

VESSEL PUMPOUT MAINTENANCE AGREEMENT
REIMBURSEMENT CONTRACT

This Agreement is entered into between the Marina Recreation Association (Grantee) and the Parties named below:

1. PARTIES: The parties to this Agreement are as follows:

(a) Grantee: Marina Recreation Association (MRA)

(b) Participant: _____
Name of MRA Marina Member

2. GRANT:

(a) MRA will reimburse up to ONE THOUSAND DOLLARS (\$1,000.00) for the maintenance and repair of each pumpout or dump station facility to Marina and Associate Marine Members of the Marina Recreation Association; in compliance with the regulations of the Clean Vessel Act (50 CFR Part 85). The grant shall not exceed SEVENTY FIVE PERCENT (75%) of the allowable project costs. The PARTICIPANT shall contribute the remaining TWENTY FIVE PERCENT (25%).

(b) The PARTICIPANT understands that the GRANT funds are Federal Funds in compliance with the regulations of the Clean Vessel Act (50 CFR Part 85).

3. TERM OF CONTRACT

a) The term of this contract is for a period of 1 year from the date of contract approval by MRA.

b) This CONTRACT may be extended, amended or canceled upon agreement of both the GRANTEE and the PARTICIPANT.

4. USER FEES:

The PARTICIPANT shall encourage free pumpout and dump station facility usage. PARTICIPANT may charge a fee for the use of the facilities enrolled in the program; however, such fees shall be accounted for and may only be used to defray operation and maintenance costs incurred from the operation of the facilities. The PARTICIPANTS may not charge a total fee in excess of \$5.00 for the use of the facilities without prior written approval of the Department of Boating & Waterways (DBW).

5. SPECIAL PROVISIONS

a. The facilities enrolled in this grant program shall be operated, maintained, and be open and available to the public for the full period of this CONTRACT.

b. Operation of the facilities shall be available during normal business hours per day and shall not be hindered by locked enclosures, padlocks, passkeys, electronic keys, token systems or other means.

c. PARTICIPANTS shall be a Marina or Associate Marine Member of the Marina Recreation Association and be located in California.

d. The facilities operated under this GRANT shall be equipped with an hour meter to record its usage.

e. Eligible facility equipment shall meet DBW minimum equipment specification guidelines.

f. All facility equipment, usage, and record keeping shall be in compliance with the regulations of the Clean Vessel Act (50 CFR Part 85).

g. The CVA Maintenance Agreement shall be on file at least 90 days prior to any eligible expenses being reimbursed.

h. The total allowable maintenance reimbursement cost shall be One Thousand Dollars per year per facility (\$1,000/yr/facility). The required match for the facility maintenance costs may include an in-kind credit for the maintenance for the facility up to a value of \$390.00 per year. In the event that the actual maintenance costs exceed a total of \$1000 / year, the grant participants may apply to the Department for Federal Clean Vessel Act Grant funds, as available, for reimbursement for those maintenance costs in excess of \$1000.00 per year.

i. The Department of Boating & Waterways and its agents may, at any and all reasonable times during the term of this contract, enter the Project Area for purposes of inspecting the pumpout facilities to determine if the facility is being maintained according to the terms of this contract.

j. The Department and its agents may, at any and all reasonable times during the term of this contract, enter the Project Area and install upon the pumpout equipment (at no cost to the Grantee) a monitoring device to record the operation and reliability of the pumpout equipment maintained under this grant.

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6. SIGNAGE: The grant PARTICIPANTS shall construct and install signage that shall:
- a. Indicates the presence of a vessel pumpout facility and acknowledges that the facility was constructed or improved with funds from the Clean Vessel Act. (MRA supplied sign).
 - b. Provides appropriate information at the facility location that indicates fees, restrictions, operation instructions, and a contact name and number if the facility is inoperable. (Participant supplied sign)
 - c. Upon expiration of the CONTRACT, all improvements made by the PARTICIPANT shall become property of the PARTICIPANT.
 - d. GRANTEE shall each year provide information about the use and reliability of the vessel pumpout facility in the form of a post-implementation evaluation report (PIER) provided by the MRA and shall transmit the results of the PIER to the MRA no more than 30 days after receipt of the PIER.

7. PRIOR CVA GRANT FUNDING: If the participant has received any prior CVA grant funding, they must deduct any maintenance dollars or maintenance credits that are active under the terms of that agreement.

- a. Was your pumpout installed with CVA grant money? Yes No
- b. Have you received any maintenance dollars or maintenance credits from DBW Yes No
 If yes, when? _____

8. PROJECT CONTACTS

Notices required between the parties shall be deemed to have been given when mailed to the respective addresses herein, first-class postage fully prepaid thereon.

GRANTEE Contact: Mariann Timms
 Marina Recreation Association
 15004 Glasscock Road
 Lodi, California 95242
 phone: 209-334-0661
 fax: 209-334-6876
 email: timms@marina.org

PARTICIPANT Contact: _____

Either party may make changes to the information above by giving ten (10) days written notice to the other party. Said changes shall not require an amendment to this agreement.

The parties agree to comply with the terms and conditions of the above contract:

 Marina Recreation Association

 Date

 Authorized Signature for Participant

 Date

 Printed Name and Title of Person Signing

VESSEL PUMPOUT MAINTENANCE PROGRAM CONTRACT
STANDARD TERMS AND CONDITIONS

ARTICLE I – DEFINITIONS

- A. ALLOWABLE PROJECT COSTS means those administration, permitting, planning, signage, labor, material and construction costs which are necessarily incurred by the PARTICIPANTS for the purpose of completing the PROJECT and are covered by the GRANT as eligible grant activities; such PROJECT COSTS shall not include any expenses incurred prior to the effective date of this CONTRACT nor any expenses incurred for ineligible activities.
- B. CONTRACT means the contract to which these standard terms and conditions are appended.
- C. FACILITY means pumpout and/or dump station equipment that meets the conditions of the CONTRACT. Each individual pumpout or dump station shall be considered as one facility.
- D. GRANT means a grant provided pursuant to the Federal Clean Vessel Act of 1992 (50 CFR Part 85) to finance all or part of the PROJECT COSTS.
- E. OPEN AND AVAILABLE TO THE PUBLIC means that all users (public and private) shall have full and reasonable access to the pumpout/dump station for the purpose of sewage disposal. Fees shall be equal for all pumpout users at a facility open and available to the public. However, members and customers may prepay for pumpouts within a fee structure, so that a separate fee for pumpouts at the time of use would not be needed for those members and customers.
- F. PARTICIPANT means the person or entity that participates in the PROJECT for the purpose of receiving funds for the operation and maintenance of vessel pumpout and dump station facilities.
- G. PROJECT means the administration, maintenance and repair of pumpout and/or dump station facilities by the PARTICIPANT.

ARTICLE II – ADMINISTRATION OF PROJECT

- A. The administration of the PROJECT shall:
 - 1. Be in accordance with all applicable laws, regulations, ordinances and statutes which apply to the PROJECT and any work performed pursuant to the contract.
 - 2. Allow representatives of the Department of Boating and Waterways access to all parts of the PROJECT work.
 - 3. The PARTICIPANT shall ensure the structural integrity and safety of the PROJECT.

ARTICLE III - DISBURSEMENT OF GRANT

- A. The GRANTEE may withhold any payment of GRANT funds for failure by the PARTICIPANT to comply with any of the conditions and provisions of this CONTRACT.
- B. PARTICIPANT shall account for all PROJECT costs expended under this GRANT.
- C. The PARTICIPANT shall retain all invoices or other evidence of PROJECT costs for all disbursements for a period of three years.

ARTICLE IV- LIABILITY

- A. The GRANTEE waives all claims and recourse against MRA and/or DBW, including the right to contribution for any loss or damage arising from, growing out or in any way connected with or incident to this CONTRACT.
- B. The GRANTEE shall indemnify, hold harmless, and defend the MRA and DBW, its officers, agents and employees against any and all claims, demands, damages, costs, expenses or liability arising out of the acquisition, design, construction, operation, maintenance, existence or failure of the PROJECT.
- C. If DBW is named as a co-defendant pursuant to Government Code Sections 895, et seq, the PARTICIPANT shall notify DBW and represent it unless DBW elects to represent itself. If the DBW undertakes its own defense, it shall bear its own litigation costs, expenses and attorney's fees.

ARTICLE V - ASSIGNMENT

No assignment or transfer of this CONTRACT or any part hereof, rights hereunder, or interest herein by PARTICIPANT shall be valid unless and until it is approved in writing by MRA and DBW and made subject to such reasonable terms and conditions as the MRA and DBW may impose.

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ARTICLE VI - SUCCESSORS AND ASSIGNS OBLIGATED

This CONTRACT and all of its provisions shall apply to and bind the successors and assigns of the parties hereto.

ARTICLE VII - AUDIT

In addition to the audit requirements specified herein, PARTICIPANT understands and agrees that, as a recipient of Federal Funds, it must comply with any applicable audit requirements imposed by federal law, regulations or policy, such as the Single Audit Act and the reporting requirements set forth in OMB Circular A-135.

ARTICLE VIII - COMPLIANCE WITH FEDERAL REQUIREMENTS

GRANTEE shall comply with all applicable Federal laws, regulations and policies, including those summarized in Part 523, Chapter 1 of the U.S. Fish and Wildlife Service Handbook. These requirements include provisions for nondiscrimination, environmental standards, historic and cultural preservation, and other administrative guidelines, and are incorporated herein by this reference as if fully set forth.

ARTICLE IX - TERMINATION

- A. The GRANTEE or PARTICIPANT may terminate this CONTRACT at any time for convenience upon THIRTY (30) days prior written notice, delivered by certified mail or in person to GRANTEE. Upon notice of such termination, the PARTICIPANT shall, within 30 days, return by check payable to the MRA, the prorated portion of all grant funds contributed by MRA to the PROJECT.
- B. The GRANTEE may at any time upon THIRTY (30) days prior written notice of default, and, when applicable, after having afforded PARTICIPANT an opportunity to cure any breach pursuant to the THIRTY (30) day notice, terminate this CONTRACT if the PARTICIPANT has failed to abide by any applicable provision of this CONTRACT. In such case, PARTICIPANT shall, within THIRTY (30) days of its receipt of a notice of termination, reimburse by check all funds contributed by MRA to the PROJECT.

ARTICLE X - DISPUTE RESOLUTION

Any dispute arising under the terms of this CONTRACT which is not disposed of within a reasonable period of time by the GRANTEE and PARTICIPANT representatives normally responsible for the administration of this CONTRACT shall be brought to the attention of the Director of the Department of Boating and Waterways or his designee. At the request of either party, DBW shall provide a forum for the discussion of the disputed matter(s). If agreement cannot be reached through the application of high level management attention, either party may assert its other rights and remedies within this CONTRACT in a court of competent jurisdiction.

ARTICLE XI - NOTICES

Notices required between the parties shall be deemed to have been given when mailed to the respective addresses herein, first-class postage fully prepaid thereon, unless otherwise required by law.

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