

**AMENDMENT ONE TO
PROGRAMMATIC AGREEMENT
AMONG
NAVAL AIR STATION, FALLON, NEVADA,
THE NEVADA STATE HISTORIC PRESERVATION OFFICER AND
THE ADVISORY COUNCIL ON HISTORIC PRESERVATION
REGARDING THE IDENTIFICATION, EVALUATION AND TREATMENT OF
HISTORIC PROPERTIES ON LANDS MANAGED BY
NAVAL AIR STATION, FALLON
(AGREEMENT)**

WHEREAS, the Agreement was executed in August 2011; and

WHEREAS, Naval Air Station, Fallon, Nevada (NAS Fallon), proposes to modernize the Fallon Range Training Complex (FRTC) by adding a maximum of 683,886 acres of federal and private lands to the existing FRTC; modifying the Special Use Airspace; constructing and modifying range infrastructure; and redistributing current operational activities within the expanded FRTC (Appendix 4, Figure 1a); and

WHEREAS, NAS Fallon proposes to amend the Agreement to ensure that all undertakings associated with the proposed modernization program are reviewed consistent with the requirements of Section 106 of the National Historic Preservation Act (54 U.S.C. § 306108) as stipulated in the Agreement; and

WHEREAS, NAS Fallon, in consultation with the signatories and the Tribes, proposes to extend the duration of the Agreement in Stipulation XII.B from August 9, 2021, to December 31, 2024, in order to continue the protections and procedures in the original Agreement and to afford the signatories, Tribes, and the public with an opportunity to negotiate an amended or replacement Programmatic Agreement; and

WHEREAS, NAS Fallon shall consult, consistent with the stipulations in this amended Agreement, with the signatories and the Tribes prior to altering Tribal access to Navy-controlled lands, as amended, in order to ensure that the signatories and Tribes are informed and have appropriate opportunities to comment; and

WHEREAS, NAS Fallon has consulted with the Fallon Paiute-Shoshone Tribe, the Walker River Paiute Tribe, the Lovelock Paiute Tribe, the Pyramid Lake Paiute Tribe, the Yerington Paiute Tribe, the Yomba Shoshone Tribe, the Winnemucca Indian Colony of Nevada, the Te-Moak Tribe of Western Shoshone, the Battle Mountain Shoshone Tribe, the Duckwater Shoshone Tribe, the Fort McDermitt Paiute and Shoshone Tribes, the Reno-Sparks Indian Colony, the South Fork Band Council, the Washoe Tribe of Nevada and California, the Wells Band Council, the Summit Lake Paiute Tribe, the Inter-Tribal Council of Nevada (referred to collectively as Tribes); and

WHEREAS, the Tribes have been invited to concur with the requirements and procedures in this amended Agreement, which would not imply support for the Navy's proposed modernization itself; and

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WHEREAS, NAS Fallon has consulted with Churchill County, Lander County, the City of Fallon, the Bureau of Land Management, the Oregon California Trails Association, the Lincoln Highway Association, the Churchill County Museum, and the public; and

WHEREAS, NAS Fallon, in consultation with the signatories, agrees that an ethnographic study conducted in coordination with and with the assistance of the Tribes is important for planning and implementing the proposed FRTC modernization program; and

WHEREAS, NAS Fallon acknowledges that the Tribes possess special expertise in assessing the eligibility of historic properties that may possess cultural and religious significance to them;

NOW THEREFORE, in accordance with Stipulation X of the Agreement, NAS Fallon, the Nevada State Historic Preservation Officer (SHPO), and the Advisory Council on Historic Preservation (Council) agree to amend the Agreement as follows:

1. Amend the first WHEREAS clause to read as follows:

WHEREAS, Naval Air Station, Fallon, Nevada (NAS Fallon), provides for the air operations and training programs and related support activities, for the fleet, within the FRTC in the State of Nevada; and

AND

2. Amend the NOW THEREFORE clause to read as follows:

NOW THEREFORE, NAS Fallon, the Council, and the SHPO agree that NAS Fallon undertakings within the FRTC shall be administered in accordance with the stipulations and definitions (Appendix 1) of this Agreement to satisfy NAS Fallon's responsibilities for individual undertakings, as defined at 36 CFR § 800.16(y).

AND

3. Amend the statement under STIPULATIONS to read as follows:

NAS Fallon undertakings within the FRTC will be carried out in accordance with NAS Fallon's ICRMP, the 2014 State Protocol Agreement, and the stipulations of this Agreement. When a conflict exists between the ICRMP or the 2014 State Protocol Agreement and the terms of this Agreement, this Agreement shall prevail.

AND

4. Amend Stipulation II.C to read as follows:

The current edition of NAS Fallon's ICRMP is dated March 2013. NAS Fallon developed this ICRMP in consultation with the SHPO and the BLM. NAS Fallon will initiate consultation to update the ICRMP in 2020-21.

AND

5. Amend Stipulation II.E to read as follows:

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For all NAS Fallon undertakings that have the potential to affect historic properties on tribal lands in the State of Nevada, NAS Fallon will carry out its responsibilities pursuant to Section 106 of the NHPA in accordance with 36 CFR Part 800.

AND

6. Amend paragraph one of Stipulation III.A.2. to read as follows:

The NAS Fallon CRS will determine the level and type of investigation needed according to the procedures in the current edition of the ICRMP. NAS Fallon, in consultation with the Tribes, will identify properties of traditional religious and cultural significance to them in a manner consistent with the National Park Service's *Guidelines for Evaluating and Documenting Traditional Cultural Properties* (formerly known as NRHP Bulletin 38) and the *Advisory Council's Recommendations for Improving Tribal-Federal Consultation*.

Within 60 days of executing this amendment, NAS Fallon shall initiate consultation with the SHPO and the Tribes to develop an ethnographic overview study of the proposed FRTC areas. NAS Fallon shall solicit Tribal assistance in conducting the study, and shall consult with the Tribes and the SHPO on its findings.

AND

7. Amend paragraph one of Stipulation III.B. to read as follows:

NAS Fallon shall evaluate cultural resources that may be affected by an undertaking, in consultation with the SHPO and the Tribes as appropriate, to determine their eligibility for inclusion in the NRHP. The evaluation will be consistent with the Secretary of the Interior's "Criteria for Evaluation" (36 CFR § 60.4) and the following stipulations:

AND

8. Amend paragraph two of Stipulation III.B to read as follows:

NAS Fallon, with the SHPO's concurrence and in consultation with the Tribes as appropriate, may determine a cultural resource, or group of resources, eligible for the NRHP without requesting a formal determination of eligibility from the Keeper of the NRHP and without developing the documentation otherwise necessary for making such a request.

AND

9. Amend paragraph six of Stipulation III.B to read as follows:

If NAS Fallon, with the SHPO's concurrence and in consultation with the Tribes as appropriate, determines that no historic properties are located within the APE for a given undertaking, NAS Fallon may conclude the Section 106 process and proceed with the undertaking. NAS Fallon will document its determination, SHPO concurrence,

consultation with the Tribes as appropriate, and the completion of the Section 106 process in the case file.

AND

10. Add a paragraph seven to Stipulation III.B to read as follows:

NAS Fallon shall consult with the Tribes when evaluating the eligibility of historic properties that may be of religious and cultural significance to them. NAS Fallon shall provide the Tribes with the agency's initial evaluation of NRHP eligibility. The Tribes will have thirty (30) calendar days to provide NAS Fallon with comments or to request further consultation. NAS Fallon may modify its initial eligibility determinations based on such consultation with the Tribes.

AND

11. Amend paragraph one of Stipulation III.C.2.a to read as follows:

When NAS Fallon determines, in consultation with the SHPO and Tribes as appropriate, that an undertaking will have an adverse effect on historic properties, the procedures in 36 CFR § 800.6 will be implemented with the following provisos:

AND

12. Amend Stipulation III.C.2.a.1 to read as follows:

NAS Fallon shall send a letter to the Tribes and follow up with at least two telephone calls inviting the Tribes to participate in resolving adverse effects and in developing a Treatment Plan for historic properties that may be of traditional religious and cultural significance to them affected by an undertaking. Tribes shall have fifteen (15) working days to provide a written or telephone response to the invitation. NAS Fallon shall meet with the Tribes to resolve adverse effects on the affected properties if requested.

AND

13. Amend Stipulation III.C.2.a.2 to read as follows:

If NAS Fallon, in consultation with Tribes, determines that historic properties of religious and cultural significance to them may be affected by an undertaking, NAS Fallon shall concurrently provide the Tribes and the SHPO with copies of any proposed treatment plans. The Tribes shall have thirty (30) calendar days to provide comments. NAS Fallon shall provide the SHPO with all comments received from the Tribes on the draft treatment plan within ten (10) calendar days of agency receipt.

AND

14. Amend Stipulation VII to include the following additional statement:

NAS Fallon shall ensure that all personnel operating on the installation receive cultural awareness training regarding the protection of cultural properties. NAS Fallon shall consult with the SHPO and the Tribes on the content of this training.

AND

15. Amend Stipulation XII.B to read as follows:

This PA shall expire on December 31, 2024. No later than two (2) years prior to the expiration date, NAS Fallon shall initiate consultation with the signatories, Tribes, and the public to review the PA for amendment and/or replacement.

AND

16. Amend Stipulation XIII to read as follows:

Execution and implementation of this Agreement evidences satisfaction of NAS Fallon's Section 106 responsibilities with respect to its undertakings within the FRTC.

AND

17. Amend Stipulation XIV to read as follows:

This Agreement becomes effective on the date of the last signature by NAS Fallon, the SHPO, and the ACHP.

AND

18. Amend the Concurring Parties to read as follows: Battle Mountain Shoshone Tribe, Duckwater Shoshone Tribe, Fallon Paiute-Shoshone Tribe, Fort McDermitt Paiute and Shoshone Tribes, Inter-Tribal Council of Nevada, Lovelock Paiute Tribe, Nevada State Office Bureau of Land Management, Pyramid Lake Paiute Tribe, Reno-Sparks Indian Colony, South Fork Band Council, Summit Lake Paiute Tribe, Te-Moak Tribe of Western Shoshone, Walker River Paiute Tribe, Washoe Tribe of Nevada and California, Wells Band Council, Winnemucca Indian Colony of Nevada, Yerington Paiute Tribe, Yomba Shoshone Tribe.

AND

19. Amend Appendix 1 to include the following definition and add Figure 1a to Appendix 4:

Fallon Range Training Complex: For the purpose of this Agreement, all lands under the control and jurisdiction of the Department of the Navy and the associated Special Use Airspace in the State of Nevada.

SIGNATORIES

NAVAL AIR STATION, FALLON, NEVADA

By:  Date: 28 FEB 2020
Captain Evan Morrison, United States Navy
Commanding Officer

NEVADA STATE HISTORIC PRESERVATION OFFICER

By:  Date: March 02, 2020
Rebecca L. Palmer
State Historic Preservation Officer

ADVISORY COUNCIL ON HISTORIC PRESERVATION

By:  Date: 3/3/2020
Aimee Jorjani
Chairman

CONCURRING PARTIES

BATTLE MOUNTAIN SHOSHONE TRIBE

By: _____ Date: _____

(Print Name and Title of Signer)

DUCKWATER SHOSHONE TRIBE

By: _____ Date: _____

(Print Name and Title of Signer)

FALLON PAIUTE-SHOSHONE TRIBE

By: _____ Date: _____

(Print Name and Title of Signer)

FORT MCDERMITT PAIUTE AND SHOSHONE TRIBES

By: _____ Date: _____

(Print Name and Title of Signer)

INTER-TRIBAL COUNCIL OF NEVADA

By: _____ Date: _____

(Print Name and Title of Signer)

LOVELOCK PAIUTE TRIBE

By: _____ Date: _____

(Print Name and Title of Signer)

NEVADA STATE OFFICE, BUREAU OF LAND MANAGEMENT, DEPARTMENT OF THE INTERIOR

By: _____ Date: _____

Kenneth R. Collum
Field Manager, Stillwater Field Office

PYRAMID LAKE PAIUTE TRIBE

By: _____ Date: _____

(Print Name and Title of Signer)

RENO-SPARKS INDIAN COLONY

By: _____ Date: _____

(Print Name and Title of Signer)

SOUTH FORK BAND COUNCIL

By: _____ Date: _____

(Print Name and Title of Signer)

SUMMIT LAKE PAIUTE TRIBE

By: _____ Date: _____

(Print Name and Title of Signer)

TE-MOAK TRIBE OF WESTERN SHOSHONE

By: _____ Date: _____

(Print Name and Title of Signer)

WALKER RIVER PAIUTE TRIBE

By: _____ Date: _____

(Print Name and Title of Signer)

WASHOE TRIBE OF NEVADA AND CALIFORNIA

By: _____ Date: _____

(Print Name and Title of Signer)

WELLS BAND COUNCIL

By: _____ Date: _____

(Print Name and Title of Signer)

WINNEMUCCA INDIAN COLONY OF NEVADA

By: _____ Date: _____

(Print Name and Title of Signer)

YERINGTON PAIUTE TRIBE

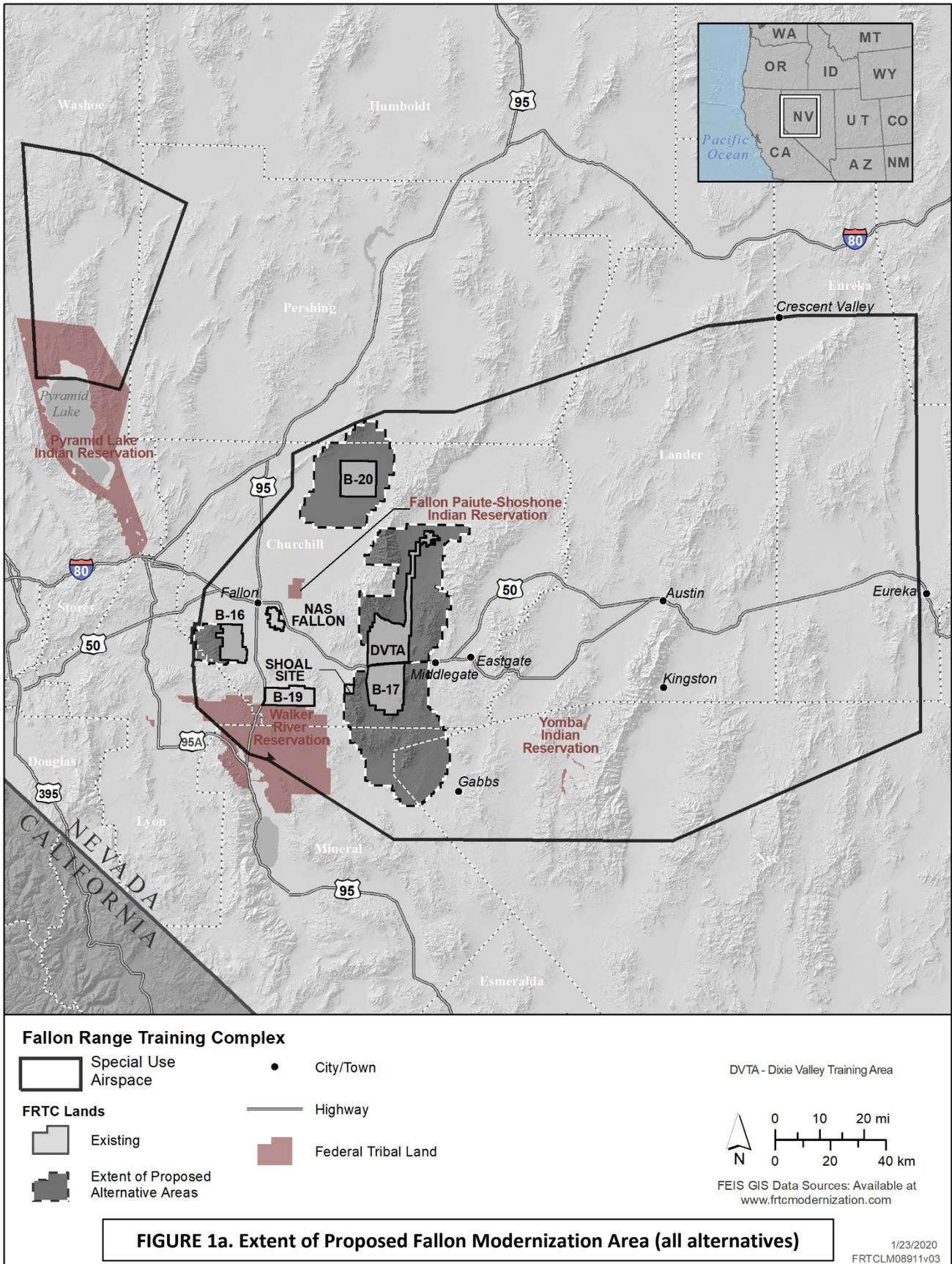
By: _____ Date: _____

(Print Name and Title of Signer)

YOMBA SHOSHONE TRIBE

By: _____ Date: _____

(Print Name and Title of Signer)



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Revised Amendment One to the Programmatic Agreement Regarding the Identification, Evaluation, and Treatment of Historic Properties on Lands Managed by Naval Air Station, Fallon