


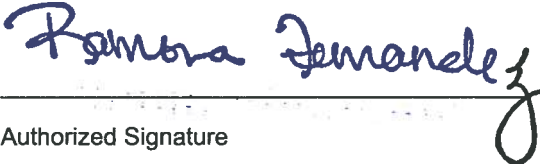



State of California – Natural Resources Agency
 DEPARTMENT OF PARKS AND RECREATION
 DIVISION OF BOATING AND WATERWAYS
GRANT AGREEMENT - CERTIFICATE OF FUNDING

GRANTEE: City of San Leandro Marina
GRANT TITLE: FY 2015/2016 Surrendered and Abandoned Vessel Exchange (SAVE)
GRANT AMOUNT: \$81,000.00
GRANT NUMBER: C15S0614
GRANT TERM: October 1, 2015 through September 30, 2017
FULLY EXECUTED: To be advised

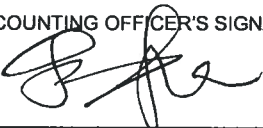
The Grantee agrees to the terms and conditions of this contract, hereinafter referred to as Agreement, and the State of California, acting through its Director of Parks and Recreation, pursuant to the State of California agrees to fund the total State grant amount indicated below. The GRANTEE agrees to complete the SCOPE OF WORK as defined in the Agreement.

The General and Special Provisions attached are made a part of and incorporated into the Agreement.

Grantee: City of San Leandro Marina ATTN: Delmarie Snodgrass Address: 40 Mulford Point Drive, San Leandro, CA 94577  _____ Authorized Signature  _____ Printed Name and Title of Authorized Representative  _____ Date	Agency: Department of Parks and Recreation Division of Boating and Waterways ATTN: Susan Sykes Address: One Capitol Mall, Suite 500 Sacramento, CA 95814  _____ Authorized Signature Ramona Fernandez, Chief of Operations _____ Printed Name and Title  _____ Date
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**CERTIFICATE OF FUNDING
(FOR STATE USE ONLY)**

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CONTRACT NO C15S0614	AMENDMENT NO	CALSTARS VENDOR NO 4000004105-01		PROJECT NO AWAF:170003 VTIP:170004
AMOUNT ENCUMBERED BY THIS DOCUMENT \$81,000.00	FUND TITLE Abandoned Watercraft Abatement Fund 0577		AGENCY BILLING CODE NO 053706	
PRIOR AMOUNT ENCUMBERED BY THIS DOCUMENT \$0	ITEM 3790-101-0577	CHAPTER 10	STATUTE 2015	FISCAL YEAR 2015/16
TOTAL AMOUNT ENCUMBERED TO DATE \$81,000.00	INDEX 1706	OBJECT CODE 702	PCA CODE 69006	PROJECT/WORK PHASE N/A
T.B.A. NO	I hereby certify upon my own personal knowledge that the budgeted funds are available for this encumbrance.			
B.R.NO 77-1	ACCOUNTING OFFICER'S SIGNATURE 		DATE MAR - 7 2016	

STATE OF CALIFORNIA

Department of Parks and Recreation, Division of Boating and Waterways
One Capitol Mall, Suite 500
Sacramento, CA 95814

EXHIBIT A
SURRENDERED AND ABANDONED VESSELS EXCHANGE (SAVE)
FISCAL YEAR 2015/2016
SCOPE OF WORK

Grantee agrees to provide to the Division of Boating and Waterways (DBW) as described herein:
See Grant Application: Letters of Intent, Scope of Work and Work Plan of Exhibit A.

The services shall be performed in the jurisdiction of: City of San Leandro Marina

State Agency: Division of Boating and Waterways	Grantee (Agency Name): City of San Leandro Marina
Name: Susan Sykes	Grantee Representative*: Delmarie Snodgrass
Title: Derelict Vessel Programs Administrator	Title: Harbor Manager
Address: One Capitol Mall, Suite 500 Sacramento, CA 95814	Address: 40 Mulford Point Drive, San Leandro, CA 94577
Phone: (916) 327-1825	Phone: (510) 577-3490
Fax: (916) 327-1772	Fax: (510) 352-0449
Email: Susan.Sykes@parks.ca.gov	Email: dsnodgrass@sanleandro.org

* Grantee representative information may only be changed by giving 30 days written notice to DBW.

Facesheet for Surrendered and Abandoned Vessel Exchange (SAVE) Fiscal Year 2015/2016
 Agency: City of San Leandro Marina
 Application: Surrendered and Abandoned Vessel Exchange (SAVE) Fiscal Year 2015/2016

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3. Contacts

a. Project Administrator

Name	Delmarie Snodgrass				
Title	Harbor Manager				
Mailing Address	40 Mulford Point Drive				
City	San Leandro	State	CA	Zip	94577
Telephone	(510) 577-3490			Fax	(510) 352-0449
E-mail Address	dsnodgrass@sanleandro.org				

b. Project Administrator

Name	Debbie Pollart				
Title	Director				
Mailing Address	14200 Chapman Road				
City	San Leandro	State	CA	Zip	94578
Telephone	(510) 577-6020			Fax	
E-mail Address	dpollart@sanleandro.org				

Letter of Intent

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1. Agency Type and Area of Responsibility (AOR)

The City of San Leandro owns and operates a 465 berth recreational marina set on the east side of the San Francisco Bay.

2. Statement of Need

Statement of Need

The City of San Leandro Marina owns and operates a 465 berth recreational marina. Various issues arise commencing in a vessel being abandoned, such as death of the owner, non-payment, or a vessel dropped off in the marina or shoreline.

Currently there are two vessels that have been liened and authorized for sale by the Department of Motor Vehicles (DMV). The vessels went up for lien sale in June 2015 and were not sold. The vessels are on the most current list to be destroyed and disposed. The City of San Leandro Marina has used all funding from the AWAFF grant ending January 2016. In addition, there are three vessels that have been submitted to the San Leandro Marina for the VTIP program. Currently we do not have enough funds in the current VTIP grant to remove all of the vessels. Recently we have received several calls for the VTIP program from outside sources.

The City of San Leandro is in the process of a shoreline development with the expectation to close the marina in the future. The estimated start date of construction is March 2017. We anticipate many boats will be abandoned or submitted for the vessel turn-in program over the next 2-3 years. The City does not have the funds in the budget to pay for destruction and disposal of vessels.

Cost estimates for abandoned boats range from \$2000 for smaller easy to remove vessels to \$12,000 for larger vessels that may have sunk or are in severe decay. For purposes of cost estimation, I have used a mid-range price of \$6,000 for 15 abandoned or liened vessels. I have used a price of \$1000 for 20 vessels over the next 2 years for vessels that are turned in. I have attached the bid sheet from the AWAFF project 2014. The City's municipal code Title 1, Chapter 5, section 200 states: expenditures in excess of \$5,000 are subject to competitive bidding.

Plan of Action

From 2004 through 2010 an average of two vessels per year were destroyed and disposed. Using the awarded AWAFF grant #C7701015 for period 1/14 through 1/16 the City of San Leandro Marina removed and destroyed 11 boats at a cost of \$46,975.11, not including the in-kind cost of \$10,950.11. The bid was very low and we will not be able to secure such rates in the future. It is estimated between the abandoned, liened, and turned in vessels the San Leandro Marina will have an increase in activity over the next two years.

Attached is a copy of the lien and disposal procedure. Procedures are subject to change per the grant agreement if applicable.

The City of San Leandro Marina will commit to the 10% contribution in the form of administrative costs, personnel hours, and storage.

Please consider awarding the Surrendered and Abandoned Vessel Exchange (SAVE) Grant to the City of San Leandro Marina. If you have any questions, please contact me at (510) 577-3490.

Scope of Work

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1. Legal authority to remove abandoned vessels

The City of San Leandro is the owner and operator of the marina. I, Delmarie Snodgrass, am the Marina Manager and as such have the authority and responsibility for the efficient and safe operation of the marina for the boat owners and the public. I am authorized by the City Manager through Municipal Code 4-19-120 and other rules and regulations to lien, sell, remove and/or destroy vessels that cause an unsafe or slightly nuisance.

2. Agency Experience

From 2004 through 2010 an average of two vessels per year were destroyed and disposed at City expense. The City of San Leandro applied for and was awarded an AWAFF grant #C7701015 for period 1/14 through 1/16. The City of San Leandro Marina removed and destroyed 11 boats at a cost of \$46,975.11, not including the in-kind cost of \$10,950.11. The bid was very low and we will not be able to secure such rates in the future.

The City of San Leandro Marina applied for and was awarded a VTIP grant #C7702116 for \$9400 for the period of 10/14 - 10/16. There are 3 vessels in the process of being destroyed. One vessel is an in water vessel that will cost more than we have in the current VTIP grant. It is estimated between the abandoned, liened, and turned in vessels the San Leandro Marina will have a significant increase in activity over the next two years.

The City of San Leandro is in the process of a shoreline development with the expectation to close the marina in the future, due to lack of funding to continue needed maintenance dredging. The estimated start date of construction for the development project is March 2017. We anticipate many boats will be abandoned or submitted for the vessel turn-in program over the next 2-3 years. The City does not have the funds in the budget to pay for destruction and disposal of vessels.

3. Adjudication Process

San Leandro Marina

Lien Procedures

1. Review aging report from Finance for all accounts 60 days delinquent. Send 60 day letter (ex 1)
2. Review aging report from Finance for all accounts 90 days delinquent. Send 90 day letter (Ex 2)
3. If payment not received within 14 days of 90 day letter, turn off berther keys. Complete lien request form (ex 3) and make 3 copies for 1) Current lien file, 2) Berther File, 3) Marine Lien service. Write a note on berther file and add cost of current lien fee. Fee is put on pink change sheet and given to Admin Assistant to be billed to tenant. Note to turn off keys **(Do not turn off keys if LAB – must give 30 days' notice revoking liveaboard status. Turn off keys after 30 days.**
(2a) Admin Asst will prepare Eden memo to charge berther cost of current for lien fee.
4. Fax completed lien request form to Marine Lien Service for processing (procedure per the California Harbors and Navigation Code). (ex 4)
5. DMV will send authorization to conduct a lien sale (ex 5) or the owner may file an opposition to the lien. If opposed the City will then have to go to small claims court to get a judgment (ex 6)
6. The Marina Lien Service will then contact Marina staff to set a date for a public lien sale. The lien service will advertise the sale in the newspapers. The Marina staff will contact the interested parties on the lien sale mailing list (ex 7)
7. On the day of the auction the Marina staff will conduct the auction. The vessels should be ready for inspection 1 hour prior to the auction. (ex 7a) The auction price should start at the debt owed if the vessel is worth the amount. If the selling price is more than debt, include berther fees, all labor to sell boat and if boat had to be pumped out. The

Scope of Work for Surrendered and Abandoned Vessel Exchange (SAVE) Fiscal Year 2015/2016
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remaining money is sent to DMV. If a sale occurs the purchaser must fill out the promissory Note (ex 8) with a 30% of the purchase price deposit. The balance due in 10 days after the sale. The previous owner has a redemption period of 10 days after the sale to redeem the vessel by paying all amounts owed. After the 10 day redemption period the new owner has 5 days to remove the vessel from the Marina unless the new owner can meet the San Leandro Berther requirements.

Storage areas

Vessels that are located within the San Leandro Marina will be moved to a designated dock for lien vessels. The boats will be locked and outboard motors removed and put in storage. If vessel is sold the motor will go to the new owner. Vessels that are on a trailer will be stored in the designated yard until all documents are received and arrangements have been made for destruction.

Vessel Destruction

After the auction, the boats that are remaining are property of the San Leandro Marina and will be kept for 10 days. After the 10 day period the boat will be scheduled to be destroyed. The first step is to get a quote from a reliable dive and salvage service. The quote shall include disposal of any hazardous waste. The boat will be towed to the public launch ramp and placed on a trailer for removal. Marina staff is responsible to take photos of vessel and submit with documents for reimbursement. It is the City's responsibility for the disposal of the vessel. When the contractor has been chosen a date to tow the vessel will be set, the Marina staff makes all the arrangements with Waste Management on Davis St for disposal or other designated landfill (unless it is included in the quote). The transfer station must supply a weight sheet and a certificate of destruction. If the boat is towed to another site, Marina staff or contractor will go to that site and take pictures of disposal.

After the disposal is complete the following forms need to be completed by the Marina Staff or contractor and San Leandro will be sent a copy.

1. A letter to DMV with copies of all paper relating to the destruction of each vessel (ex 10).
2. Complete certificate of ownership (Ex 12) with the original postage receipts (Ex 13) and send to DMV.
3. (san Leandro staff) Fill out pink sheet with the charges related to the disposal, note to close the account) and send to collection. (Ex 11) The Admin Assistant will process closing with Finance and will note in memo portion to send to collections. Finance contracts out all collection proceedings.

This vessel is property of either the Marina or successful bidder 10 days after the auction. The owner has up to and including the 10 days to satisfy the lien or remove all personal property. Anything related to boating stays with the vessel.

If the vessel is sold, the name of the buyer goes on the certification lien sale form, Form Boat 178, (Ex 14) and the Marina keeps a copy as a release of liability.

Start procedure for Reimbursement request form for state grant funds.

4. Agency prevention efforts of abandoned vessels

Municipal code SLMC 4-19-120 Rules and Regulations #18 Off-shore mooring - Off-shore mooring is prohibited within the jurisdiction of the San Leandro City limits based on the preservation of public health and safety and orderliness at the Marina and Shoreline. San Leandro city limits extend 2000 feet offshore.

VTIP program is effective. Education to boat owners that may be behind in rent or no longer have interest in their vessel.

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San Leandro is on the State website for VTIP grant.

Future: Add VTIP program contact/instruction to City of San Leandro general website.

5. Application Questionnaire

1. Does your agency have a local marine law enforcement detail tasked with addressing abandoned vessels in your jurisdiction? (Please select Yes or No) Yes No

If yes, explain in detail. If no, elaborate on your agency's efforts to create a program or if you utilize enforcement services from another agency and how.

US Coast Guard is alerted if the vessel is in danger of sinking or is releasing fuel or oil. If the vessel damages city property or another owners property the City of San Leandro Police Department is called and in some cases the Coast Guard too. Alameda County Sheriff may also be involved if out in the water.

2. Does your agency have a submerged navigational hazard abatement plan (SNHAP)? This may include: 1) An established internal process outlining procedures to prevent, mitigate and process abandoned vessels; 2) Bylaws, regulations, or ordinances that help prevent or mitigate abandoned vessels. (Please select Yes or No) Yes No

If Yes, provide plan documentation on the next page (Submerged Navigational Hazard Abatement Plan (SNHAP) documentation).

If No, explain your agency's efforts to create a SNHAP and anticipated date of effect.

3. At-risk vessels: Explain if/how your agency identifies at-risk vessels (what indicators do you look for). Do you identify and document existing owners/occupants, and do you work with owners to prevent vessels from being abandoned?

Staff conducts daily visual check for bilge pumps running more than normal, boat falling below the water line, and other physical issues. Marina office has pumps available if needed and will install immediately if a vessel is taking on water and can enter without owners consent per the SLMC and Rules and Regulations. Staff monitors accounts that are in arrears more than 60+ days. Staff will talk directly with boat owners to mitigate problems. Accounts are monitored monthly via an aging report. Letters are send at 60, 90, and 90+ days up to lien processing stating status and consequences. In a few cases agreements may be arranged to bring past due accounts current. Boat owners are asked if they want to sell the boat and that they may place a poster on the bulletin board in the marina office. If the boat is not sellable, and city has funds in the VTIP grant, the boat owner is offered to turn in the vessel under the VTIP grant program.

4. Does your agency regularly check vessels in your AOR for current registrations? (Please select Yes or No) Yes No

If Yes, What is your process?

All new accounts are required to submit current registration at time of boat entering the marina. Monitoring is via an Excel spread sheet maintained by Administrative Assistant. Staff sends quarterly letters to accounts that have upcoming registration due or expired registration. Same procedure for insurance documents.

5. List by name and size the bodies of water or waterways in your agency's area of responsibility. If you wish to add maps or photos, please click on the BLUE arrow below to upload.

Name	Size	Attachment
San Leandro Marina, east side of San Francisco Bay	1450 acres	14120_0_city

Scope of Work for Surrendered and Abandoned Vessel Exchange (SAVE) Fiscal Year 2015/2016

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		limit map49713[1].pdf
second map highlighting exact area of jurisdiction	included above	14120_1_San Leandro Marina - shoreline - waterway jurisdiction map.docx

6. Local agencies are required to make a 10 percent match by cash, or in-kind. Is your agency able to comply with the 10 percent match in advance before any grant money is reimbursed? (Please select Yes or No) Yes No

7. To provide additional information, please click on the Blue Arrow to [14122__Regulations B-07-03.doc](#) add an attachment

6. Submerged Navigational Hazard Abatement Plan (SNHAP) documentation

Attachments: [Procedure in the case of a vessel sinking at the San Leandro Marina Harbor \(no i](#)
[Municipal code](#)
[Rules and regulations](#)

Work Plan

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1. Outreach / Advertising plan for implementing a Vessel Turn-In Program

Internal education to boat owners via letters and verbal communication regarding the VTIP program.

General public education via the City's website (in process of being set up).

DBW State website listing of Marinas with VTIP grants. This seems to be the most popular way people contact us to turn in vessels.

Plan to receive DBW brochures and place in the Marina Office lobby.

2. Administrative Information

1. Please state if you will accept surrendered vessels only within Area of Responsibility (AOR) or if you will accept outside Area of Responsibility requests (Please select applicable values)

 Within AOR

 Within and Outside AOR

2. Identify schedule for accepting surrendered vessels (Please select applicable values)

 Daily

 Weekly

 Monthly

 As Needed

3. Location where vessels will be accepted (Please select one from list)

 Agency Office

 Local Landfill

 Pickup by Agency or Salvager

 As Needed

4. Storage area: Does your agency have a storage area for surrendered vessels pending destruction? (Please select Yes or No)

 Yes

 No

If Yes, identify the type of storage area (Please select applicable values)

 Water

 Land

Certification

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1. Applicant Certification

Per Harbors and Navigation Code 525 (C) "A grant awarded by the department pursuant to subparagraph (A) shall be matched by a 10% contribution from the local agency receiving the grant." This matching fund may be rendered in cash, or through in-kind contributions which must be verified, and are at the discretion of DBW. These contributions may include (but are not limited to) the following: administrative costs, personnel hours, removal, and/or storage.

Grant monies WILL NOT be reimbursed by DBW unless 10% of each reimbursement claim is met.

- a. Under penalty of perjury, I certify that I have examined this application and the document(s), proposal(s), and statement(s) submitted in conjunction herewith, and that to the best of my information and belief, the information contained herein is true, accurate, correct, and complete.
- b. I certify that I am the person authorized to submit this application on behalf of the applicant.

Prepared by: Name: Delmarie Snodgrass Date: 07/30/2015

Reviewed by: Name: Delmarie Snodgrass Date: 07/30/2015

Approving Name: Delmarie Snodgrass Date: 07/30/2015

Officer:

EXHIBIT B

Surrendered and Abandoned Vessels Exchange (SAVE) Grant Program

1. NEEDS AND OBJECTIVES OF DBW

- a. Pursuant to its authority under Harbors and Navigation Code section 525, the Division of Boating and Waterways (DBW) wishes to contract with Grantee for the removal and disposal of abandoned, wrecked or dismantled vessels, or parts thereof, or any other partially submerged objects (hereinafter "eligible water hazards") which pose a substantial hazard to navigation within Grantee's jurisdiction as listed on the Questionnaire, found in Exhibit A.
- b. Pursuant to its authority under Harbors and Navigation Code Section 525, the Division of Boating and Waterways (DBW) wishes to contract with Grantee for the removal and disposal of surrendered vessels, or parts thereof, which are in danger of being abandoned and has a likelihood of causing environmental degradation or becoming a hazard to navigation within Grantee's jurisdiction as specified according to the Grantee's Work Plan, found in Exhibit A.

2. WATER HAZARDS ELIGIBLE FOR REMOVAL AND DISPOSAL

The funds provided under this Agreement shall be used for the combined purposes of Surrendered and Abandoned Vessels Exchange (SAVE) as follows:

- a. **Abatement, removal, storage and/or disposal of eligible water hazards.** For purposes of this Agreement, "abandoned" is defined in Harbors and Navigation Code section 522(a):
"Any hulk, derelict, wreck, or parts of any ship, vessel, or other watercraft sunk, beached, or allowed to remain in an unseaworthy or dilapidated condition upon publicly owned submerged lands, salt marsh, or tidelands within the corporate limits of any municipal corporation or other public corporation or entity having jurisdiction or control over those lands, without its consent expressed by resolution of its legislative body, for a period longer than 30 days without a watchman or other person being maintained upon or near and in charge of the property, is abandoned property".
- b. The funds provided under this Agreement shall not be utilized for abatement, removal, storage, or disposal of commercial vessels. Commercial vessels include those vessels for which the most recent registration or documentation was commercial, even though that registration or documentation may have lapsed.
- c. If Grantee is reimbursed for the costs related to the abatement, removal, storage, and/or disposal of an eligible water hazard by the registered or legal owner or other person or entity known to have an interest in the water hazard, then the water hazard shall no longer be eligible for funding under this Agreement. Grantee shall notify DBW in writing of such reimbursement and shall return all funds disbursed by DBW to Grantee with respect to such water hazard immediately.
- d. **Abatement, removal, storage and disposal of eligible surrendered vessels.** For purposes of this Agreement, "surrendered" is defined in Harbors and Navigation Code section 526.1(a):
- e. "'surrendered vessel' means a recreational vessel that the verified titleholder has willingly surrendered to a willing agency under both of the following conditions:

- (1) The public agency has determined in its sole discretion that the vessel is in danger of being abandoned, and therefore has a likelihood of causing environmental degradation or becoming a hazard to navigation.
 - (2) The decision to accept a vessel is based solely on the potential of the vessel to likely be abandoned and cause environmental degradation or become a hazard to navigation.”
- f. The funds provided under this Agreement shall not be utilized for surrender, abatement, removal, storage, or disposal of commercial vessels. Commercial vessels include those vessels for which the most recent registration or documentation was commercial, even though that registration or documentation may have lapsed.
 - g. If Grantee is reimbursed for the costs related to the removal, storage, and/or disposal of a surrendered vessel by the registered or legal owner or other person or entity known to have an interest in the vessel, then the vessel shall no longer be eligible for funding under this Agreement. Grantee shall notify DBW in writing of such reimbursement and shall return all funds disbursed by DBW to Grantee with respect to such vessel immediately.

3. RIGHT OF INSPECTION

Grantee shall allow DBW and other state agency representatives, at any reasonable time, to inspect any site where Grantee or its subcontractors are performing work under this Agreement.

4. ANNUAL MEETING

Grantee's representative or alternate shall participate in an annual one-day video or phone conference conducted by DBW during the term of this agreement. Should the Grantee or representative be unable to attend the meeting and cannot provide a substitute from the agency, the Grantee must forward a letter to DBW stating the reason why they cannot attend. DBW must grant approval in writing in order for the Grantee not to be in breach of this Agreement for failure to attend.

5. ACTIVITY/NON ACTIVITY: REPORTING REQUIREMENTS

- a. Grantee shall provide quarterly reports to DBW describing the status of existing issues known, pending, or in progress.
- b. Lack of quarterly reporting and/or removal activity within any twelve month period during the term of this agreement is subject to possible revocation of grant.

6. OVERLAPPING ANNUAL GRANT AWARDS

A minimum of fifty percent (50%) of an existing AWAFF grant must be utilized and reported for reimbursement to DBW to qualify for a new fiscal year grant.

7. HAZARDOUS MATERIALS

Grantee shall be responsible for securing any necessary or prudent studies, permits, or authorizations associated with treatment, removal, storage, or any other handling of hazardous substances including, but not limited to, toxic waste, petroleum waste, asbestos, and similar substances, prior to the removal of any vessel and water hazard pursuant to this Agreement.

Grantee shall be responsible for the proper and lawful handling, abatement, removal, storage,

and/or disposal of any hazardous substances encountered in the execution of this Agreement.

8. **TITLES AND LIENS**

- a. **Abandoned vessels:** Grantee shall comply with all relevant provisions of the Harbors and Navigation Code regarding notices, hearings and liens in the performance of this Agreement. Grantee (in conjunction with local law enforcement) shall conduct a title search for all vessels presumed to be abandoned, as provided by Harbors and Navigation Code section 526.
- b. **Surrendered vessels:** Grantee shall comply with all relevant provisions of Harbors and Navigation Code section 526.1 in the performance of this Agreement, requiring that a surrendered vessel be that of the "verified titleholder."

9. **MEDIA**

Grantee agrees to acknowledge DBW's financial support whenever work funded by this Agreement is publicized in any news media, brochures, or other type of promotional material.

10. **MEDIA MATERIALS RELEASE**

Grantee agrees to irrevocably grant to California State Parks, Division of Boating and Waterways, its employees, officers, agents, and assigns (hereinafter referred to as "DBW"), the non-exclusive, royalty-free, perpetual and worldwide right and permission to use, reproduce, publish, copy, distribute, alter, license, adapt, and display the photographs, motion pictures, caption information, and/or written quotes (hereinafter referred to collectively as "Photographs"), that the Grantee has submitted to DBW for art, editorial, advertising, marketing, trade, broadcast, print, educational programs, or any other lawful purpose whatsoever, in any and all media. In connection with the foregoing license, the Grantee agrees not to use, reproduce, adapt, or display the Photographs, or allow others to do so, in a manner that tends to subject DBW or its AWAFF, VTIP and/or SAVE programs to ridicule, disparagement, mockery, satire, or that could tarnish the image of the DBW's AWAFF, VTIP, and/or SAVE programs. Grantee hereby releases and discharges DBW from any and all claims and demands arising out of or in connection with the use of the Photographs, including without limitations, any and all claims for libel, defamation, invasion of privacy, and/or publicity rights. DBW assumes no responsibility for lost or damaged Photographs or for the use of same. DBW may sell, assign, license, or transfer all rights granted to it hereunder.

Grantee also grants DBW and its licensees the unrestricted right to use and disclose its name in connection with use of the Photographs. The Grantee understands that it will not be paid for any use or right granted herein.

The Grantee understands and agrees that the Photographs may be used in whole or in part, at any time. The license granted herein to DBW includes the right and permission to conduct or have conducted such alterations to the Photographs as DBW deems necessary. Grantee releases and discharges DBW and agrees to indemnify and hold DBW harmless from any liability by virtue of any blurring, distortion, alteration, optical illusion or use in composite form, loss or damage, whether intentional or otherwise, that may occur in the use of the Photographs. The Grantee waives any right to inspect or approve any finished product, advertising or other copy that may be used in connection therewith or the use to which it may be applied.

The Grantee declares and avows that the Photographs it is submitting to DBW are its own original work in all respects. The Grantee is the sole and exclusive owner of the Photographs;

they are free, clear, and unencumbered. No part of them is taken from or based on any other work; no part infringes the copyright or any other right of any person; and the reproduction, publication, exhibition, or any other use by DBW of the Photographs in any form whatever will not in any way, directly or indirectly, infringe on the rights of any person. The Grantee agrees to indemnify and hold DBW harmless from and against any and all loss, damage, costs, charges, legal fees, recoveries, judgments, amounts paid in settlement, penalties, and expenses that may be obtained against, imposed on, or suffered by DBW by reason of (1) any violation or infringement of any proprietary right or copyright; or (2) any libelous or unlawful matter contained in the Photographs. Grantee also agrees to indemnify and hold DBW harmless for any such amounts arising from its breach of any covenant, representation, or warranty of this agreement.

11. PERMITS AND DOCUMENTATION

Prior to the removal of any abandoned vessel, eligible water hazard, or surrendered vessel, the Grantee shall obtain all necessary permits, authorizations, and documentation necessitated by any applicable provision of law.

12. SECURING OF BIDS

Grantee shall comply with any applicable laws and regulations governing the competitive bidding process when awarding subcontracts to marine salvage companies under this Agreement.

13. SUBCONTRACTORS

The Grantee warrants and guarantees that any marine salvage company performing work under this Agreement holds a valid business license and carries general commercial liability insurance coverage sufficient to fully insure against any and all risks of hazardous activities associated with the work to be performed under this Agreement. Grantee agrees that it shall guarantee and shall be responsible for ensuring that any and all of its contractors and subcontractors holds a valid business license and carries general commercial liability insurance coverage sufficient to fully insure against any and all risks of hazardous activities associated with the work to be performed under this Agreement; and Grantee agrees that if any of Grantee's contractors or subcontractors fail to fulfill any of these requirements, that Grantee itself carries general commercial liability insurance coverage sufficient to fully insure against any and all risks of hazardous activities associated with the work to be performed under this Agreement, whether performed by the Grantee, Grantee's contractor(s), or Grantee's subcontractor(s). Grantee shall provide DBW with a certificate of insurance from any contractor(s) and subcontractor(s) prior to the commencement of any work under this Agreement.

14. TRAFFIC CONTROL AND TRAFFIC SAFETY

The Grantee shall provide for adequate traffic control and safety measures at any site where Grantee and its subcontractors will perform any work under this Agreement.

15. AIR OR WATER POLLUTION VIOLATION

Grantee warrants that it is not (1) in violation of any order or resolution not subject to review promulgated by the State Air Resources Board or an air pollution control district; (2) subject to any cease and desist order not subject to review issued pursuant to Water Code section 13301 for violation of waste discharge requirements or discharge prohibitions; or (3) finally determined to be in violation of provisions of federal law relating to air or water pollution.

16. ENTIRE AGREEMENT

This Agreement consists of the terms of this Agreement and all attachments, which are expressly incorporated herein. No amendment or variation of the terms of this Agreement shall be valid unless made in writing, signed by the parties and approved as required.

17. APPROVAL OF AGREEMENT AND AMENDMENTS

This Agreement and any variation thereto is of no force or effect until signed by both parties and approved by the Department of General Services, if required. Commencement of performance prior to approval of this Agreement will be at the Grantee's own risk.

18. DISABLED VETERAN BUSINESS ENTERPRISE (DVBE) PARTICIPATION REQUIREMENT

There are no Disabled Veteran Business Enterprise participation requirements with this agreement.

19. AUTHORITY TO CONTRACT

Grantee must provide DBW with evidence of its authority to enter into this Agreement. Grantee may provide a delegation of contracting authority from its local governing body that by law has authority to contract. Alternatively, Grantee shall provide DBW with a resolution, order, motion, or ordinance of its local governing body that by law has authority to contract, authorizing execution of this Agreement.

20. COMPLIANCE WITH LAW AND REGULATIONS

Grantee and its subcontractor(s) shall comply with all applicable laws and regulations of the State of California for all work to be performed under this Agreement. By signing this Agreement, Grantee certifies its compliance and the compliance of all subcontractors with: (a) applicable provisions of the California Environmental Quality Act; (b) Nondiscrimination Program requirements of Government Code section 12990 (a-f) and Title 2, California Code of Regulations, section 8103 (and section 8113 in contracts over \$5,000) along with section 7285 et. seq. of the Fair Employment and Housing Act; (c) Drug-Free Workplace requirement of Government Code section 8350 et seq.; (d) National Labor Relations Board Certification of Public Contract Code section 10296; (e) Workers' Compensation requirement of Labor Code section 3700; and (f) Americans with Disabilities Act regulations issued pursuant to 42 U.S.C. section 12101 et seq.

21. INDEPENDENT CONTRACTOR

Grantee and its employees are independent contractors and shall not be considered officers or employees of DBW or agents of the State of California.

22. INSURANCE REQUIREMENTS

The abatement, removal, storage, and /or disposal of vessels under this Agreement is a hazardous activity. Grantee therefore must maintain commercial general liability insurance in an amount and of a type acceptable to DBW and to the Department of General Services/ Office of Risk and Insurance Management (ORIM).

1. General provisions applying to all policies

a. Coverage Term

Coverage needs to be in force for the complete term of the Agreement. If insurance expires during the term of the grant, a new certificate must be received by the Division at least ten (10) days prior to the expiration of this

insurance. Any new insurance must still comply with the original terms of the grant.

b. Policy cancellation or termination & notice of non-renewal

Insurance policies shall contain a provision stating coverage will not be cancelled without 30 days prior written notice to the Division. In the event Grantee fails to keep in effect at all times the specified insurance coverage, the Division may, in addition to any other remedies it may have, terminate this Agreement upon the occurrence of such event, subject to the provisions of this Agreement.

c. Deductible

Grantee is responsible for any deductible or self-insured retention contained within their insurance program.

d. Primary clause

Any required insurance contained in this Agreement shall be primary, and not excess or contributory, to any other insurance carried by the State.

e. Insurance carrier required rating

All insurance companies must carry a rating acceptable to ORIM. If the Grantee is self-insured for a portion or all of its insurance, review of financial information including a letter of credit may be required by DBW or ORIM.

f. Endorsements

Any required endorsements requested by the Division must be physically attached to all requested certificates of insurance and not substituted by referring to such coverage on the certificate of insurance.

g. Inadequate Insurance

Inadequate or lack of insurance does not negate the Grantee's obligations under the Agreement.

h. Use of Subcontractors

In the case of Grantee's utilization of subcontractors to complete the contracted scope of work, Grantee shall include all subcontractors as insured's under Grantee's insurance or supply evidence of subcontractor's insurance to The State equal to policies, coverages, and limits required of Grantee.

2. **Insurance Requirements**

a. Commercial General Liability

The Grantee shall maintain general liability on an occurrence form with limits of not less than \$1,000,000 per occurrence for bodily injury and property damage liability combined with a \$2,000,000 annual policy aggregate. The policy shall include coverage for liabilities arising out of premises, operations, independent subcontractors, products, completed operations, personal and advertising injury, and liability assumed under an insured contract. This insurance shall apply separately to each insured against whom claim is made or suit is brought subject to the Grantee's limit of

liability. The policy must include:

"The State of California, its officers, agents, employees and servants as additional insureds, but only with respect to work performed under the contract."

This **endorsement** must be supplied under form acceptable to the Office of Risk and Insurance Management.

In the case of Grantee's utilization of subcontractors to complete the contracted scope of work, Grantee shall include all subcontractors as insured's under Grantee's insurance or supply evidence of insurance to The State equal to policies, coverages and limits required of Grantee.

b. Automobile Liability

The Grantee shall maintain motor vehicle liability with limits not less than \$1,000,000 combined single limit per accident. Such insurance shall cover liability arising out of a motor vehicle including owned, hired and non-owned motor vehicles.

c. Watercraft Liability

The Grantee shall maintain watercraft liability insurance with limits not less than \$1,000,000 combined single limit per accident. Such insurance shall cover liability arising out of the maintenance and use of any watercraft (owned, hired or non-owned). The policy must include:

"The State of California, its officers, agents, employees and servants as additional insureds, but only with respect to work performed that is connected with or related to the activities contemplated in this Agreement."

This **endorsement** must be supplied under form acceptable to the Office of Risk and Insurance Management.

d. Workers Compensation and Employers Liability

The Grantee shall maintain statutory worker's compensation and employer's liability coverage for all its employees who will be engaged in the performance of the Agreement. Employer's liability limits of \$1,000,000 are required. The insurer waives any right of recovery the insurer may have against the State because of payments the insurer makes for injury or damage arising out of the work done under contract with the State. A Waiver of Subrogation or Right to Recover endorsement in favor of the State must be attached to certificate.

If applicable, Grantee shall provide coverage for all its employees for any injuries or claims under the U.S. Longshoremen's and Harbor Workers' Compensation Act, the Jones Act or under laws, regulations, or statutes applicable to maritime employees. By signing this contract, Grantee acknowledges compliance with these regulations.

e. Environmental/Pollution Liability

Grantee shall maintain Pollution Liability for limits not less than \$1,000,000 occurrence covering the Grantee's liability for bodily injury, property damage and environmental damage resulting from pollution and related cleanup costs incurred arising out of the work or services to be performed under this

contract. The policy must include:

"The State of California, its officers, agents, employees and servants as additional insureds, but only with respect to work performed under the contract."

This **endorsement** must be supplied under form acceptable to the Office of Risk and Insurance Management.

Coverage shall be provided for both work performed on site and during transportation as well as proper disposal of hazardous materials. Proof of Pollution during transportation shall be provided on an MCS-90 form or equivalent.

3. Self-Insurance

If the Grantee is self-insured for a portion or all of its insurance, the Grantee shall provide evidence of self-insurance. Review of financial information including a letter of credit may be required. The Division reserves the right to request financial information.

23. TERMINATION

- a. DBW may terminate this Agreement for any reason upon thirty (30) days written notice to Grantee.
- b. If the Grantee fails to keep the required insurance in effect at all times during the term of this agreement, DBW may, in addition to other remedies it may have, terminate this agreement upon two days written notice.
- c. DBW may, by two-day written notice to Grantee and without any prejudice to its other remedies, terminate this agreement because of failure of Grantee to fulfill any of the requirements of this agreement.
- d. Upon receipt of any notice terminating this Agreement, Grantee shall immediately discontinue all removal and disposal activities affected, unless the notice directs otherwise. In such event, DBW shall pay Grantee only for removal and disposal activities completed prior to the termination date.
- e. Upon termination of this agreement, Grantee shall promptly return all advanced funds. At DBW's sole discretion, DBW may offer an opportunity to cure any breach prior to terminating for default.

24. ASSIGNMENT

This Agreement is not assignable by the Grantee, either in whole or in part, without the consent of the State in the form of a formal written amendment.

25. MATCHING REQUIREMENT

- a. Section 525(C) of the Harbors and Navigation Code states, "A grant awarded by the department pursuant to subparagraph (A) shall be matched by a 10-percent contribution from the local agency receiving the grant."
- b. The 10-percent contribution is in addition to funds awarded in the grant.
- c. The burden of proof in complying with the 10-percent contribution requirement is the responsibility of the grantee. Grant funds will not be disbursed until the grantee has provided DBW with acceptable documentation that it complied with the 10-percent contribution requirement for each disbursement.

26. **BUDGET DETAIL AND PAYMENT PROVISIONS**

Invoicing and Payment

- a. DBW will reimburse the grantee for actual expenditures within the scope of the AWAFF program upon written request by Grantee.
- b. Invoices from service providers and subcontractors to Grantee, submitted by Grantee to DBW for reimbursement, must contain the following:
- c. **AWAF Claim Requests to Include** (Use the AWAF claim form provided on DBW's website at www.dbw.ca.gov under Grants & Loans, or the online grant system, OLGA, available on this website):
 1. Name and address of Grantee
 - 2.. Contract or invoice number
 3. Description of service performed
 4. Date the service was performed
 5. Location of each service
 6. Vessel name, CF# or HIN# if available; otherwise, description of vessel.
- d. Documents to submit with AWAFF reimbursement claims:
 1. Invoices from subcontractors to Grantee
 2. Proof of payment from Grantee to subcontractors for services received
 3. Statement of 10% match contribution if using in-kind services, with supporting verification of in-kind contribution. If using personnel hours for in-kind match, include hours, purpose or action, date of action, and/or other as requested by DBW. Please use the form provided on DBW's website at www.dbw.ca.gov under Grants & Loans, or the online grant system, OLGA, available on this website.
 4. Photos of vessels with CF numbers (if available)
 5. Department of Motor Vehicles (DMV) documents (if available)
- e. **VTIP Claim Requests to Include** (Use the VTIP claim form provided on DBW's website at www.dbw.ca.gov under Grants & Loans, or the online grant system, OLGA, available on this website):
 1. Name and address of Grantee
 2. Contract or invoice number
 3. Description of service performed
 4. Date the service was performed
 5. Location of each service
 6. Vessel name, CF# or HIN#
- f. Documents to submit with VTIP reimbursement claims:
 1. Invoices from subcontractors to Grantee
 2. Proof of payment by Grantee to subcontractors for services received
 3. Statement of 10% match contribution if using in-kind services, with supporting verification of in-kind contribution. If using personnel hours for in-kind match, include hours, purpose or action, date of action, and/or other as requested by DBW. Please use form provided on DBW's website at www.dbw.ca.gov under

- Grants & Loans, or the online grant system, OLGA, available on this website.
4. Photos of vessels (if available)
 5. Statement of Release completed and signed by owner(s). A sample of this form is provided on DBW's website at www.dbw.ca.gov under Grants & Loans, or the online grant system, OLGA.
 6. Department of Motor Vehicles (DMV) documents: Certificate of Ownership signed by owner, or DMV Notice of Transfer and Release of Liability Form, completed and signed by owner(s).
- g. Reimbursement claims and support documents (as indicated above) are to be submitted to DBW at::
- Division of Boating and Waterways
One Capitol Mall, Suite 500
Sacramento, CA 95814
Attention: AWAFF Unit
- h. Submission of fraudulent invoices or other claim documentation is a breach of this Agreement, which shall result in forfeiture of all funds advanced and provided under this Agreement.
- i. All requests for payment must be submitted to DBW no later than 45 days prior to the expiration date of the agreement. DBW is not obligated to make payment on any reimbursement request(s) received or for any services completed after this date.

27. BUDGET CONTINGENCY CLAUSE

- A. It is mutually agreed that if the Budget Act of the current year and/or any subsequent years covered under this Agreement does not appropriate sufficient funds for the program; this Agreement shall be of no further force and effect. In this event, DBW shall have no liability to pay any funds whatsoever to Grantee or to furnish any other considerations under this Agreement and Grantee shall not be obligated to perform any provisions of this Agreement.
- B. If funding for any fiscal year is reduced or deleted by the Budget Act for purposes of this program, DBW shall have the option to either cancel this Agreement with no liability occurring to DBW, or offer an agreement amendment to Grantee to reflect the reduced amount.

28. INDEMNIFICATION

Grantee shall be responsible for, and DPR shall not be answerable or accountable in any manner for, any loss or expense by reason of any damage or injury to person or property, or both, arising out of or related in any way to activities carried out by Grantee, its agents, officers, contractors, subcontractors and/or employees, under this Agreement Grantee shall protect, hold harmless, indemnify and defend DPR, its agents, officers, and/or employees against any and all actions, claims, and damages to persons or property, penalties, obligations and liabilities that may be asserted or claimed by any person, firm, association, entity, corporation, political subdivision, or other organization or person arising out of or in connection with Grantee or Grantee's contractor's or subcontractor's activities hereunder, whether or not there is concurrent passive negligence on the part of DPR, its agents, officers, and/or employees.

EXHIBIT C

GENERAL TERMS AND CONDITIONS

1. **APPROVAL:**

This Agreement is of no force or effect until signed by both parties and approved by the Department of General Services, if required. Grantee may not commence performance until such approval has been obtained.

2. **EFFECTIVE DATE:**

Effective date means either the start date or the approval date by the Department of General Services (DGS), whichever is later. In cases where DGS approval is not required, this Agreement is of no force or effect until the date of the last DBW signature. No work shall commence until the effective date.

3. **AMENDMENT:**

No amendment or variation of the terms of this Agreement shall be valid unless made in writing, signed by the parties and approved as required. No oral understanding or Agreement not incorporated in the Agreement is binding on any of the parties.

4. **ASSIGNMENT:**

This Agreement is not assignable by the Grantee, either in whole or in part, without the consent of the State in the form of a formal written amendment.

5. **AUDIT:**

Grantee agrees that the awarding department, the Department of General Services, the Bureau of State Audits, or their designated representative shall have the right to review and to copy any records and supporting documentation pertaining to the performance of this Agreement. Grantee agrees to maintain such records for possible audit for a minimum of three (3) years after final payment, unless a longer period of records retention is stipulated. Grantee agrees to allow the auditor(s) access to such records during normal business hours and to allow interviews of any employees who might reasonably have information related to such records. Further, Grantee agrees to include a similar right of the State to audit records and interview staff in any subcontract related to performance of this Agreement. (Gov. Code §8546.7, Pub. Contract Code §10115 et seq., CCR Title 2, Section 1896).

6. **INDEMNIFICATION:**

Grantee agrees to indemnify, defend and save harmless the State, its officers, agents and employees from any and all claims and losses accruing or resulting to any and all contractors, subcontractors, suppliers, laborers, and any other person, firm or corporation furnishing or supplying work services, materials, or supplies in connection with the performance of this Agreement, and from any and all claims and losses accruing or resulting to any person, firm or corporation who may be injured or damaged by the subcontractor or Grantee in the performance of this Agreement.

7. **DISPUTES:**

Grantee shall continue with the responsibilities under this Agreement during any dispute.

8. **TERMINATION FOR CAUSE:**

The State may terminate this Agreement and be relieved of any payments should the Grantee fail to perform the requirements of this Agreement at the time and in the manner herein provided. In the event of such termination the State may proceed with the work in any manner

deemed proper by the State. All costs to the State shall be deducted from any sum due the Grantee under this Agreement and the balance, if any, shall be paid to the Grantee upon demand.

9. RECYCLING CERTIFICATION:

The Grantee shall certify in writing under penalty of perjury, the minimum, if not exact, percentage of post consumer material as defined in the Public Contract Code Section 12200, in products, materials, goods, or supplies offered or sold to the State regardless of whether the product meets the requirements of Public Contract Code Section 12209. With respect to printer or duplication cartridges that comply with the requirements of Section 12156(e), the certification required by this subdivision shall specify that the cartridges so comply (Pub. Contract Code §12205).

10. NON-DISCRIMINATION CLAUSE:

During the performance of this Agreement, Grantee and its subcontractors shall not unlawfully discriminate, harass, or allow harassment against any employee or applicant for employment because of sex, race, color, ancestry, religious creed, national origin, physical disability (including HIV and AIDS), mental disability, medical condition (e.g., cancer), age (over 40), marital status, and denial of family care leave. Grantee and subcontractors shall insure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment. Grantee and subcontractors shall comply with the provisions of the Fair Employment and Housing Act (Gov. Code §12990 (a-f) et seq.) and the applicable regulations promulgated thereunder (California Code of Regulations, Title 2, Section 7285 et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code Section 12990 (a-f), set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations, are incorporated into this Agreement by reference and made a part hereof as if set forth in full. Grantee and its subcontractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other Agreement.

Grantee shall include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform work under the Agreement.

11. CERTIFICATION CLAUSES:

The GRANTEE CERTIFICATION CLAUSES contained in the document CCC 307 are hereby incorporated by reference and made a part of this Agreement by this reference as if attached hereto.

12. TIMELINESS:

Time is of the essence in this Agreement.

13. COMPENSATION:

The consideration to be paid Grantee, as provided herein, shall be in compensation for all of Grantee's expenses incurred in the performance hereof, as outlined in Exhibit B, item #1.

14. GOVERNING LAW:

This Agreement is governed by and shall be interpreted in accordance with the laws of the State of California.

15. ANTITRUST CLAIMS:

The Grantee by signing this agreement hereby certifies that if these services or goods are

obtained by means of a competitive bid, the Grantee shall comply with the requirements of the Government Codes Sections set out below.

- a. The Government Code Chapter on Antitrust claims contains the following definitions:
 - 1) "Public purchase" means a purchase by means of competitive bids of goods, services, or materials by the State or any of its political subdivisions or public agencies on whose behalf the Attorney General may bring an action pursuant to subdivision (c) of Section 16750 of the Business and Professions Code.
 - 2) "Public purchasing body" means the State or the subdivision or agency making a public purchase. Government Code Section 4550.
- b. In submitting a bid to a public purchasing body, the bidder offers and agrees that if the bid is accepted, it will assign to the purchasing body all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. Sec. 15) or under the Cartwright Act (Chapter 2 (commencing with Section 16700) of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, materials, or services by the bidder for sale to the purchasing body pursuant to the bid. Such assignment shall be made and become effective at the time the purchasing body tenders final payment to the bidder. Government Code Section 4552.
- c. . If an awarding body or public purchasing body receives, either through judgment or settlement, a monetary recovery for a cause of action assigned under this chapter, the assignor shall be entitled to receive reimbursement for actual legal costs incurred and may, upon demand, recover from the public body any portion of the recovery, including treble damages, attributable to overcharges that were paid by the assignor but were not paid by the public body as part of the bid price, less the expenses incurred in obtaining that portion of the recovery. Government Code Section 4553.
- d. Upon demand in writing by the assignor, the assignee shall, within one year from such demand, reassign the cause of action assigned under this part if the assignor has been or may have been injured by the violation of law for which the cause of action arose and (a) the assignee has not been injured thereby, or (b) the assignee declines to file a court action for the cause of action. See Government Code Section 4554.

16. CHILD SUPPORT COMPLIANCE ACT:

For any Agreement in excess of \$100,000, the Grantee acknowledges in accordance with Public Contract Code 7110, that:

- a. The Grantee recognizes the importance of child and family support obligations and shall fully comply with all applicable state and federal laws relating to child and family support enforcement, including, but not limited to, disclosure of information and compliance with earnings assignment orders, as provided in Chapter 8 (commencing with section 5200) of Part 5 of Division 9 of the Family Code; and
- b. The Grantee, to the best of its knowledge is fully complying with the earnings assignment orders of all employees and is providing the names of all new employees to the New Hire Registry maintained by the California Employment Development Department.

17. UNENFORCEABLE PROVISION:

In the event that any provision of this Agreement is unenforceable or held to be unenforceable, then the parties agree that all other provisions of this Agreement have force and effect and shall not be affected thereby.

18. PRIORITY HIRING CONSIDERATIONS:

If this Agreement includes services in excess of \$200,000, the Grantee shall give priority consideration in filling vacancies in positions funded by the agreement to qualified recipients of aid under Welfare and Institutions Code Section 11200 in accordance with Pub. Contract Code §10353.

19. SMALL BUSINESS PARTICIPATION AND DVBE PARTICIPATION REPORTING

REQUIREMENTS:

- a. If for this Agreement Grantee made a commitment to achieve small business participation, then Grantee must within 60 days of receiving final payment under this Agreement (or within such other time period as may be specified elsewhere in this Agreement) report to the awarding department the actual percentage of small business participation that was achieved. (Govt. Code § 14841.)
- b. If for this Agreement Grantee made a commitment to achieve disabled veteran business enterprise (DVBE) participation, then Grantee must within 60 days of receiving final payment under this Agreement (or within such other time period as may be specified elsewhere in this Agreement) certify in a report to the awarding department: (1) the total amount the prime Grantee received under the Agreement; (2) the name and address of the DVBE(s) that participated in the performance of the Agreement; (3) the amount each DVBE received from the prime Grantee; (4) that all payments under the Agreement have been made to the DVBE; and (5) the actual percentage of DVBE participation that was achieved. A person or entity that knowingly provides false information shall be subject to a civil penalty for each violation. (Mil. & Vets. Code § 999.5(d); Govt. Code § 14841.)

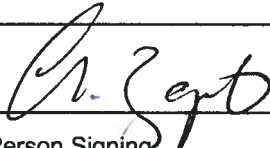
20. LOSS LEADER:

If this agreement involves the furnishing of equipment, materials, or supplies then the following statement is incorporated: It is unlawful for any person engaged in business within this state to sell or use any article or product as a "loss leader" as defined in Section 17030 of the Business and Professions Code. (PCC 10344(e).)

EXHIBIT D

CERTIFICATION

I, the official named below, CERTIFY UNDER PENALTY OF PERJURY that I am duly authorized to legally bind the prospective Grantee to the clause(s) listed below. This certification is made under the laws of the State of California.

Grantee Agency Name (Printed)	Federal ID Number
City of San Leandro Marina	94-6000421
By (Authorized Signature) 	
Printed Name and Title of Person Signing	
Chris Zapata, City Manager	
Date Executed 2/14/16	Executed in the County of Alameda

GRANTEE CERTIFICATION CLAUSES

1. STATEMENT OF COMPLIANCE:

Grantee has, unless exempted, complied with the nondiscrimination program requirements. (Gov. Code §12990 (a-f) and CCR, Title 2, Section 8103) (Not applicable to public entities.)

2. DRUG-FREE WORKPLACE REQUIREMENTS:

Grantee will comply with the requirements of the Drug-Free Workplace Act of 1990 and will provide a drug-free workplace by taking the following actions:

- a. Publish a statement notifying employees that unlawful manufacture, distribution, dispensation, possession or use of a controlled substance is prohibited and specifying actions to be taken against employees for violations.
- b. Establish a Drug-Free Awareness Program to inform employees about:
 - 1) the dangers of drug abuse in the workplace;
 - 2) the person's or organization's policy of maintaining a drug-free workplace;
 - 3) any available counseling, rehabilitation and employee assistance programs; and,
 - 4) penalties that may be imposed upon employees for drug abuse violations.
- c. Every employee who works on the proposed Agreement will:
 - 1) receive a copy of the company's drug-free workplace policy statement; and,
 - 2) agree to abide by the terms of the company's statement as a condition of employment on the Agreement.

Failure to comply with these requirements may result in suspension of payments under the Agreement or termination of the Agreement or both and Grantee may be ineligible for award of any future State agreements if the department determines that any of the following has occurred: the Grantee has made false certification, or violated the certification by failing to

carry out the requirements as noted above. (Gov. Code §8350 et seq.)

3. NATIONAL LABOR RELATIONS BOARD CERTIFICATION:

Grantee certifies that no more than one (1) final unappealable finding of contempt of court by a Federal court has been issued against Grantee within the immediately preceding two-year period because of Grantee's failure to comply with an order of a Federal court, which orders Grantee to comply with an order of the National Labor Relations Board. (Pub. Contract Code §10296) (Not applicable to public entities.)

4. CONTRACTS FOR LEGAL SERVICES \$50,000 OR MORE- PRO BONO REQUIREMENT:

Grantee hereby certifies that Grantee will comply with the requirements of Section 6072 of the Business and Professions Code, effective January 1, 2003.

Grantee agrees to make a good faith effort to provide a minimum number of hours of pro bono legal services during each year of the agreement equal to the lesser of 30 multiplied by the number of full time attorneys in the firm's offices in the State, with the number of hours prorated on an actual day basis for any contract period of less than a full year or 10% of its agreement with the State.

Failure to make a good faith effort may be cause for non-renewal of a state agreement for legal services, and may be taken into account when determining the award of future contracts/agreements with the State for legal services.

5. EXPATRIATE CORPORATIONS:

Grantee hereby declares that it is not an expatriate corporation or subsidiary of an expatriate corporation within the meaning of Public Contract Code Section 10286 and 10286.1, and is eligible to contract with the State of California.

6. SWEATFREE CODE OF CONDUCT:

a. All Grantees contracting for the procurement or laundering of apparel, garments or corresponding accessories, or the procurement of equipment, materials, or supplies, other than procurement related to a public works contract, declare under penalty of perjury that no apparel, garments or corresponding accessories, equipment, materials, or supplies furnished to the state pursuant to the contract have been laundered or produced in whole or in part by sweatshop labor, forced labor, convict labor, indentured labor under penal sanction, abusive forms of child labor or exploitation of children in sweatshop labor, or with the benefit of sweatshop labor, forced labor, convict labor, indentured labor under penal sanction, abusive forms of child labor or exploitation of children in sweatshop labor. The Grantee further declares under penalty of perjury that they adhere to the Sweatfree Code of Conduct as set forth on the California Department of Industrial Relations website located at www.dir.ca.gov, and Public Contract Code Section 6108.

b. The Grantee agrees to cooperate fully in providing reasonable access to the Grantee's records, documents, agents or employees, or premises if reasonably required by authorized officials of the contracting agency, the Department of Industrial Relations, or the Department of Justice to determine the Grantee's compliance with the requirements under paragraph (a).

7. **DOMESTIC PARTNERS:**

For contracts over \$100,000 executed or amended after January 1, 2007, the Grantee certifies that Grantee is in compliance with Public Contract Code section 10295.3.

EXHIBIT E

DOING BUSINESS WITH THE STATE OF CALIFORNIA

The following laws apply to persons or entities doing business with the State of California.

1. CONFLICT OF INTEREST:

Grantee needs to be aware of the following provisions regarding current or former state employees. If Grantee has any questions on the status of any person rendering services or involved with the Agreement, the awarding agency must be contacted immediately for clarification.

Current State Employees (PCC 10410):

- 1) No officer or employee shall engage in any employment, activity or enterprise from which the officer or employee receives compensation or has a financial interest and which is sponsored or funded by any state agency, unless the employment, activity or enterprise is required as a condition of regular state employment.
- 2) No officer or employee shall contract on his or her own behalf as an independent contractor with any state agency to provide goods or services.

Former State Employees (PCC 10411):

- 1) For the two-year period from the date he or she left state employment, no former state officer or employee may enter into a contract in which he or she engaged in any of the negotiations, transactions, planning, arrangements or any part of the decision-making process relevant to the contract while employed in any capacity by any state agency.
- 2) For the twelve-month period from the date he or she left state employment, no former state officer or employee may enter into a contract with any state agency if he or she was employed by that state agency in a policy-making position in the same general subject area as the proposed contract within the 12-month period prior to his or her leaving state service.

If Grantee violates any provisions of above paragraphs, such action by Grantee shall render this Agreement void. (PCC 10420)

Members of boards and commissions are exempt from this section if they do not receive payment other than payment of each meeting of the board or commission, payment for preparatory time and payment for per diem. (PCC 10430 (e))

2. LABOR CODE/WORKERS' COMPENSATION:

Grantee needs to be aware of the provisions which require every employer to be insured against liability for Worker's Compensation or to undertake self-insurance in accordance with the provisions, and Grantee affirms to comply with such provisions before commencing the performance of the work of this Agreement. (Labor Code Section 3700)

3. AMERICANS WITH DISABILITIES ACT:

Grantee assures the State that it complies with the Americans with Disabilities Act (ADA) of 1990, which prohibits discrimination on the basis of disability, as well as all applicable regulations and guidelines issued pursuant to the ADA. (42 U.S.C. 12101 et seq.)

4. **GRANTEE NAME CHANGE:**

An amendment is required to change the Grantee's name as listed on this Agreement. Upon receipt of legal documentation of the name change the State will process the amendment. Payment of invoices presented with a new name cannot be paid prior to approval of said amendment. Any changes of the Grantee's representative shall be notified to DBW within 30 days written notice on Grantee's letterhead.

5. **CORPORATE QUALIFICATIONS TO DO BUSINESS IN CALIFORNIA:**

- a. When agreements are to be performed in the state by corporations, the contracting agencies will be verifying that the Grantee is currently qualified to do business in California in order to ensure that all obligations due to the state are fulfilled.
- b. "Doing business" is defined in R&TC Section 23101 as actively engaging in any transaction for the purpose of financial or pecuniary gain or profit. Although there are some statutory exceptions to taxation, rarely will a corporate Grantee performing within the state not be subject to the franchise tax.
- c. Both domestic and foreign corporations (those incorporated outside of California) must be in good standing in order to be qualified to do business in California. Agencies will determine whether a corporation is in good standing by calling the Office of the Secretary of State.

6. **RESOLUTION:**

A county, city, district, or other local public body must provide the State with a copy of a resolution, order, motion, or ordinance of the local governing body which by law has authority to enter into an agreement, authorizing execution of the agreement.

7. **AIR OR WATER POLLUTION VIOLATION:**

Under the State laws, the Grantee shall not be: (1) in violation of any order or resolution not subject to review promulgated by the State Air Resources Board or an air pollution control district; (2) subject to cease and desist order not subject to review issued pursuant to Section 13301 of the Water Code for violation of waste discharge requirements or discharge prohibitions; or (3) finally determined to be in violation of provisions of federal law relating to air or water pollution.

8. **PAYEE DATA RECORD FORM STD. 204:**

This form must be completed by all Grantees that are not another state agency or other governmental entity.

EXHIBIT F

Bid/Proposal Attachment regarding the Darfur Contracting Act of 2008

Effective January 1, 2009, all Invitations for Bids (IFB) or Requests for Proposals (RFP) for goods or services must address the requirements of the Darfur Contracting Act of 2008 (Act). (Public Contract Code sections 10475, et seq.; Stats. 2008, Ch. 272). The Act was passed by the California Legislature and signed into law by the Governor to preclude State agencies generally from contracting with "scrutinized" companies that do business in the African nation of Sudan (of which the Darfur region is a part), for the reasons described in Public Contract Code section 10475.

A scrutinized company is a company doing business in Sudan as defined in Public Contract Code section 10476. Scrutinized companies are ineligible to, and cannot, bid on or submit a proposal for a contract with a State agency for goods or services. (Public Contract Code section 10477(a)).

Therefore, Public Contract Code section 10478 (a) requires a company that currently has (or within the previous three years has had) business activities or other operations outside of the United States to certify that it is not a "scrutinized" company when it submits a bid or proposal to a State agency. (See # 1 on the sample Attachment).

A scrutinized company may still, however, submit a bid or proposal for a contract with a State agency for goods or services if the company first obtains permission from the Department of General Services (DGS) according to the criteria set forth in Public Contract Code section 10477(b). (See # 2 on the sample Attachment).

The following sample Attachment may be included in an IFB or RFP to satisfy the Act's certification requirements of bidders and proposers.

EXHIBIT F – DARFUR CONTRACTING ACT

Pursuant to Public Contract Code section 10478, if a bidder or proposer currently or within the previous three years has had business activities or other operations outside of the United States, it must certify that it is not a “scrutinized” company as defined in Public Contract Code section 10476.

Therefore, to be eligible to submit a bid or proposal, please complete only one of the following three paragraphs (via initials for Paragraph # 1 or Paragraph # 2, or via initials and certification for Paragraph # 3):

1. *ch* We do not currently have, or we have not had within the previous three years, business activities or other operations outside of the United States.

OR

2. _____ We are a scrutinized company as defined in Public Contract Code section 10476, but we have received written permission from the Department of General Services (DGS) to submit a bid or proposal pursuant to Public Contract Code section 10477(b). A copy of the written permission from DGS is included with our bid or proposal.

OR

3. _____ We currently have, or we have had within the previous three years, business activities or other operations outside of the United States, but we certify below that we are not a scrutinized company as defined in Public Contract Code section 10476.

CERTIFICATION For # 3.

I, the official named below, CERTIFY UNDER PENALTY OF PERJURY that I am duly authorized to legally bind the prospective proposer/bidder to the clause listed above in # 3. This certification is made under the laws of the State of California.

Grantee Agency Name (Printed)		Federal ID Number
City of San Leandro Marina		94-6000421
By (Authorized Signature)		
Printed Name and Title of Person Signing		
Date Executed	Executed in the County of	
	Alameda	

YOUR BID OR PROPOSAL WILL BE DISQUALIFIED UNLESS YOUR BID OR PROPOSAL INCLUDES THIS FORM WITH EITHER PARAGRAPH #1 OR #2 INITIALED OR PARAGRAPH #3 INITIALED AND CERTIFIED

IN THE CITY COUNCIL OF THE CITY OF SAN LEANDRO

RESOLUTION NO. 2016-013

RESOLUTION APPROVING AN \$81,000 SURRENDERED AND ABANDONED VESSEL EXCHANGE (SAVE) GRANT AGREEMENT BETWEEN THE CITY OF SAN LEANDRO AND THE STATE OF CALIFORNIA, DEPARTMENT OF PARKS AND RECREATION, DIVISION OF BOATING AND WATERWAYS FOR ABATEMENT OF ABANDONED AND SURRENDERED WATERCRAFT AT THE SAN LEANDRO MARINA AND THE SAN LEANDRO SHORELINE

WHEREAS, an agreement between the City of San Leandro and the State of California, Department of Parks and Recreation, Division of Boating and Waterways, a copy of which is attached, has been presented to this City Council; and

WHEREAS, the City Council is familiar with the contents thereof; and

WHEREAS, the City Manager recommends approval of said agreement.

NOW, THEREFORE, the City Council of the City of San Leandro does RESOLVE as follows:

An appropriation by City Council for \$81,000 from the Shoreline Fund has been established and will be replenished by grant proceeds.

That said agreement is hereby approved and execution by the City Manager is hereby authorized.


Introduced by Councilmember Prola and passed and adopted this 1st day of February, 2016, by the following vote:

Members of the Council:

AYES: Councilmembers Cox, Lee, Lopez, Prola, Reed, Thomas; Mayor Cutter (7)

NOES: None (0)

ABSENT: None (0)

ATTEST: 

Tamika Greenwood, City Clerk