



The State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES

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Thomas S. Burack, Commissioner



February 18, 2016

Her Excellency, Governor Margaret Wood Hassan
and The Honorable Council
State House
Concord, NH 03301

REQUESTED ACTION

Authorize the Department of Environmental Services (DES) to enter into a **SOLE SOURCE** amendment to the agreement (PO# 1044872) with Great Bay Marine Inc. (VC#154266 B001), for the *Operation and Maintenance Costs for the Boat Sewage Pumpout Station* by changing the language in one specification description, adding a new task, and increasing the agreement amount by \$3,000 from \$7,500 to \$10,500, effective upon Governor and Council approval through March 31, 2020. The original agreement was approved by the G&C on June 24, 2015, Item #130. 100% Federal Funds.

Funding is available in the account:

	<u>FY2016</u>
03-44-44-442010-2061-072-500572	\$3,000
Dept of Environmental Services, Clean Vessel Act, Grants-Federal	

EXPLANATION

Great Bay Marine Inc. owns and operates a boat sewage pumpout facility in Great Bay, representing the only stationary public boat sewage pumpout facility in the area. The DES Clean Vessel Act program is requesting this Amendment to allow Great Bay Marine Inc. additional funding to be able to address unexpected repair expenses that were not anticipated in the original grant agreement. This amendment is considered to be **SOLE SOURCE** because this is a continuation of an existing program which was originally awarded through a grant approval process therefore it would not make financial or programmatic sense to award the increased amount to another vendor. A copy of the original agreement is included as Attachment B. To date, \$1,500 of the original grant agreement of \$7,500 has been spent.

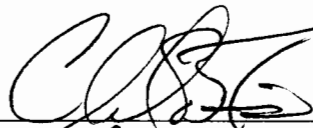
Under this request for Great Bay Marine, Inc. will be reimbursed for 75% of the cost of operation and maintenance of the boat sewage pumpout facility, including unusual and unforeseen repair expenses. The marina will supply a minimum 25% contribution towards the total through cash or in-kind services.

The DES receives grants from the U.S. Fish and Wildlife Service under the provisions of the Clean Vessel Act (CVA). These grants have been used to implement an operation and maintenance (O&M) reimbursement program. This reimbursement program helps to ensure New Hampshire's existing pumpout stations remain in proper working condition. O&M funding availability is advertised on the

DES website as well as during annual site visits. Interested applicants submit site and pumpout facility information to the CVA program for review and approval. Participation is limited to facilities willing to comply with the agreement scope of services, notably the availability of the pumpout resource to the public for five dollars or less per service. Since the initial award in 2006, participation has not exceeded available funds and typically involves eight marinas or less per season.

In the event that Federal Funds become no longer available, General Funds will not be requested to support this program. The amendment has been approved by the Office of the Attorney General as to form, execution, and content.

We respectfully request your approval.



for Thomas S. Burack, Commissioner

Agreement for Services with Great Bay Marine Inc.
Amendment No. 1

This Agreement (hereinafter called the "Amendment") dated this January 11, 2016, is by and between the State of New Hampshire, acting by and through its Department of Environmental Services (hereinafter referred to as the "State") and the Great Bay Marine, Inc. (hereinafter referred to as the "Grantee").

WHEREAS, pursuant to an Agreement (hereinafter called the "Agreement") approved by the Governor and Council on June 24, 2015, the Grantee agreed to perform certain services upon the terms and conditions specified in the Agreement and in consideration of payment by the State of certain sums as specified therein; and

WHEREAS, The Grantee and the State have agreed to amend the Agreement in certain respects;

NOW THEREFORE, in consideration of the foregoing, and the covenants and conditions contained in the Agreement and set forth herein, the parties hereto do hereby agree as follows:

1. Amendment and Modification of Agreement: The Agreement is hereby amended as follows:

(A) Specifications listed in Exhibit B, task I. B. shall be change to read as follows "If the Grantee complies with all terms of this Agreement, the Department agrees to pay 75 percent of the total O&M expenses for the pumpout facility (minus income from pumpout fees), up to a maximum reimbursement of \$1,500 per year for the duration of the grant agreement. At the discretion of the Department, additional funds may be reimbursed, over the course of the agreement, up to \$3,000, for unusual and unforeseen repairs to the pumpout facility. This funding is not to be used in lieu of planning for known repair expenses."

(B) The Contract Price Limitation listed in 1.8 of the General Provisions and as set forth in Exhibit B shall be changed as follows:

	Original	Revised	Difference
Section 1.8 of General Provisions, Price Limitation	\$7,500	\$10,500	\$3,000

(C) In Exhibit A, a new task shall be added to read as follows "The Grantee will notify the Department within 3 days if the pumpout facility requires unusual and unforeseen repairs that may cause the total eligible expenses for the season to go above the set \$1,500 limit, either by emailing CVA@des.nh.gov or by calling (603) 271-8803 and leaving a message if the call is not answered in person."

2. Effective Date of Amendment: This Amendment shall take effect upon the date of approval of this Amendment by the Governor and Executive Council of the State of New Hampshire.

3. Continuance of Agreement: Except as specifically amended and modified by the terms and conditions of this Amendment, the Agreement, and the obligations of the parties thereunder, shall remain in full force and effect in accordance with the terms and conditions set forth therein.

Initial AM
Date 1/22/16

IN WITNESS WHEREOF, the parties have hereunto set their hands as of the day and year first above written.

Great Bay Marine, Inc.

By

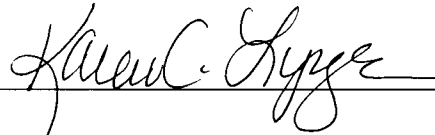


Sean McKenna, CEO

STATE OF NEW HAMPSHIRE
COUNTY OF ROCKINGHAM

On this the 22 day of JANUARY, 2016, before the undersigned officer, personally appeared Sean McKenna who acknowledged himself/herself to be the person who executed the foregoing instrument for the purpose therein contained.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.




KAREN C. LYNGE, Notary Public
My Commission Expires 5/14/17

My Commission Expires: _____

THE STATE OF NEW HAMPSHIRE
Department of Environmental Services

By

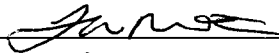


for Thomas S. Burack, Commissioner

Approved by Attorney General this 23rd day of February, 2016

OFFICE OF ATTORNEY GENERAL

By



Sr. Assistant AG



voice – 603.436.5299

fax – 603.436.9834

CERTIFICATE OF AUTHORITY

I, Ellen Griffin Saas, President of Great Bay Marine, Inc., do hereby certify that Sean McKenna is authorized to execute any document that may be necessary to enter into a contract with the State of New Hampshire.

Sean McKenna

IN WITNESS WHEREOF, I have hereunto set my hand as President of Great Bay Marine, Inc., this 22nd day of JANUARY 2016.

Ellen Griffin Saas

STATE OF MAINE
County of York

On this the 22 day of JANUARY 2016, before me Karen C. Lynge the undersigned officer, personally appeared Ellen Griffin Saas who acknowledged herself to be President of Great Bay Marine, Inc. being authorized so to do, executed the foregoing instrument for the purpose therein contained. In witness whereof, I have set my hand and official seal.

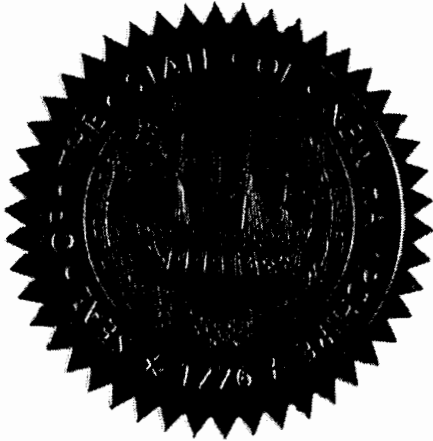
Notary Public

Commission Expires: KAREN C. LYNGE, Notary Public
My Commission Expires 5/14/17

State of New Hampshire
Department of State

CERTIFICATE

I, William M. Gardner, Secretary of State of the State of New Hampshire, do hereby certify that GREAT BAY MARINE, INC. is a New Hampshire corporation duly incorporated under the laws of the State of New Hampshire on November 14, 1957. I further certify that all fees and annual reports required by the Secretary of State's office have been received and that articles of dissolution have not been filed.



In TESTIMONY WHEREOF, I hereto
set my hand and cause to be affixed
the Seal of the State of New Hampshire,
this 15th day of April, A.D. 2015

A handwritten signature in cursive script, appearing to read "William Gardner".

William M. Gardner
Secretary of State

Attachment A

Budget Estimate

Budget Item	CVA Grant Funding	Non-Federal Matching Funds	Total
SFY16 O&M Expenses	\$1,500	\$500	\$2,000
SFY17 O&M Expenses	\$1,500	\$500	\$2,000
SFY18 O&M Expenses	\$1,500	\$500	\$2,000
SFY19 O&M Expenses	\$1,500	\$500	\$2,000
SFY20 O&M Expenses	\$1,500	\$500	\$2,000
SFY16 Additional Funding for unusual and unexpected repairs – new to amendment	\$3,000	\$1,000	\$4,000
TOTAL Original	\$7,500	\$2,500	\$10,000
TOTAL Amended	\$10,500	\$3,500	\$14,000

Melanie Titus



The State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES



Thomas S. Burack, Commissioner
May 21, 2015

Her Excellency, Governor Margaret Wood Hassan
and the Honorable Council
State House
Concord, New Hampshire 03301

APPROVED G & C
DATE 6/24/15
ITEM # 130

REQUESTED ACTION

Authorize the Department of Environmental Services to enter into an agreement with Great Bay Marine, Inc. (VC#154266 B001), Newington, NH, in the amount of \$7,500 to pay for operation and maintenance costs for the boat sewage pumpout station, effective as of July 1, 2015 through March 31, 2020, upon Governor and Council approval. 100% Federal Funds.

Funding is available in the account as follows with the authority to adjust encumbrances in each of the state fiscal years through the Budget Office if needed and justified. Funding for FY2016 – FY 2020 is contingent upon the availability and continued appropriation of funds.

	<u>FY16</u>	<u>FY17</u>	<u>FY18</u>	<u>FY19</u>	<u>FY20</u>
03-44-44-442010-2061-072-500572	\$1,500	\$1,500	\$1,500	\$1,500	\$1,500

Dept of Environmental Services, Clean Vessel Act, Grants-Federal

EXPLANATION

This request is to assist the marina in cost recovery for operation and maintenance of the boat sewage pumpout facility. Costs that will be covered include pumpout facility related activities such as personnel time, repairs, supplies, sewage discharge fees, and compensation for completing and submitting pumpout logs. This funding request for Great Bay Marine, Inc. will reimburse 75% of the cost of operation and maintenance. The marina will supply a minimum 25% contribution towards the total through cash or in-kind services.

The DES receives grants from the U.S. Fish and Wildlife Service under the provisions of the Clean Vessel Act (CVA). These grants have been used to implement an operation and maintenance (O&M) reimbursement program. This reimbursement program helps to ensure New Hampshire's existing pumpout stations remain in proper working condition. O&M funding availability is advertised on the DES website as well as during annual site visits. Interested applicants submit site and pumpout facility information to the CVA program for review and approval. Participation is limited to facilities willing to comply with the agreement scope of services, most notably the availability of the pumpout resource to the public for five dollars or less per service. Since the initial award in 2006, participation has not exceeded available funds and typically involves eight marinas or less per season.

In the event that federal funds become no longer available, general funds will not be requested to support this program. This agreement has been approved by the Department of Justice as to form, substance, and execution.

We respectfully request your approval.

Thomas S. Burack
Commissioner

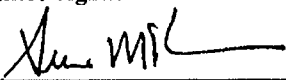
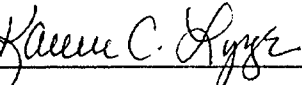
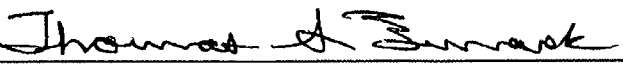
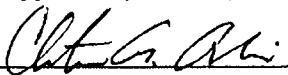
GRANT AGREEMENT

Subject: Operation and Maintenance Grant for Stationary Pumpout Facility

The State of New Hampshire and the Grantee hereby mutually agree as follows:

GENERAL PROVISIONS

1. IDENTIFICATIONS AND DEFINITIONS

1.1 State Agency Name Department of Environmental Services		1.2 State Agency Address 29 Hazen Drive Concord, NH 03301	
1.3 Grantee Name GREAT BAY MARINE, INC.		1.4 Grantee Address 61 Beane Lane Newington, NH 03801	
1.5 Effective Date Upon Governor and Executive Council approval	1.6 Completion Date March 31, 2020	1.7 Audit Date N/A	1.8 Grant Limitation \$7,500.00
1.9 Grant Officer for State Agency Melanie Titus, CVA Program coordinator		1.10 State Agency Telephone Number 603-271-8803	
1.11 Grantee Signature 		1.12 Name & Title of Grantee Signor SEAN M. MCKENNA, CEO	
1.13 Acknowledgment: State of New Hampshire, County of <u>YORK</u> On <u>4/21/15</u> , before the undersigned officer, personally appeared the person identified in block 1.12., or satisfactorily proven to be the person whose name is signed in block 1.11., and acknowledged that s/he executed this document in the capacity indicated in block 1.12.			
1.13.1 Signature of Notary Public or Justice of the Peace (Seal) 		KAREN C. LYNGE, Notary Public i... Commission Expires 5/14/17	
1.13.2 Name & Title of Notary Public or Justice of the Peace KAREN C. LYNGE NOTARY PUBLIC			
1.14 State Agency Signature(s) 		1.15 Name/Title of State Agency Signor(s) Thomas S. Burack, Commissioner	
1.16 Approval by Attorney General's Office (Form, Substance and Execution) By:  Attorney, On: <u>5/26/2015</u>			
1.17 Approval by the Governor and Council By: _____ On: / /			

2. **SCOPE OF WORK.** In exchange for grant funds provided by the state of New Hampshire, acting through the agency identified in block 1.1 (hereinafter referred to as "the State"), pursuant to RSA 21-O, the Grantee identified in block 1.3 (hereinafter referred to as "the Grantee"), shall perform that work identified and more particularly described in the scope of work attached hereto as EXHIBIT A (the scope of work being referred to as "the Project").

3. **AREA COVERED.** Except as otherwise specifically provided for herein, the Grantee shall perform the Project in, and with respect to, the state of New Hampshire.

4. **EFFECTIVE DATE; COMPLETION OF PROJECT.**

4.1 This Agreement, and all obligations of the parties hereunder, shall become effective on the date in block 1.5 or on the date of approval of this Agreement by the Governor and Council of the State of New Hampshire whichever is later (hereinafter referred to as "the Effective Date").

4.2 Except as otherwise specifically provided for herein, the Project, including all reports required by this Agreement, shall be completed in ITS entirety prior to the date in block 1.6 (hereinafter referred to as "the Completion Date").

5. **GRANT AMOUNT; LIMITATION ON AMOUNT; VOUCHERS; PAYMENT.**

5.1 The Grant Amount is identified and more particularly described in EXHIBIT B, attached hereto.

5.2 The manner of, and schedule of payment shall be as set forth in EXHIBIT B.

5.3 In accordance with the provisions set forth in EXHIBIT B, and in consideration of the satisfactory performance of the Project, as determined by the State, and as limited by subparagraph 5.5 of these general provisions, the State shall pay the Grantee the Grant Amount. The State shall withhold from the amount otherwise payable to the Grantee under this subparagraph 5.3 those sums required, or permitted, to be withheld pursuant to N.H. RSA 80:7 through 7-c.

5.4 The payment by the State of the Grant amount shall be the only, and the complete, compensation to the Grantee for all expenses, of whatever nature, incurred by the Grantee in the performance hereof, and shall be the only, and the complete, compensation to the Grantee for the Project. The State shall have no liabilities to the Grantee other than the Grant Amount.

5.5 Notwithstanding anything in this Agreement to the contrary, and notwithstanding unexpected circumstances, in no event shall the total of all payments authorized, or actually made, hereunder exceed the Grant limitation set forth in block 1.8 of these general provisions.

6. **COMPLIANCE BY GRANTEE WITH LAWS AND REGULATIONS.**

In connection with the performance of the Project, the Grantee shall comply with all statutes, laws, regulations, and orders of federal, state, county, or municipal authorities which shall impose any obligations or duty upon the Grantee, including the acquisition of any and all necessary permits.

7. **RECORDS AND ACCOUNTS.**

7.1 Between the Effective Date and the date seven (7) years after the Completion Date the Grantee shall keep detailed accounts of all expenses incurred in connection with the Project, including, but not limited to, costs of administration, transportation, insurance, telephone calls, and clerical materials and services. Such accounts shall be supported by receipts, invoices, bills and other similar documents.

7.2 Between the Effective Date and the date seven (7) years after the Completion Date, at any time during the Grantee's normal business hours, and as often as the State shall demand, the Grantee shall make available to the State all records pertaining to matters covered by this Agreement. The Grantee shall permit the State to audit, examine, and reproduce such records, and to make audits of all contracts, invoices, materials, payrolls, records or personnel, data (as that term is hereinafter defined), and other information relating to all matters covered by this Agreement. As used in this paragraph, "Grantee" includes all persons, natural or fictional, affiliated with, controlled by, or under common ownership with, the entity identified as the Grantee in block 1.3 of these general provisions.

8. **PERSONNEL.**

8.1 The Grantee shall, at its own expense, provide all personnel necessary to perform the Project. The Grantee warrants that all personnel engaged in the Project shall be qualified to perform such Project, and shall be properly licensed and authorized to perform such Project under all applicable laws.

8.2 The Grantee shall not hire, and it shall not permit any subcontractor, subgrantee, or other person, firm or corporation with whom it is engaged in a combined effort to perform such Project, to hire any person who has a contractual relationship with the State, or who is a State officer or employee, elected or appointed.

8.3 The Grant officer shall be the representative of the State hereunder. In the event of any dispute hereunder, the interpretation of this Agreement by the Grant Officer, and his/her decision on any dispute, shall be final.

9. **DATA; RETENTION OF DATA; ACCESS.**

9.1 As used in this Agreement, the word "data" shall mean all information and things developed or obtained during the performance of, or acquired or developed or obtained during the performance of, or acquired or developed by reason of, this Agreement, including, but not limited to, all studies, reports, files, formulae, surveys, maps, charts, sound recordings, video recordings, pictorial reproductions, drawings, analyses, graphic representations, computer programs, computer printouts, notes, letters, memoranda, papers, and documents, all whether finished or unfinished.

9.2 Between the Effective Date and the Completion Date the Grantee shall grant to the State, or any person designated by it, unrestricted access to all data for examination, duplication, publication, translation, sale, disposal, or for any other purpose whatsoever.

9.3 No data shall be subject to copyright in the United States or any other country by anyone other than the State.

9.4 On and after the Effective Date all data, and any property which has been received from the State or purchased with funds provided for that purpose under this Agreement, shall be the property of the State, and shall be returned to the State upon demand or upon termination of this Agreement for any reason, whichever shall first occur.

9.5 The State, and anyone it shall designate, shall have unrestricted authority to publish, disclose, distribute and otherwise use, in whole or in part, all data.

10. **CONDITIONAL NATURE OF AGREEMENT.**

Notwithstanding anything in this Agreement to the contrary, all obligations of the State hereunder, including without limitation, the continuance of payments hereunder, are contingent upon the availability or continued appropriation of funds, and in no event shall the State be liable for any payments hereunder in excess of such available or appropriated funds. In the event of a reduction or termination of those funds, the State shall have the right to withhold payment until such funds become available, if ever, and shall have the right to terminate this Agreement immediately upon giving the Grantee notice of such termination.

11. **EVENT OF DEFAULT; REMEDIES.**

11.1 Any one or more of the following acts or omissions of the Grantee shall constitute an event of default hereunder (hereinafter referred to as "Events of Default"):

11.1.1 failure to perform the Project satisfactorily or on schedule; or
11.1.2 failure to submit any report required hereunder; or
11.1.3 failure to maintain, or permit access to, the records required hereunder; or

11.1.4 failure to perform any of the other covenants and conditions of this Agreement.

11.2 Upon the occurrence of any Event of Default, the State may take any one, or more, or all, of the following actions:

11.2.1 give the Grantee a written notice specifying the Event of Default and requiring it to be remedied within, in the absence of a greater or lesser specification of time, thirty (30) days from the date of the notice; and if the Event of Default is not timely remedied, terminate this Agreement, effective two (2) days after giving the Grantee notice of termination; and

11.2.2 give the Grantee a written notice specifying the Event of

Default and suspending all payments to be made under this Agreement and ordering that the portion of the Grant Amount which would otherwise accrue to the grantee during the period from the date of such notice until such time as the State determines that the Grantee has cured the Event of Default shall never be paid to the Grantee; and 11.2.3 set off against any other obligation the State may owe to the Grantee any damages the State suffers by reason of any Event of Default; and

11.2.4 treat the agreement as breached and pursue any of its remedies at law or in equity, or both.

12. TERMINATION.

12.1 In the event of any early termination of this Agreement for any reason other than the completion of the Project, the Grantee shall deliver to the Grant Officer, not later than fifteen (15) days after the date of termination, a report (hereinafter referred to as the "Termination Report") describing in detail all Project Work performed, and the Grant Amount earned, to and including the date of termination.

12.2 In the event of Termination under paragraphs 10 or 12.4 of these general provisions, the approval of such a Termination Report by the State shall entitle the Grantee to receive that portion of the Grant amount earned to and including the date of termination.

12.3 In the event of Termination under paragraphs 10 or 12.4 of these general provisions, the approval of such a Termination Report by the State shall in no event relieve the Grantee from any and all liability for damages sustained or incurred by the State as a result of the Grantee's breach of its obligations hereunder.

12.4 Notwithstanding anything in this Agreement to the contrary, either the State or except where notice default has been given to the Grantee hereunder, the Grantee, may terminate this Agreement without cause upon thirty (30) days written notice.

13. CONFLICT OF INTEREST. No officer, member or employee of the Grantee and no representative, officer of employee of the State of New Hampshire or of the governing body of the locality or localities in which the Project is to be performed, who exercises any functions or responsibilities in the review or approval of the undertaking or carrying out of such Project, shall participate in any decision relating to this Agreement which affects his or her personal interests or the interest of any corporation, partnership, or association in which he or she is directly or indirectly interested, nor shall he or she have any personal or pecuniary interest, direct or indirect, in this Agreement or the proceeds thereof.

14. GRANTEE'S RELATION TO THE STATE. In the performance of this Agreement, the Grantee, its employees, and any subcontractor or subgrantee of the Grantee are in all respects independent contractors, and are neither agents nor employees of the State. Neither the Grantee nor any of its officers, employees, agents, members, subcontractors or subgrantees, shall have authority to bind the State nor are they entitled to any of the benefits, worker's compensation or emoluments provided by the State to its employees.

15. ASSIGNMENT AND SUBCONTRACTS. The Grantee shall not assign, or otherwise transfer any interest in this Agreement without the prior written consent of the State. None of the Project Work shall be subcontracted or subgranted by the Grantee other than as set forth in Exhibit A without the prior written consent of the State.

16. INDEMNIFICATION. The Grantee shall defend, indemnify and hold harmless the State, its officers and employees, from and against any and all losses suffered by the State, its officers and employees, and any and all claims, liabilities or penalties asserted against the State, its officers and employees, by or on behalf of any person, on account of, based on, resulting from, arising out of (or which may be claimed to arise out of) the acts or omissions of the Grantee of Subcontractor, or subgrantee or other agent of the Grantee. Notwithstanding the foregoing, nothing herein contained shall be deemed to constitute a waiver of the sovereign immunity of the State, which immunity is hereby reserved to the State. This covenant shall survive the termination of this agreement.

17. INSURANCE AND BOND.

17.1 The Grantee shall, at its sole expense, obtain and maintain in

force, or shall require any subcontractor, subgrantee or assignee performing Project work to obtain and maintain in force, both for the benefit of the State, the following insurance:

17.1.1 statutory worker's compensation and employees liability insurance for all employees engaged in the performance of the Project, and

17.1.2 comprehensive public liability insurance against all claims of bodily injuries, death or property damage, in amounts not less than \$2,000,000 for bodily injury or death any one incident, and \$500,000 for property damage in any one incident; and

17.2 The policies described in subparagraph 17.1 of this paragraph shall be the standard form employed in the State of New Hampshire, issued by underwriters acceptable to the State, and authorized to do business in the State of New Hampshire. Each policy shall contain a clause prohibiting cancellation or modification of the policy earlier than ten (10) days after written notice has been received by the State.

18. WAIVER OF BREACH. No failure by the State to enforce any provisions hereof after any Event of Default shall be deemed a waiver of its rights with regard to that Event, or any subsequent Event. No express waiver of any Event of Default shall be deemed a waiver of any provisions hereof. No such failure or waiver shall be deemed a waiver of the right of the State to enforce each and all of the provisions hereof upon any further or other default on the part of the Grantee.

19. NOTICE. Any notice by a party hereto to the other party shall be deemed to have been duly delivered or given at the time of mailing by certified mail, postage prepaid, in a United States Post Office addressed to the parties at the addresses first above given.

20. AMENDMENT. This agreement may be amended, waived or discharged only by an instrument in writing signed by the parties hereto and only after approval of such amendment, waiver or discharge by the Governor and Council of the State of New Hampshire.

21. CONSTRUCTION OF AGREEMENT AND TERMS. This Agreement shall be construed in accordance with the law of the State of New Hampshire, and is binding upon and inures to the benefit of the parties and their respective successors and assignees. The captions and contents of the "subject" blank are used only as a matter of convenience, and are not to be considered a part of this Agreement or to be used in determining the intent of the parties hereto.

22. THIRD PARTIES. The parties hereto do not intend to benefit any third parties and this Agreement shall not be construed to confer any such benefit.

23. ENTIRE AGREEMENT. This Agreement, which may be executed in a number of counterparts, each of which shall be deemed an original, constitutes the entire agreement and understanding between the parties, and supersedes all prior agreements and understandings relating hereto.

**EXHIBIT A
SCOPE OF SERVICES**

This Agreement consists of the following documents: Exhibits A, B, and C and Attachment A, which are all incorporated herein by reference as if fully set forth herein.

I. Definitions

The following definitions apply to this document:

- A. Grantee: The owner of the Marina or the owner's duly-authorized representative.
- B. Boat sewage pumpout station (also called "pumpout station" or "pumpout facility"): A location with equipment designed and used for the sole purpose of removing greywater and sewage from boats, from either plumbed systems or portable toilets on such boats. The term includes fixed (stationary) and trailered (portable) units.
- C. Department: The New Hampshire Department of Environmental Services (DES), Clean Vessel Act (CVA) Program.
- D. Grant Officer for CVA Program (DES): Clean Vessel Act Coordinator.
- E. Marina: The Grantee's facility that is the subject of this Agreement, where boats are stored, and/or serviced, and/or where boats otherwise congregate, and where a pumpout station is available.
- F. O&M Funds: Money provided from the Department to the Grantee for the sole purpose of operation and maintenance (O&M) of a boat sewage pumpout station in accordance with this Agreement.
- G. Operations Period: The boating season (approximately April 1st through November 30th).

II. Initial Certification

The Grantee hereby certifies that the following conditions are true as of the date of this application:

- A. The Marina has an operational boat sewage pumpout station that is in compliance with all applicable state and local permit and health requirements and all applicable state and local codes;
- B. The pumpout station is used for the collection of boat sewage only, and no bilge water or oily waste is collected; and
- C. The pumpout station is located such that it is reasonably available to transient boats of sufficient size to be equipped with holding tanks.

III. Operation of Pumpout Station

- A. The Grantee will make the pumpout station at the Marina available to the general public during the Marina's regular business hours throughout the Operations Period in accordance with the terms of

this Agreement. The Grantee will not discriminate against any person on the basis of sex, age, handicap, race, color, creed, or national origin, in the use of the pumpout station.

- B. The Grantee will not charge a fee in excess of \$5.00 per pumpout service.
- C. The Grantee will ensure the public is reasonably able to make use of the pumpout station either by providing staff during the marina's business hours if the pumpout is not self-service or providing written instruction and additional assistance as needed if the pumpout is self-service.
- D. The Grantee is fully responsible for consequences resulting from improper operation of the pumpout, regardless of whether the pumpout is self-service or not.
- E. The Grantee will keep pumpout usage logs throughout the Operations Period on forms provided by the Department. The Grantee will submit the logs to the Department at least annually. Usage logs will contain each pumpout service performed at the marina during the boating season and the fees, if any, that were collected (fee must be \$5.00 or less per pumpout).
- F. The Grantee will notify the Department if the pumpout station will be out of service for longer than 3 days, by emailing CVA@des.nh.gov or by calling (603) 271-8803 and leaving a message if the call is not answered in person. The Grantee will fix any operational problems on a schedule as agreed upon by the Department and will notify the Department when the pumpout station is back in service.
- G. If unusually cold or severe weather places the pumpout station at risk of damage, the Grantee may delay the opening of the pumpout station until after April 1st or winterize the system prior to November 30th. No penalty shall be incurred by the Grantee for a delayed opening or early shut-down that is due to a reasonable cause.
- H. O&M Funds will not be provided to the Grantee if:
 - 1. The Marina's pumpout station is out of service for longer than 14 days, whether consecutively or not, unless the cause of closure is first discussed with and agreed upon by the Department.
 - 2. During the Operations Period, the Department receives three or more complaints from boaters regarding the availability of the Marina's pumpout station and the Grantee has not, in each instance, notified the Department first that a problem exists.
- I. If a marina encounters expenses above the annual grant price limit due to unusual maintenance problems, the Grantee may request an exception to the grant limit, and if the request is approved, may be awarded additional funding subject to availability and the approval effective date.

IV. Effective Date

- A. This Agreement shall be effective on date it is approved by the Governor and Executive Council.
- B. The effective end date shall be March 31, 2020.

**EXHIBIT B
GRANT AWARD**

I. Specifications

- A. The grant award is limited to a maximum of \$7,500 and is contingent upon funds appropriated by the U.S. Fish and Wildlife Service under the Clean Vessel Act (CFDA # 15.616).
- B. If the Grantee complies with all terms of this Agreement, the Department agrees to pay 75 percent of the total O&M expenses for the pumpout facility (minus income from pumpout fees), up to a maximum reimbursement of \$1,500 per year and \$7,500 for the duration of the grant agreement.
- C. Invoices submitted by the Grantee for each season may include the following items:
 - 1. \$350 for keeping and submitting a pumpout logbook and, if applicable, record of pumpout fees.
 - 2. Time paid to marina staff spends operating, maintaining, or repairing the pumpout. Time paid to marina staff instructing the public on the use of a pumpout may also be included. The marina must submit the name of the employee, the date(s) the employee worked at/on the pump, the nature of the work performed, and the total hours worked. Marinas that use volunteer/unpaid staff are not eligible to claim this expense. Additional expenses (supported by documentation of payment such as copies of paid receipts and cancelled checks):
 - Payments to licensed plumbers and/or electricians for pumpout related expenses;
 - Purchase of pumpout replacement parts/equipment;
 - Payments to licensed sewage haulers for the emptying of marina boat waste holding tanks;
 - Pumpout winterization; and
 - Municipal sewage connection fees. This expense applies only to the portion of a marina's sewage bill that pertains to the pumpout.

II. Reimbursement Requests

- A. Invoices for reimbursement request may be submitted at any time during the boating season and multiple invoices may be submitted if desired. All invoices should be submitted no later than January 31st of the year following the boating season during which the expenses were incurred.
- B. The Department will consider reimbursement requests submitted between the effective start date and March 31, 2020. Any reimbursement request submitted after this date will be considered at the discretion of the Department.
- C. To request reimbursement, the Grantee must complete and submit a reimbursement request to the Department. The reimbursement request must include the following:

1. An O&M invoice outlining expenses,
 2. Completed pumpout station usage logs that were supplied by the Department; and
 3. Copies of receipts, cancelled checks, paid invoices and/or any additional documentation supporting eligible expenses for the pumpout facility.
- D. The Department will review the submittal and calculate/verify the reimbursement amount. The Department may, at its discretion, deny, reduce, or increase payment to the Grantee as appropriate. Reimbursement may be denied or reduced if the request contains insufficient supporting information or erroneous data, if the expenses detailed are not reimbursable, if paid invoices are not included, or if the minimum 25 percent contribution is not met.
- The following provisions will apply to the reimbursement calculation:
1. If income from pumpout fees exceeds eligible expenses, the amount of the excess will be carried forward to the following year's O&M Funding Agreement, if one is offered, and incorporated into reimbursement calculations for that year.
 2. If pumpout station O&M expenses exceed the maximum reimbursement of \$1,500, the deficit will be carried forward and applied to the following year's O&M Funding Agreement, if one is offered, and incorporated into reimbursement calculations for that year.
 3. No excess as described in D.1. or deficit as described in D.2. will be carried forward more than one year. The availability of future O&M funds cannot be guaranteed.
- E. Invoices are subject to the approval of the Grant Officer before payment is processed.
- The billing address shall be as follows:

ATTN: Watershed, CVA Program
NH Dept. of Environmental Services
29 Hazen Drive, P.O. Box 95
Concord, NH 03302-0095

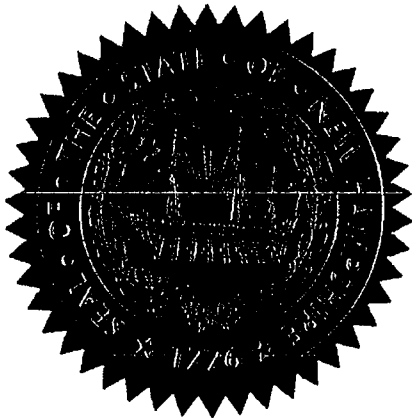
**EXHIBIT C
SPECIAL PROVISIONS**

- A. Subparagraph 1.7 of the General Provisions shall not apply to this Agreement.
- B. The stationary pumpout facility is not considered a high risk marina feature, therefore Paragraph 17.1.2 of the Form P-37, *General Provisions*, is deleted and replaced with the following language: "comprehensive general liability insurance against all claims of bodily injury, death or property damage, in amounts of not less than \$1,000,000 for bodily injury or death any one incident, and \$100,000 for property damage in any one incident;"
- C. Federal funds paid under this agreement are from a grant to the state from U.S. Fish and Wildlife Service, Sport Fish Restoration and Boating Trust Fund under the Clean Vessel Act (CFDA #15.616). All applicable requirements, regulations, provisions, terms and conditions of this federal grant agreement are hereby adopted in full force and effect to the relationship between this Department and the Grantee. Additionally, the Grantee shall comply with the terms of the Federal Funding Accountability and Transparency Act (FFATA) by providing the Department with their Data Universal Numbering System (DUNS) number.
- D. The pumpout station must be maintained in proper operating condition for a minimum of 5 years following the receipt of grant funding. This stipulation remains with the pumpout station regardless of a business transfer or sale. New parties must be made aware of the funding origin and possible risk of repayment of federal funding if the deemed useful life of the unit is not honored.
- E. Any necessary permits for work done to the system installed under this grant shall be obtained by the Grantee from the appropriate state and local government entities.
- F. In the event of a failure on the part of the Grantee to comply with any provision of this Agreement, the Department may, at its sole discretion, without any liability to the Grantee, deny or reduce payment to the Grantee and/or immediately terminate this agreement.

State of New Hampshire
Department of State

CERTIFICATE

I, William M. Gardner, Secretary of State of the State of New Hampshire, do hereby certify that GREAT BAY MARINE, INC. is a New Hampshire corporation duly incorporated under the laws of the State of New Hampshire on November 14, 1957. I further certify that all fees and annual reports required by the Secretary of State's office have been received and that articles of dissolution have not been filed.



In TESTIMONY WHEREOF, I hereto
set my hand and cause to be affixed
the Seal of the State of New Hampshire,
this 15th day of April, A.D. 2015

A handwritten signature in cursive script, appearing to read "William M. Gardner".

William M. Gardner
Secretary of State



voice – 603.436.5299

fax – 603.436.9834

CERTIFICATE OF AUTHORITY

I, Ellen Griffin Saas, President of Great Bay Marine, Inc., do hereby certify that Sean McKenna is authorized to execute any document that may be necessary to enter into a contract with the State of New Hampshire.

Sean McKenna

IN WITNESS WHEREOF, I have hereunto set my hand as President of Great Bay Marine, Inc., this 21st day of APRIL 2015.

Ellen Griffin Saas

STATE OF MAINE
County of York

On this the 21st day of APRIL 2015, before me Karen C. Lyngé the undersigned officer, personally appeared Ellen Griffin Saas who acknowledged herself to be President of Great Bay Marine, Inc. being authorized so to do, executed the foregoing instrument for the purpose therein contained. In witness whereof, I have set my hand and official seal.

Notary Public

Commission Expires: KAREN C. LYNGE, Notary Public
My Commission Expires 5/14/17

Attachment A

Budget Estimate

Budget Item	CVA Grant Funding	Non-Federal Matching Funds	Total
State Fiscal Year 16 O&M Expenses	\$1,500	\$500	\$2,000
State Fiscal Year 17 O&M Expenses	\$1,500	\$500	\$2,000
State Fiscal Year 18 O&M Expenses	\$1,500	\$500	\$2,000
State Fiscal Year 19 O&M Expenses	\$1,500	\$500	\$2,000
State Fiscal Year 20 O&M Expenses	\$1,500	\$500	\$2,000
TOTAL	\$7,500	\$2,500	\$10,000

Initials AM
Date 4.21.15