

AGREEMENT FOR ABATEMENT SERVICES OF SUNKEN/ABANDONED VESSELS

This AGREEMENT is made and entered into this _____ by and between the Lake County Watershed Protection District, hereinafter referred to as "DISTRICT" and All In One Auto Repair and Towing hereinafter referred to as "CONTRACTOR".

RECITALS

WHEREAS, the DISTRICT desires to remove and prevent abandoned and turned-in recreational vessels and other marine debris from California's waterways. Funds have been allocated to the DISTRICT by the County of Lake through the Cannabis Tax Internal Grant Program for such services described above, hereinafter referred to as "Project" as described in Bid No. 21-14; and

WHEREAS, the CONTRACTOR has extensive experience with retrieving and towing abandoned and surrendered vessels; and

WHEREAS, the CONTRACTOR is qualified and experienced to perform said services.

NOW, THEREFORE, THE PARTIES HERETO AGREE AS FOLLOWS:

1. CONTRACTOR'S RESPONSIBILITIES:

CONTRACTOR shall provide services to remove vessels and other debris as described in Exhibit "A", Bid No. 21-14 Request for Proposal for Surrendered and Abandoned Vessel Abatement (SAVA) Towing and Disposal Services, attached hereto, and CONTRACTOR'S Proposal for Surrendered and Abandoned Vessel Abatement (SAVA) Towing and Disposal Services, attached hereto as Exhibit "B", both of which are incorporated by this reference as if fully set forth herein.

Site Cleanup.

1. Provide all equipment, supplies, and personnel needed to conduct debris cleanup and removal, of designated vessels in a timely and efficient manner in accordance with all appropriate state and federal regulations governing such work.
2. Arrange for the lawful removal and disposal of all solid waste, scrap metal or wood waste recycling.
3. In the event that the CONTRACTOR finds household hazardous waste such as paint, antifreeze, etc., the CONTRACTOR shall contact DISTRICT to coordinate removal.

Transportation.

1. CONTRACTOR will be responsible for transporting all wastes to the appropriate destinations.
2. CONTRACTOR will be responsible for using appropriate containers and other equipment for collecting and transporting the debris.
3. CONTRACTOR shall maintain all vehicles, licenses, registration, and insurance as required by federal and state laws and regulations.

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4. CONTRACTOR must comply with all applicable laws related to the transportation and disposal of waste.

Disposal. CONTRACTOR will be responsible for payment of all applicable fees including tipping fees at the landfill. All materials removed from the property shall be disposed of at either an appropriately licensed solid waste or recycling facility unless otherwise directed by the DISTRICT in writing.

Liability. CONTRACTOR will assume all liability for all waste from the point at which it is collected and removed from properties, to the point at which it reaches the disposal destination. CONTRACTOR shall maintain general liability insurance in the amount of at least one million dollars (\$1,000,000).

Permits. DISTRICT will be responsible for obtaining all required permits.

Emergency Response. CONTRACTOR will be responsible for any related hazardous materials release on-site. CONTRACTOR shall notify the DISTRICT immediately if any toxic or hazardous wastes are discovered during the cleanup operations.

License. CONTRACTOR shall be appropriately licensed with the California Contractor's State License Board and shall maintain such license while providing services for the DISTRICT.

Timeliness. CONTRACTOR will be expected to submit to DISTRICT a not to-exceed cost estimate within five (5) business days after an on-site visit at a time determined by the DISTRICT. Once the DISTRICT approves the estimate and authorizes the work, the CONTRACTOR must coordinate all dates and times of operations with the DISTRICT. Once started, the project must be completed on consecutive working days unless authorized by the DISTRICT. CONTRACTOR shall not go to the properties without the prior permission of the DISTRICT.

Prevailing Wage: Performance of this Contract shall be in conformity with the provisions of California Labor Code, Division 2, Part 7, Chapter 1, commencing with Section 1720 relating to prevailing wages which must be paid to workers employed on a public work as defined in Labor Code §§ 1720, et seq.; and shall be in conformity with Title 8 of the California Code of Regulations §§200 et seq., relating to apprenticeship. CONTRACTOR shall comply with the provisions thereof at the commencement of Services to be provided herein, and thereafter during the term of this Contract. A breach of the requirements of this section shall be deemed a material breach of this contract.

CONTRACTOR and all subcontractors must comply with the requirements of Labor Code Section 1771.1 (a) pertaining to registration of CONTRACTOR'S pursuant to Section 1725.5. Registration and all related requirements of those Sections must be maintained throughout the performance of the Contract.

Contracts to which these prevailing wage requirements apply are subject to compliance monitoring and enforcement by the Department of Industrial Relations. Each CONTRACTOR and subcontractor must furnish certified payroll records to the Labor Commissioner at least monthly.

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2. DISTRICT'S RESPONSIBILITIES:

DISTRICT shall make payment within 20 business days of an undisputed invoice for the compensation stipulated herein for services rendered and accepted, less potential deductions, if any, as herein provided. Payment on partial deliverables may be made whenever amounts due so warrant or when requested by the Contractor and approved by the Assistant Purchasing Agent.

3. TERM

- A. This AGREEMENT shall commence on the date herein above entered into and shall continue in full force and effect through June 30 2024, or until terminated as hereinafter provided.
- B. CONTRACTOR shall provide the DISTRICT with a quote for each case. The DISTRICT acknowledges that vessel and / or parts removal could result in differencing costs dependent on factors of each project. If DISTRICT does not approve the quote for each case prior to services from CONTRACTOR the AGREEMENT shall be terminated.

4. COMPENSATION

For services described above, DISTRICT shall pay CONTRACTOR on a case by case basis. An annual sum not to exceed \$100,000.00 (One Hundred Thousand Dollars.) for the entire duration of the AGREEMENT effective until June 30 2024.

5. DUE PERFORMANCE – DEFAULT

Each party to this AGREEMENT undertakes the obligation that the other's expectation of receiving the performance due under the terms of this AGREEMENT will not be impaired. Upon the occurrence of any default of the provisions of this AGREEMENT, a party shall give written notice of said default to the party in default. If the party in default does not cure the default within 30 days of the date of that notice (i.e. the time to cure) then such party shall be in default. The time to cure may be extended at the discretion of the party giving notice. Any extension of time to cure shall be in writing executed by both parties and must specify the reason(s) for the extension and the date the extension of time to cure expires.

Notice given under this provision shall specify the alleged default and the applicable AGREEMENT provision and shall demand that the party in default perform the provisions of this AGREEMENT within the applicable time period. No such notice shall be deemed a termination of this AGREEMENT, unless the party giving notice so elects in that notice, or so elects in a subsequent written notice after the time to cure has expired.

6. TERMINATION

This AGREEMENT may be terminated as follows:

- A. By mutual consent of the parties; or
- B. By DISTRICT or CONTRACTOR upon thirty (30) days written notice to other party.

Upon termination, DISTRICT shall pay CONTRACTOR for all services satisfactory completed by CONTRACTOR prior to the effective date of said termination. Compensation shall be paid within thirty (30) days after receipt by DISTRICT of CONTRACTOR'S itemized statement(s). Termination shall have no effect upon the rights and obligations of the parties pursuant to the terms of this AGREEMENT which arise prior to the termination date.

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7. INSURANCE

CONTRACTOR shall not commence work under this AGREEMENT, until it has obtained all the insurance required herein, certificates of insurance have been delivered to DISTRICT, and said insurance has been approved by DISTRICT. The certificates of insurance shall contain a provision that coverage afforded under the policies will not be canceled until at least twenty (20) days prior written notice has been given to DISTRICT.

CONTRACTOR shall not allow any subcontractor to commence work on its subcontract until the insurance required of the subcontractor has been obtained. Any failure of CONTRACTOR to maintain the insurance required by this paragraph, or to comply with any of the requirements of this paragraph, shall constitute a material breach of the entire AGREEMENT.

Certificates evidencing the issuance of the following insurance shall be filed with DISTRICT within ten (10) days after the date of execution of this AGREEMENT by CONTRACTOR:

A. Compensation Insurance.

CONTRACTOR shall procure and maintain, at CONTRACTOR'S own expense during the term hereof, Workers' Compensation Insurance for all of his employees to be engaged in work. In case of any such work is sublet, CONTRACTOR shall require subcontractor similarly to provide Workers' Compensation Insurance for all of the latter's employees to be engaged in such work unless such employees are covered by the protection afforded by CONTRACTOR'S Workers' Compensation Insurance.

B. Public Liability and Property Damage Insurance.

CONTRACTOR shall procure and maintain, at CONTRACTOR'S own expense during the term hereof, Comprehensive Public Liability Insurance, both bodily injury and property damage, in an amount of not less than one million dollars (\$1,000,000) combined single limit coverage per occurrence, including but not limited to endorsements for the following coverages: personal injury, premises-operations, products and completed operations, blanket contractual, and independent contractor's liability.

C. Automobile Liability Insurance.

CONTRACTOR shall procure and maintain, at CONTRACTOR'S own expense during the term hereof, Comprehensive Automobile Liability Insurance, both bodily injury and property damage, on owned, hired, leased, and non-owned vehicles used in connection with CONTRACTOR'S business in an amount of not less than three hundred thousand dollars (\$300,000) combined single limit coverage per occurrence.

CONTRACTOR shall not commence work under this AGREEMENT until he has had delivered to DISTRICT an "Additional Insured Endorsement" naming DISTRICT, its officers, employees, and agents as additional insured under each of the aforesaid policies in sub-paragraphs (B) and (C) above.

8. INDEMNIFICATION - HOLD HARMLESS

CONTRACTOR shall indemnify and defend DISTRICT and its officers, employees, and agents against and hold them harmless from any and all claims, losses, damages, and liability for damages, including attorney's fees and other costs of defense incurred by DISTRICT, whether for damage to or loss of property, or injury to or death of person, including properties of DISTRICT and injury to or death of DISTRICT officials, employees or agents, arising out of, or connected with CONTRACTOR's operations hereunder or the performance of the work described herein, unless such damages, loss, injury or death is caused solely by the negligence of DISTRICT.

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9. CONTRACTOR'S WARRANTIES

CONTRACTOR hereby makes the following representations and warranties:

- A. **Standard of Care.** CONTRACTOR represents that it is specially trained, licensed, experienced, and competent to perform all the services, responsibilities, and duties specified herein and that such services, responsibilities, and duties shall be performed, whether by CONTRACTOR or designated subcontractors, in a manner according to generally accepted practices of the licensed contracting profession including, but not limited to, possessing applicable Asbestos (ASB) Certification from the California State Licensing Board and registration with the Cal/OSHA Asbestos CONTRACTOR Registration Unit.
- B. **Non-Discrimination in Employment.** In the performance of the work authorized under this AGREEMENT, CONTRACTOR shall not unlawfully discriminate against any qualified worker because of race, religious creed, color, sex, sexual orientation, national origin, ancestry, physical disability, mental disability, medical condition, marital status, or age.
- CONTRACTOR shall, in all solicitations or advertisements for employees placed by or on behalf of the CONTRACTOR, state that all qualified applicants will receive consideration for employment without regard to race, color, religious creed, sex, sexual orientation, national origin, ancestry, physical disability, mental disability, medical condition, marital status, or age.
- C. **Adherence to Applicable Disability Law.** CONTRACTOR shall be responsible for knowing and adhering to the requirements of Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act, (42 U.S.C. Sections 12101, et seq.). California Government Code Sections 12920 et seq., and all related state and local laws.
- D. **HIPAA Compliance.** CONTRACTOR will adhere to Titles 9 and 22 and all other applicable Federal and State statutes and regulations, including the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and will make his best efforts to preserve data integrity and the confidentiality of protected health information.
- E. **Safety Responsibilities.** CONTRACTOR will adhere to all applicable CalOSHA requirements in performing work pursuant to this AGREEMENT. CONTRACTOR agrees that in the performance of work under this AGREEMENT, CONTRACTOR will provide for the safety needs of its employees and will be responsible for maintaining the standards necessary to minimize health and safety hazards.
- F. **Interest of CONTRACTOR.** CONTRACTOR hereby covenants that he has, at the time of the execution of this AGREEMENT, no interest, direct or indirect, and that he shall not acquire any interest in the future, direct or indirect, which would conflict in any manner or degree with the performance of services required to be performed under this AGREEMENT. CONTRACTOR further covenants that in the performance of this work, no person having such interest shall be employed.
- G. **DIR Registration (Projects in excess of \$25,000).** CONTRACTOR is in

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compliance with Registration requirements promulgated by the California Department of Industrial Relations (DIR) pursuant to Labor Code Section 1725.5, as amended.

10. ASSIGNMENT

CONTRACTOR shall not assign any interest in this AGREEMENT and shall not transfer any interest in the same without the prior written consent of the DISTRICT, except that claims for money due or to become due the CONTRACTOR from the DISTRICT under this AGREEMENT may be assigned by the CONTRACTOR to a bank, trust company, or other financial institution without such approval, written notice of any such transfer shall be furnished promptly to the DISTRICT. Any attempt at assignment of rights under this AGREEMENT except for those specifically consented to by both parties or as stated above shall be void.

11. INDEPENDENT CONTRACTOR

It is specifically understood and agreed that in the making and performance of the AGREEMENT, CONTRACTOR is an independent Contractor and is not an employee, agent or servant of DISTRICT. CONTRACTOR is not entitled to any employee benefits. COUNTY agrees that CONTRACTOR shall have the right to control the manner and means of accomplishing the result contracted for herein.

Contractor is solely responsible for the payment of all federal, state, and local taxes, charges, fees, or contributions required with respect to CONTRACTOR and CONTRACTOR'S officers, employees, and agents who are engaged in the performance of this AGREEMENT (including without limitation, unemployment insurance, social security, and payroll tax withholding).

12. MODIFICATION

This AGREEMENT may only be modified by a written amendment thereto, executed by both parties. However, matters concerning scope of services and term may be modified by mutual written consent of CONTRACTOR and DISTRICT executed by the Director of Water Resources.

13. ATTORNEYS FEES AND COSTS

If any action at law or in equity is necessary to enforce or interpret the terms of this AGREEMENT, the prevailing party shall be entitled to reasonable attorney's fees, costs, and necessary disbursements in addition to any other relief to which such party may be entitled.

14. RECORDS-AUDIT

CONTRACTOR shall maintain on a current basis complete books and records relating to this AGREEMENT. Such records shall include, but not be limited to, documents supporting all bids [if applicable], all income, and expenditures. These documents and records shall be retained by CONTRACTOR for at least five (5) years from the completion of this AGREEMENT. CONTRACTOR will permit DISTRICT to audit all books, accounts, and/or records relating to this AGREEMENT and/or all accounts or records of any business entities controlled by CONTRACTOR who participated in this AGREEMENT. An audit may be conducted on CONTRACTOR's premises, or at DISTRICT's option, CONTRACTOR shall provide all books and records within a maximum of fifteen (15) days of CONTRACTOR's receipt of written notice to do so from the DISTRICT. CONTRACTOR shall refund any moneys erroneously charged.

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15. JURISDICTION AND VENUE

This AGREEMENT shall be construed in accordance with the laws of the State of California and the parties hereto agree that venue of any action or proceeding regarding this AGREEMENT or performance thereof shall be in Lake County, California.

CONTRACTOR waives any right of removal it might have under California Code of Civil Procedure Section 394.

16. RESIDENCY

All independent CONTRACTOR's providing services to DISTRICT for compensation must file a State of California Form 590, certifying California residency or, in the case of a corporation, certifying that they have a permanent place of business in California.

17. NO THIRD-PARTY BENEFICIARIES

Nothing contained in this AGREEMENT shall be construed to create, and the parties do not intend to create, any rights in or for the benefit of third parties.

18. SEVERABILITY

If any provision of this AGREEMENT is held to be unenforceable, the remainder of this AGREEMENT shall be severable and not affected thereby.

19. NOTICES

All notices that are required to be given by one party to the other under this AGREEMENT shall be in writing and shall be deemed to have been given if delivered personally or enclosed in a properly addressed envelope and deposited with the United States Post Office for delivery by registered or certified mail addressed to the parties at the following addresses, unless such addresses are changed by notice, in writing, to the other party.

WATERSHED PROTECTION DISTRICT:

Scott De Leon, Director
Lake County Watershed
Protection District
255 N. Forbes Street
Lakeport, CA 95453

CONTRACTOR:

Donald Keith Hewett
All In One Auto Repair and Towing
406 N. State St.
Ukiah, CA 95482

20. ADDITIONAL PROVISIONS

This AGREEMENT shall be governed by the laws of the State of California. It constitutes the entire AGREEMENT between the parties regarding its subject matter. This AGREEMENT supersedes all proposals, oral and written, and all negotiations, conversations, or discussions heretofore and between the parties related to the subject matter of this AGREEMENT.

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IN WITNESS WHEREOF, DISTRICT and CONTRACTOR have executed this AGREEMENT on the day and year first above written.

**LAKE COUNTY WATERSHED
PROTECTION DISTRICT**

By: _____

CHAIR, Board of Directors

**ATTEST:
SUSAN PARKER
Clerk to the Board of Supervisors**

By: _____

CONTRACTOR

By: 
Donald Keith Hewett

**APPROVED AS TO FORM:
LLOYD GUINTIVANO
County Counsel**

By: 
