

**Washington State Parks and Recreation State Parks
Clean Vessel Operation and Maintenance Grant
Grant No. CV 921-115**

Washington State Parks and Recreation, herein referred to as "State Parks," and Port of Edmonds, herein referred to as "Grantee," do hereby enter into the following Annual Operations and Maintenance Grant agreement.

This grant agreement provides U.S. Fish and Wildlife Service (USFWS) funding for the operation and maintenance (O&M) of pumpout facilities as set out in the following terms and conditions. Grantee may request funds for operations and maintenance costs of the facility in accordance with the requirements of this agreement and all applicable state and federal laws.

GRANTEE INFORMATION

Attn: Tina Drennan, Finance Director
Facility: Port of Edmonds
Address: 336 Admiral Way, Edmonds, WA 98020-7214
Phone: (425) 673-2009
Email: TDrennan@portofedmonds.org
WA State UBI Number: 312-003-498
Federal ID Number: 91-0921341

RESPONSIBILITY FOR PROJECT

The project itself is the sole responsibility of Grantee. State Parks undertakes no responsibilities to Grantee, or to any third party, other than as expressly set out in this document. Grantee shall be solely responsible for operation and maintenance of pumpout facilities and solely responsible for any claim or suit of any nature by any third party related in any way to the project.

TERM

The term of this agreement shall be from the date of State Park's signature below through 12/31/2024, provided that the pumpout equipment for which O&M is requested is still needed and serves its intended purpose, and unless terminated earlier as provided for herein. The pumpout equipment consists of two (2) stationary pumpouts located at the marina.

FUNDING

The total reimbursement from State Parks shall not exceed seventy-five percent (75%) of eligible costs. Operations and maintenance costs are defined as "those for repair or upkeep of equipment which neither add to the permanent value of the property nor appreciably prolong its intended life, but keep it in an efficient operating condition." Eligible O&M expenses include:

- Cost of sewage disposal from pumpout holding tank or disposal to public sewer
- Supplies necessary for operations and maintenance activities of your pumpout
- Replacement or back-up parts
- Meters or telemetry equipment used for monitoring the system

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- Operating costs for pumpout boats and boats used to service floating restrooms (staff, fuel, fluids, repairs, maintenance)
- Documented staff or contract labor associated with routine custodial and non-routine maintenance and repairs, i.e., the cost of the person actually operating or maintaining the system.

If a boat, a dock or other facility or equipment is used partially for other purposes, operating costs must be pro-rated for the portion of its use that is for grant purposes.

A match of twenty-five percent (25%) is required by the Grantee and documentation must be submitted at the time of the reimbursement request. Match includes cash and/or in-kind contributions and must be necessary and reasonable for the accomplishment of program objectives. Match cannot include contributions from the federal government.

O&M reimbursement is at State Parks' sole discretion and is subject to the availability of grant funds.

REIMBURSEMENT OF FUNDS

Reimbursement shall be submitted annually after the close of the federal fiscal year (September 30th). The following forms, provided by State Parks, must be submitted with supporting documentation:

- Operation and Maintenance Reimbursement Request Form
- Annual Gallonage Report

If requesting reimbursement for staff time, you must verify the time spent operating or maintaining the pumpout by providing a summary of employees' hourly rate of pay, number of hours and dates, and nature of the work performed. This can be done by submitting the Staff Time Worksheet and Pumpout Log or electronic time-management system documentation.

Reimbursement costs for staff time must be reasonable if, in its nature and amount, it does not exceed that which would be incurred by a prudent person under the circumstances prevailing at the time the decision was made to incur the cost. Reasonable costs must also meet the market price for comparable goods or services for the geographic area.

All required forms must be dated and signed and include the contract number.

USE AND MAINTENANCE REQUIREMENTS

Grantee shall operate and maintain, or cause to be operated and maintained, the pumpout facilities as follows:

- Any property or facilities open to the public shall be open for the use by all segments of the public without restriction and in compliance to all applicable federal and state nondiscrimination laws, regulations, and policies.
- Grantee shall grant access to all recreational vessels to use boat sewage disposal facility funded under this.
- Access shall be allowed during normal marina operating hours and the operating hours shall be posted in a conspicuous location on the premises.

- Grantee shall operate and maintain the facilities in accordance with all applicable federal, State and local laws, orders, regulations and permits. Grantee shall be responsible for all operation, maintenance, and repair of the facilities.
- As a condition of receiving the grant funds, Grantee shall actively maintain the facilities for as long as it is needed and used.
- In the event an equipment breakdown occurs, Grantee shall notify State Parks within two (2) working days of breakdown. The facility must be repaired and fully operational within ten (10) working days after the breakdown where the breakdown can be remedied with normal expected repairs for five hundred dollars (\$500) or less. For repairs greater than five hundred dollars (\$500), the facility must be fully operational within twenty (20) days after the breakdown. A written report for all breakdowns must be submitted to State Parks within two (2) weeks of the breakdown describing the problem(s), repair(s), and the cost(s).

USE RECORDS

Grantee shall monitor the use of the boat sewage disposal facility by installing a use counter mechanism, flow meter, or hour meter, and shall maintain records of use numbers in a manner as approved by State Parks. Grantee shall report the facility's annual gallonage use by October 31st of every year for the period of October 1st through September 30th for the previous twelve (12) months each year regardless if there is a request for O&M reimbursement.

AUDITS

Grantee shall maintain proper records and make them available for audits in accordance with applicable state and federal laws. Grantee shall also resolve, to the satisfaction of State Parks, any audit findings pertaining to funds under this grant document and shall pay State Parks for all disallowed or questioned costs disclosed in the final audit report.

LIABILITY INSURANCE

If Grantee is a private individual or company, it shall provide a minimum of \$1,000,000.00 combined single limit insurance for comprehensive general liability for the duration of the grant document. Alternatively, if Grantee is a public entity it shall provide a minimum of \$1,000,000.00 combined single limit insurance for comprehensive general liability under a Self-Insurance Risk Management Program, or Insurance Pool.

PUBLIC INFORMATION REQUIREMENTS

Grantee shall maintain the required signage (provided by State Parks), which is to be clearly visible to direct boaters entering the facility to sewage pumpout and dump stations. In addition, Grantee shall provide signs or markers indicating fees, restrictions, operating instructions and a contact name and telephone number if the facility is discovered inoperable and cooperate in any related boater environmental education program administered or approved by State Parks.

FEES

Grantee may charge a maximum of a five-dollar (\$5.00) fee per pumpout. The \$5 per pumpout charge must be used to offset expenses. Proceeds must be put into a separate account and used to pay operation and maintenance expenses prior to submitting a request for annual reimbursement.

SPILL REPORTING AND CLEANUP

In the event of a spill or leak of materials from the boat sewage disposal facility, it shall be Grantee's responsibility to promptly begin and complete a thorough cleanup of the spill area. Notwithstanding any federal, state, or local reports that are required for any spill, Grantee shall notify State Parks of any and all spills within 24 hours from the time the spill is discovered.

OWNERSHIP OF BOAT SEWAGE DISPOSAL FACILITY

Except as otherwise provided herein, Grantee shall retain ownership of the boat sewage disposal facility during the term of the grant. Grantee may, during the term of the grant, transfer or convey its ownership interest in the facility only if said transfer or conveyance is accompanied by an assignment of Grantee's rights and obligations detailed in this grant document and only after prior written approval by the State Parks. State Parks shall not unreasonably withhold its consent to such assignment. Grantee shall not at any time during the term of the grant convert any facility which was acquired or constructed pursuant to the grant to a use other than those for which the assistance was originally approved.

ASSIGNMENT

Grantee may not assign this grant agreement, in whole or in part, without the prior written approval of State Parks.

GRANTEE NOT AN EMPLOYEE OF STATE PARKS

Grantee, its employees or agents performing under this grant document are not considered to be employees or agents of State Parks. Grantee will not hold itself out as nor claim to be an officer or employee of State Parks and will not make any claim, demand, or application to or for any right or privilege.

GOVERNING LAW

This grant document shall be governed by the laws of the State of Washington. In the event of a lawsuit involving this grant document, venue shall be proper only in Thurston County. Grantee acknowledges the jurisdiction of the courts of the State of Washington.

SEVERABILITY

If any provision of this grant document shall be held invalid, such invalidity shall not affect the other provisions of this grant document which can be given effect without the invalid provision, and to this end the provisions of this grant document are declared to be severable.

TERMINATION FOR CAUSE

This grant may be terminated upon 10 (ten) days written notice from State Parks to Grantee in the event Grantee violates any provision of this grant document or defaults in the performance of any requirement hereof. All obligations of State Parks under this grant agreement may be suspended or canceled, at the option of State Parks, if the Grantee has failed to comply with any of its obligations under this grant agreement.

TERMINATION FOR CONVENIENCE

This grant may be terminated upon 10 (ten) days written notice from State Parks to Grantee. If this Grant is so terminated, State Parks shall be liable only for payment required under the terms of this Grant for services rendered or goods delivered prior to the effective date of termination.

AMENDMENTS

This grant agreement may be amended only by mutual agreement of the parties in writing.

NO WAIVER BY STATE PARKS

Failure by State Parks to insist upon the strict performance of any provision of this agreement shall not affect State Park's right to require strict performance of the same provision in the future or any other provision. Failure by State Parks to exercise any right based upon a breach, or acceptance by State Parks of performance during such breach, shall not constitute a waiver of any of its rights or remedies with respect to such breach.

ADDITIONAL TERMS AND CONDITIONS

The following regulations are applicable to USFWS Clean Vessel grants:

- 2 CFR 200, OMB Uniform Guidance
- 48 CFR Part 31.2, Contracts with Commercial Organizations
- 2 CFR Part 25, Universal Identifier and System for Award Management
- 2 CFR Part 170, Reporting Subawards and Executive Compensation Information
- 2 CFR Part 175, Award Term for Trafficking in Persons
- 2 CFR Part 1400, Nonprocurement Debarment and Suspension
- 2 CFR Part 1401, Requirements for Drug-Free Workplace
- 43 CFR Part 18, New Restrictions on Lobbying
- 41 USC §4712, Enhancement of Recipient and Subrecipient Whistleblower Protection
- 41 USC §6306, Prohibition on Members of Congress Making Contracts with Federal Government. No member of or delegate to the United States Congress or Resident Commissioner shall be admitted to any share or part of this award, or to any benefit that may arise therefrom; this provision shall not be construed to extend to an award made to a corporation for the public's general benefit.
- Section 743 of Division E, Title VII of Pub. L. 113-235, Prohibition on Issuing Financial Assistance Awards to Entities that Require Certain Internal Confidentiality Agreements. Recipients must not require their employees or contractors seeking to report fraud, waste, or abuse to sign internal confidentiality agreements or statements prohibiting or otherwise restricting such employees or contractors from lawfully reporting such waste, fraud, or abuse to a designated investigative or law enforcement representative of a federal department or agency authorized to receive such information. Recipients must notify their employees or contractors that existing internal confidentiality agreements covered by this condition are no longer in effect.
- Executive Order 13513, Federal Leadership on Reducing Text Messaging while Driving. Recipients are encouraged to adopt and enforce policies that ban text messaging while driving, including conducting initiatives of the type described in section 3(a) of the Order.

AUTHORITY OF GRANTEE

Grantee, by the signature of the authorized representative below, represents and warrants that this grant document is a legal, valid, and binding obligation on behalf of Grantee and is enforceable in accordance with its terms.

IN WITNESS WHEREOF, this grant document is executed by:

Port of Edmonds

Washington State Parks and Recreation Commission

By: *Henry McCreary*

By: *Mark J. Release*

Title: Executive Director

Title: Chief Financial Officer

Date: 11/19/2019

Date: 12/02/19

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