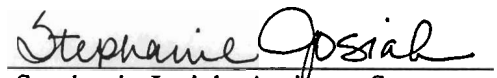
Section 46 Block 323 Lots 16A, 16C, 17E, 17G

Section 46 Block G Lots 8, 49 & 50

**CERTIFICATE OF ASSISTANT SECRETARY
OF
GRUMMAN AEROSPACE CORPORATION**

I, **STEPHANIE JOSIAH**, certify that I am the Assistant Secretary of Grumman Aerospace Corporation, a New York Corporation (the "Company") and that as such I am authorized to execute this Certificate on behalf of the Company, and do hereby further certify that Jacob J. Bussolini Jr., Vice President of Grumman Aerospace Corporation, was authorized to sign that contract dated 17 June 1994 between Grumman Aerospace Corporation and the Bethpage Water District.

IN WITNESS WHEREOF, I have executed this Certificate and affixed the seal of the Company this 4th day of November, 1994.


Stephanie Josiah, Assistant Secretary

Bethpage Water District
Air Stripping Treatment for Organic Removal at Plant No.4
Project No. BPWD 93-01

Project Cost Summary as of 1/31/95

A. Construction:

I. Tank Connection Work

Contractor: James McCullagh, Inc., Plainview, New York

Status of Work: Completed April 1994

Total Contract Amount:.....\$ 17,358.00

II. Contact No.1- Well and Well Pump Work

Contractor: William Stothoff Co., Inc., Flemington, New Jersey

Status of Work: Completed July 1994

Bid Amount:.....\$ 98,771.00

Change Order No.1:.....\$ 10,945.00

Total Contract Amount:.....\$ 109,716.00

III. Contact No.2- General Construction and Mechanical Work

Contractor: C.F. Mentzinger's Son, Inc., Plainview, New York

Status of Work: On going

Bid Amount:.....\$ 716,394.00

Change Order No.1:.....\$ 1,162.65

Change Order No.2:.....\$ 638.00

Change Order No.3:.....\$ 4,175.00

Change Order No.4:.....\$ 15,041.61

Change Order No.5:.....\$ 14,415.73

Change Order No.6:.....\$ 22,083.45

Change Order No.7:.....\$ 15,519.25

Total Contract Amount:.....\$ 789,429.69

IV. Contact No.3- Electrical Work

Contractor: Wire-to-Water, Inc., Dix Hills, New York

Status of Work: On going

Bid Amount:.....\$ 267,500.00

Change Order No.1:.....\$ 76,700.00

Total Contract Amount:.....\$ 344,200.00

V. Contact No.4- Landscaping Work

Contractor: Bid of contract pending completion of Contracts 2 and 3.

Status of Work: Tentatively Scheduled to Commence during September 1995

Estimated Contract Amount:.....\$ 200,000.00

Construction Subtotal:.....\$ 1,460,703.70

**Bethpage Water District
Air Stripping Treatment for Organic Removal at Plant No.4
Project No. BPWD 93-01**

**Project Cost Summary as of 1/05/95
(Cont.)**

B. Engineering, Surveying and Testing:

1. Engineering Study:.....	\$ 15,000.00
2. Engineering Design:.....	84,129.37
3. Permits:.....	3,000.57
4. Soil Borings and Testing:.....	3,825.99
5. Construction Administration:.....	33,280.00
6. Construction Observation:.....	68,000.00
7. Surveying Services:.....	3,866.76
8. Additional Design and Construction Services:.....	6,500.00

Engineering Subtotal:.....\$ 217,602.69

C. Legal Services:

1. Contract Review and Administration:.....	\$ 23,412.00
2. Municipal Financing:.....	17,000.00

Legal Service Subtotal:.....\$ 40,412.00

Project Total:.....\$1,718,718.40
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8/96

REIMBURSEMENT AND CONTRIBUTION AGREEMENT

Between Bethpage Water District and The United States of America

This **REIMBURSEMENT and CONTRIBUTION AGREEMENT** ("Agreement") is entered into as of the day of August 19, 1996 (the "Effective Date") between the parties, Bethpage Water District, a municipal corporation located at 25 Adams Avenue, Bethpage, New York ("Water District") and the United States of America, by and through Northern Division, Naval Facilities Engineering Command, United States Department of the Navy ("Navy").

WHEREAS, certain contaminants have been found to be currently existing in the ground water in Bethpage Water District, as more particularly described in the hydrogeological surveys prepared by the United States Geological Service and the New York State Department of Environmental Conservation, and

WHEREAS, a Water District well located at the District's Well Site Plant No. 5 is down gradient from a potential source of said contaminants , and

WHEREAS, the potential impact to Well Site No. 5 may result in a serious shortage in the potable water available to the Water District for delivery to its customers, and

WHEREAS, a potential source of the contaminants, the Naval Weapons Industrial Reserve Plant ("NWIRP"), Bethpage NY, has been located on property owned by Grumman, the United States Navy, and Hooker/Rucco and possibly others as has been indicated in studies (identified in the list provided as **EXHIBIT A** to this Agreement) performed by the State of New York and the Federal government, and

WHEREAS, a Record of Decision ("ROD", attached as **EXHIBIT B** and incorporated fully into this agreement) dated May 1995 was jointly issued by the Navy and The New York State Department of Environmental Conservation which identified that certain interim remedial measures ("IRM") will be conducted to address migrating contamination, and

WHEREAS, to complete the IRM, the ROD requires the Navy to fund a treatment system for Well Site Plant No. 5 consisting of either an air stripping or granular activated carbon treatment system as selected by the Water District.

WHEREAS, the Water District represents that under local law and policy no entity other than the Water District is legally permitted to design, work on or construct additions, alterations or physical changes to Well Site Plant No. 5.

WHEREAS, the Water District has begun the process of design and construction of an air stripping tower which is designed to treat up to 600 parts per billion of the type of contaminants which have been identified to date. Such design and construction is being conducted to implement the IRM.

NOW THEREFORE, the Navy and the Water District, by entering this Agreement, intend to resolve all present and future reimbursement and contribution claims between the Navy and the Water District arising out of implementation of the IRM as required by the ROD without litigation and without the admission of any issue of law or fact, or waiver of any defense. Accordingly, the parties to this Agreement represent and agree to the following:

1. The Water District has solely and independently designed, managed and initiated the IRM at the Well Site Plant No. 5 consistent with the ROD. In implementing the IRM, the Water District has conducted the work in the manner it determined necessary and appropriate.
2. In return for the promise of the Navy to make the payment agreed to in Paragraph 6 below, the Water District shall be fully responsible, for all expenses incurred in connection with implementing the IRM as described in the ROD, except as modified by this agreement.
3. The Water District hereby represents that the entirety of the payment provided

for in Paragraph 6, below, is for the reimbursement of all costs which the Water District has or is expected to incur as the result of implementing the IRM.

4. The Water District further represents that all costs identified by it as of the effective date of this Agreement relate to implementation of the IRM, and that such costs are consistent with both the National Contingency Plan, 40 C.F.R., Part 300, and the ROD.

5. Upon receipt of the payment agreed to in Paragraph 6, below, the Water District agrees to release and hold harmless the Navy from any and all claims, demands, fines, penalties, assessments, and charges arising out of their implementation of the IRM and covenants not to sue the Navy for contribution or recovery of any costs arising out of or associated with activities taken by the Water District to implement or operate the IRM as of the effective date of this Agreement and provided that the known contaminants do not exceed 600 parts per billion and current drinking water standards permit removal to 5 parts per billion. Further, the Water District assumes all responsibilities for the treatment effectiveness and efficiency of the IRM and agrees that the Navy shall not be responsible for such treatment effectiveness and efficiency and agrees to hold the Navy harmless for any failure of the IRM to achieve the adequate treatment of up to 600 parts per billion of the type of contaminant which have been identified to date. The Water District also agrees to assume all costs to make any necessary corrections to the IRM if such corrections are necessary to achieve the current drinking water standard (< 5ppb of the identified contaminants from raw water containing up to 600 parts per billion of the type of contaminant which have been identified to date.

6. The Navy agrees to pay to the Water District the sum of TWO MILLION, SEVEN HUNDRED, FIFTY THOUSAND DOLLARS (\$2,750,000.00) which represents the total past, present and future costs associated with implementation of the IRM, including but not limited to design, construction, management, and all costs associated with continuing and future operation and maintenance of the IRM except as provided in paragraph 5 of this Agreement. That payment shall be made as soon as practicable.

7. The Navy is currently developing a Remedial Investigation/Feasibility Study Report (RI/FS) for

the New York State Department of Environmental Conservation (DEC). The Navy has informed the Water District that the RI/FS will not be finalized for some time. The Navy further agrees to comply with all other terms and conditions of any remediation order issued by DEC or EPA, if such terms and conditions are agreed to by the Navy, where they may effect the Water District's interests.

8. Notwithstanding any of the above, nothing contained in this agreement shall in any way imply consent by the Water District to jurisdiction of, or participation in, any DEC or EPA remediation plan.
9. The provisions of this agreement only cover the type, level and location of the contaminants that exist at Well Site No. 5 as currently revealed in the studies and ROD referred to above.
10. The parties to this Agreement acknowledge and agree that the payments to be made by the Navy pursuant to this Agreement represent a fair, reasonable, and equitable discharge of the reimbursement and contribution claims addressed in this Agreement. The parties to this Agreement agree that the Navy, as of the effective date of this Agreement, is entitled to such contribution protection as is available pursuant to CERCLA section 113(f), 42 U.S.C. § 9613(f), and any other applicable provision of law, including federal common law, limiting or extinguishing the Navy's liability to persons not party to this Agreement.
11. Nothing in this Paragraph shall constitute or be construed as releasing or providing contribution protection to any person or entity other than the Navy. The Water District reserve their right to bring or continue any action against any person or entity other than the Navy to recover response costs related to implementation of the IRM.
12. Nothing in this Agreement shall be construed to release any person or entity not executing this Agreement from any liability whatsoever.
13. Nothing in this Agreement shall be construed to make any other person or entity not executing


this Agreement a thirdparty beneficiary to this Agreement.

14. The payment made under this Agreement by the Navy is subject to the availability of appropriated funds. No provision of this Agreement shall be interpreted as, or shall constitute a commitment or requirement that the Navy obligate or pay funds in contravention of the Anti-deficiency Act, 31 U.S.C. § 1341, 1342 and 1511 - 1519 or any other applicable provision of law.

15. The Agreement contains the entire agreement between the Water District and the Navy with all matters related herein. All prior discussion, drafts and writings are specifically superseded by this Agreement and may not be used to vary or contest the terms of the Agreement.

SO AGREED, as of the effective date of this Agreement.

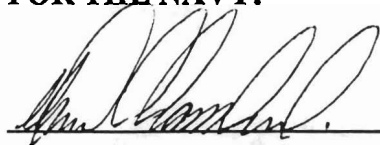
FOR THE BETHPAGE WATER DISTRICT:


Mr. Salvatore J. Greco
Commissioner

Mr. William F. Ellinger
Commissioner

Mr. Gerard F. Donlon
Commissioner

FOR THE NAVY:


Captain Paul D. Chamberlin, CEC, USN
Commanding Officer
Northern Division, Naval Facilities Engineering Command

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