

## **SERVICE PROVIDER AGREEMENT**

This SERVICE PROVIDER AGREEMENT ("**Agreement**") is entered into this 1st day of July, 2020 ("**Effective Date**"), by and between the CITY OF ALAMEDA, a municipal corporation (the "**City**"), and CLEAN LAKES, INC., a California corporation, whose address is **2150 FRANKLIN CANYON ROAD, MARTINEZ, CALIFORNIA 94553** (the "**Provider**"), in reference to the following facts and circumstances:

### **RECITALS**

- A. City is a municipal corporation duly organized and validly existing under the laws of the State of California with the power to carry on its business as it is now being conducted under the statutes of the State of California and the Charter of the City.
- B. The City is in need of the following services: Vegetation and Debris Management, Water Quality Testing and Aquatic Pesticide Application Services for the South Shore Lagoons. City staff issued a Request for Proposal on September 4, 2019 and after a submittal period received two submitted proposals on October 8, 2019. Staff reviewed the proposals, interviewed qualified firms and selected the service provider that best meets the City's needs.
- C. Provider is specially trained, experienced and competent to perform the special services which will be required by this Agreement.
- D. City and Provider desire to enter into an agreement for Vegetation and Debris Management, Water Quality Testing and Aquatic Pesticide Application Services for the South Shore Lagoons, upon the terms and conditions herein.

### **AGREEMENT**

NOW, THEREFORE, in consideration of the forgoing, which are incorporated herein by reference, and for good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the City and Provider agree as follows:

1. **TERM:**

The term of this Agreement shall commence on the 1st day of July 2020, and shall terminate on the 30th day of June 2025, unless terminated earlier as set forth herein.

2. **SERVICES TO BE PERFORMED:**

Provider agrees to do all necessary work at its own cost and expense, to furnish all labor, tools, equipment, materials, except as otherwise specified, and to do all necessary work included in Exhibit A as requested. The Provider acknowledges that the work plan included in Exhibit A is tentative and does not commit the City to request Provider to perform all tasks included therein.



**3. COMPENSATION TO PROVIDER:**

a. By the 7<sup>th</sup> day of each month, Provider shall submit to the City an invoice for the total amount of work done the previous month. Pricing and accounting of charges are to be according to the fee schedule as set forth in Exhibit A and incorporated herein by this reference. Extra work must be approved in writing by the City Manager or his/her designee prior to performance and shall be paid on a Time and Material basis as set forth in Exhibit A.

b. The total five-year compensation for this Agreement shall not exceed \$598,856.92. Use of contingency shall be for items of work outside the original scope and requires prior written authorization by the City.

Compensation for work done under this Agreement, shall not exceed as follows:

Contract	Est. CPI	CPI Total Each Year	TOTAL
FY 20-21	0%	\$ 0.00	\$115,075.38
FY21-22	2%	\$2,301.51	\$117,376.89
FY22-23	2%	\$2,347.54	\$119,724.43
FY23-24	2%	\$2,394.49	\$122,118.92
FY24-25	2%	\$2,442.38	\$124,561.30
<b>TOTAL FIVE YEARS</b>	<b>8%</b>	<b>\$9,485.92</b>	<b>\$598,856.92</b>

**4. TIME IS OF THE ESSENCE:**

Provider and City agree that time is of the essence regarding the performance of this Agreement.

**5. STANDARD OF CARE:**

Provider agrees to perform all services hereunder in a manner commensurate with the prevailing standards of like professionals or service providers, as applicable, in the San Francisco Bay Area and agrees that all services shall be performed by qualified and experienced personnel who are not employed by the City.

**6. INDEPENDENT PARTIES:**

Provider hereby declares that Provider is engaged as an independent business and Provider agrees to perform the services as an independent contractor. The manner and means of conducting the services and tasks are under the control of Provider, except to the extent they are limited by statute, rule or regulation and the express terms of this Agreement. No civil service status or other right of employment will be acquired by virtue of Provider's services. None of the benefits provided by City to its employees, including but not limited to unemployment insurance, workers' compensation plans, vacation and sick leave are available from City to Provider, its employees or agents. Deductions shall not be made for any state or federal taxes, FICA payments, PERS payments, or other purposes normally associated with an employer-employee relationship from any compensation due to Provider. Payments of the above items, if required, are the responsibility of Provider.



7. **IMMIGRATION REFORM AND CONTROL ACT (IRCA):**

Provider assumes any and all responsibility for verifying the identity and employment authorization of all of its employees performing work hereunder, pursuant to all applicable IRCA or other federal, or state rules and regulations. Provider shall indemnify, defend, and hold City harmless from and against any loss, damage, liability, costs or expenses arising from any noncompliance of this provision by Provider.

8. **NON-DISCRIMINATION:**

Consistent with the City's policy and state and federal law that harassment and discrimination are unacceptable conduct, Provider and its employees, contractors, and agents shall not harass or discriminate against any job applicant, City employee, or any other person on the basis of any kind of any statutorily (federal, state or local) protected class, including but not limited to: race, religious creed, color, national origin, ancestry, physical disability (including HIV and AIDS), mental disability, medical condition (ex. Cancer), genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, pregnancy, political affiliation, military and veteran status or legitimate Union activities. Provider agrees that any violation of this provision shall constitute a material breach of this Agreement.

9. **HOLD HARMLESS:**

a. Provider shall indemnify, defend, and hold harmless the City, its City Council, boards, commissions, officials, employees, and volunteers ("**Indemnitees**") from and against any and all loss, damages, liability, claims, suits, costs and expenses whatsoever, including reasonable attorneys' fees ("**Claims**"), arising from or in any manner connected to Provider's negligent, reckless or intentional act or omission, whether alleged or actual, regarding performance of services or work conducted or performed pursuant to this Agreement. If Claims are filed against Indemnitees which allege negligence, recklessness or willful misconduct on behalf of the Provider, Provider shall have no right of reimbursement against Indemnitees for the costs of defense even if negligence, recklessness or willful misconduct is not found on the part of Provider. However, Provider shall not be obligated to indemnify Indemnitees from Claims arising from the sole negligence or willful misconduct of Indemnitees.

b. **Indemnification for Claims for Professional Liability Only:** As to Claims for professional liability only, Provider's obligation to defend Indemnitees (as set forth above) is limited as provided in California Civil Code Section 2782.8.

c. Provider's obligation to indemnify, defend and hold harmless Indemnities shall expressly survive the expiration or early termination of this Agreement.

10. **INSURANCE:**

a. On or before the commencement of the terms of this Agreement, Provider shall furnish the City's Risk Manager with certificates showing the type, amount, class of operations covered, effective dates and dates of expiration of insurance coverage in compliance with subsections 10A, B, C and D. Such certificates, which do not limit Provider's indemnification, shall also contain substantially the following statement:



“Should any of the above insurance covered by this certificate be canceled or coverage reduced before the expiration date thereof, the insurer affording coverage shall provide ten (10) days’ advance written notice to the City of Alameda. Attention: Risk Manager.”

b. It is agreed that Provider shall maintain in force at all times during the performance of this Agreement all appropriate coverage of insurance required by this Agreement with an insurance company that is acceptable to City and licensed to do insurance business in the State of California.

c. Provider shall deliver updated insurance certificates to the City at the address described in Section 17.f. prior to the expiration of the existing insurance certificate for the duration of the term of Agreement. Endorsements naming the City, its City Council, boards, commissions, officials, employees, and volunteers as additional insured shall be submitted with the insurance certificates.

\_\_\_\_\_  
Provider Initials

A. COVERAGE:

Provider shall maintain the following insurance coverage:

(1) Workers’ Compensation:

Statutory coverage as required by the State of California.

(2) Liability:

Commercial general liability coverage in the following minimum limits:

Bodily Injury:                      \$1,000,000 each occurrence  
   \$2,000,000 aggregate - all other

Property Damage:                \$1,000,000 each occurrence  
   \$2,000,000 aggregate

If submitted, combined single limit policy with aggregate limits in the amounts of \$2,000,000 will be considered equivalent to the required minimum limits shown above. Additional Insured Endorsement naming the City, its City Council, boards, commissions, officials, employees, and volunteers is required.

(3) Automotive:

Comprehensive automobile liability coverage (any auto) in the following minimum limits:

Bodily injury:                      \$1,000,000 each occurrence  
Property Damage:                \$1,000,000 each occurrence

or

Combined Single Limit:        \$2,000,000 each occurrence



Additional Insured Endorsement naming the City, its City Council, boards, commissions, officials, employees, and volunteers is required.

B. SUBROGATION WAIVER:

Provider agrees that in the event of loss due to any of the perils for which it has agreed to provide comprehensive general and automotive liability insurance, Provider shall look solely to its insurance for recovery. Provider hereby grants to City, on behalf of any insurer providing comprehensive general and automotive liability insurance to either Provider or City with respect to the services of Provider herein, a waiver of any right to subrogation which any such insurer of said Provider may acquire against City by virtue of the payment of any loss under such insurance.

C. FAILURE TO SECURE:

If Provider at any time during the term hereof should fail to secure or maintain the foregoing insurance, City shall be permitted to obtain such insurance in the Provider's name or as an agent of the Provider and shall be compensated by the Provider for the costs of the insurance premiums at the maximum rate permitted by law and computed from the date written notice is received that the premiums have not been paid.

D. ADDITIONAL INSURED:

City, its City Council, boards, commissions, officials, employees, and volunteers shall be named as an additional insured under all insurance coverages, except workers' compensation and professional liability insurance. The naming of an additional insured shall not affect any recovery to which such additional insured would be entitled under this policy if not named as such additional insured. An additional insured named herein shall not be held liable for any premium, deductible portion of any loss, or expense of any nature on this policy or any extension thereof. Any other insurance held by an additional insured shall not be required to contribute anything toward any loss or expense covered by the insurance provided by this policy.

E. SUFFICIENCY OF INSURANCE:

The insurance limits required by City are not represented as being sufficient to protect Provider. Provider is advised to consult Provider's insurance broker to determine adequate coverage for Provider.

11. CONFLICT OF INTEREST:

Provider warrants that it is not a conflict of interest for Provider to perform the services required by this Agreement. Provider may be required to fill out a conflict of interest form if the services provided under this Agreement require Provider to make certain governmental decisions or serve in a staff capacity as defined in Title 2, Division 6, Section 18700 of the California Code of Regulations.

12. PROHIBITION AGAINST TRANSFERS:

a. Provider shall not assign, sublease, hypothecate, or transfer this Agreement, or any interest therein, directly or indirectly, by operation of law or otherwise, without prior written consent of the City Manager. Provider shall submit a written request for consent to transfer to the City Manager at least thirty (30) days in advance of the desired transfer. The City Manager or his



or her designee may consent or reject such request in his/her sole and absolute discretion. Any attempt to do so without said consent shall be null and void, and any assignee, sublessee, hypothecate or transferee shall acquire no right or interest by reason of such attempted assignment, hypothecation or transfer. However, claims for money against the City under this Agreement may be assigned by Provider to a bank, trust company or other financial institution without prior written consent.

b. The sale, assignment, transfer or other disposition of any of the issued and outstanding capital stock of Provider, or of the interest of any general partner or joint venturer or syndicate member or cotenant, if Provider is a partnership or joint venture or syndicate or cotenancy, which shall result in changing the control of Provider, shall be construed as an assignment of this Agreement. Control means fifty percent or more of the voting power of the corporation.

### **13. APPROVAL OF SUB-PROVIDERS:**

a. Only those persons and/or businesses whose names and resumés are attached to this Agreement shall be used in the performance of this Agreement. However, if after the start of this Agreement, Provider wishes to use sub-providers, at no additional costs to the City, then Provider shall submit a written request for consent to add sub-providers including the names of the sub-providers and the reasons for the request to the City Manager at least five (5) days in advance. The City Manager may consent or reject such requests in his/her sole and absolute discretion.

b. Each sub-provider shall be required to furnish proof of workers' compensation insurance and shall also be required to carry general, automobile and professional liability insurance (as applicable) in reasonable conformity to the insurance carried by the Provider. In addition, any tasks or services performed by sub-providers shall be subject to each provision of this Agreement.

c. The requirements in this Section 13 shall not apply to persons who are merely providing materials, supplies, data or information which the Provider then analyzes and incorporates into its work product.

### **14. PERMITS AND LICENSES:**

Provider, at its sole expense, shall obtain and maintain during the term of this Agreement, all appropriate permits, certificates and licenses, including a City Business License that may be required in connection with the performance of the services and tasks hereunder.

### **15. REPORTS:**

a. Each and every report, draft, work product, map, record and other document produced, prepared or caused to be prepared by Provider pursuant to or in connection with this Agreement shall be the exclusive property of City.

b. No report, information or other data given to or prepared or assembled by Provider pursuant to this Agreement shall be made available to any individual or organization by Provider without prior approval of the City Manager or his/her designee.





c. Provider shall, at such time and in such form as City Manager or his/her designee may require, furnish reports concerning the status of services and tasks required under this Agreement.

**16. RECORDS:**

a. Provider shall maintain complete and accurate records with respect to the services, tasks, work, documents and data in sufficient detail to permit an evaluation of the Provider's performance under the Agreement, as well as maintain books and records related to sales, costs, expenses, receipts and other such information required by City that relate to the performance of the services and tasks under this Agreement (collectively the "**Records**").

b. All Records shall be maintained in accordance with generally accepted accounting principles and shall be clearly identified and readily accessible. Provider shall provide free access to the Records to the representatives of City or its designees during regular business hours upon reasonable prior notice. The City has the right to examine and audit the Records, and to make copies or transcripts therefrom as necessary, and to allow inspection of all proceedings and activities related to this Agreement. Such Records, together with supporting documents, shall be kept separate from other documents and records and shall be maintained by Provider for a period of three (3) years after receipt of final payment.

c. If supplemental examination or audit of the Records is necessary due to concerns raised by City's preliminary examination or audit of records, and the City's supplemental examination or audit of the records discloses a failure to adhere to appropriate internal financial controls, or other breach of this Agreement or failure to act in good faith, then Provider shall reimburse the City for all reasonable costs and expenses associated with the supplemental examination or audit.

**17. NOTICES:**

a. All notices shall be in writing and delivered: (i) by hand; or (ii) sent by registered, express, or certified mail, with return receipt requested or with delivery confirmation requested from the U.S. postal service; or (iii) sent by overnight or same day courier service at the party's respective address listed in this Section.

b. Each notice shall be deemed to have been received on the earlier to occur of: (x) actual delivery or the date on which delivery is refused; or (y) three (3) days after notice is deposited in the U.S. mail or with a courier service in the manner described above (Sundays and City holidays excepted).

c. Either party may, at any time, change its notice address (other than to a post office box address) by giving the other party three (3) days prior written notice of the new address.

d. All notices, demands, requests, or approvals from Provider to City shall be addressed to City at:

City of Alameda  
Maintenance Service Center  
1616 Fortmann Way

Alameda, CA 94501  
ATTENTION: Patrick Papalagi, Public Works Supervisor  
Ph: (510) 747-7900 / Fax: (510) 521-8762

B. All notices, demands, requests, or approvals from City to Provider shall be addressed to Provider at:

Clean Lakes  
Tom McNabb  
2150 Franklin Canyon Road  
Martinez, CA 94553

C. All updated insurance certificates from Provider to City shall be addressed to City at:

City of Alameda  
Maintenance Service Center  
1616 Fortmann Way  
Alameda, CA 94501  
ATTENTION: Gail Carlson  
Ph: (510) 747-7925 / Fax: (510) 521-8762

**18. SAFETY:**

a. The Provider will be solely and completely responsible for conditions of all vehicles owned or operated by Provider, including the safety of all persons and property during performance of the services and tasks under this Agreement. This requirement will apply continuously and not be limited to normal working hours. In addition, Provider will comply with all safety provisions in conformance with U.S. Department of Labor Occupational Safety and Health Act, any equivalent state law, and all other applicable federal, state, county and local laws, ordinances, codes, and any regulations that may be detailed in other parts of the Agreement. Where any of these are in conflict, the more stringent requirements will be followed. The Provider's failure to thoroughly familiarize itself with the aforementioned safety provisions will not relieve it from compliance with the obligations and penalties set forth herein.

b. The Provider will immediately notify the City within 24 hours of any incident of death, serious personal injury or substantial property damage that occurs in connection with the performance of this Agreement. The Provider will promptly submit to the City a written report of all incidents that occur in connection with this Agreement. This report must include the following information: (i) name and address of injured or deceased person(s); (ii) name and address of Provider's employee(s) involved in the incident; (iii) name and address of Provider's liability insurance carrier; (iv) a detailed description of the incident; and (v) a police report.

**19. TERMINATION:**

a. In the event Provider fails or refuses to perform any of the provisions hereof at the time and in the manner required hereunder, Provider shall be deemed in default in the performance of this Agreement. If such default is not cured within two (2) business days after receipt by



Provider from City of written notice of default, specifying the nature of such default and the steps necessary to cure such default, City may thereafter immediately terminate the Agreement forthwith by giving to the Provider written notice thereof.

b. The foregoing notwithstanding, City shall have the option, at its sole discretion and without cause, of terminating this Agreement by giving seven (7) days' prior written notice to Provider as provided herein.

c. Upon termination of this Agreement either for cause or for convenience, each party shall pay to the other party that portion of compensation specified in this Agreement that is earned and unpaid prior to the effective date of termination. The obligation of the parties under this Section 19.c. shall survive the expiration or early termination of this Agreement.

**20. ATTORNEYS' FEES:**

In the event of the bringing of any action or suit by a party hereto against the other party by reason of any breach of any covenants, conditions, obligation or provision arising out of this Agreement, the prevailing party shall be entitled to recover from the non-prevailing party all of its costs and expenses of the action or suit, including reasonable attorneys' fees, experts' fees, all court costs and other costs of action incurred by the prevailing party in connection with the prosecution or defense of such action and enforcing or establishing its rights hereunder (whether or not such action is prosecuted to a judgment). For the purposes of this Agreement, reasonable fees of attorneys of the Alameda City Attorney's office shall be based on the fees regularly charged by private attorneys with the equivalent number of years of experience in the subject matter area of the law for which the services were rendered who practice in Alameda County in law firms with approximately the same number of attorneys as employed by the Alameda City Attorney's Office.

**21. COMPLIANCE WITH ALL APPLICABLE LAWS:**

During the term of this Agreement, Provider shall keep fully informed of all existing and future state and federal laws and all municipal ordinances and regulations of the City of Alameda which affect the manner in which the services or tasks are to be performed by the Provider, as well as all such orders and decrees of bodies or tribunals having any jurisdiction or authority over the same. Provider shall comply with all applicable laws, state and federal and all ordinances, rules and regulations enacted or issued by City.

**22. CONFLICT OF LAW:**

This Agreement shall be interpreted under, and enforced by the laws of the State of California without regard to any choice of law rules which may direct the application of laws of another jurisdiction. The Agreement and obligations of the parties are subject to all valid laws, orders, rules, and regulations of the authorities having jurisdiction over this Agreement (or the successors of those authorities). Any suits brought pursuant to this Agreement shall be filed with the courts of the County of Alameda, State of California.

**23. WAIVER:**

A waiver by City of any breach of any term, covenant, or condition contained herein shall not be deemed to be a waiver of any subsequent breach of the same or any other term, covenant, or condition contained herein, whether of the same or a different character.

**24. INTEGRATED CONTRACT:**

The Recitals and Exhibits are a material part of this Agreement and are expressly incorporated herein. This Agreement represents the full and complete understanding of every kind or nature whatsoever between the parties hereto, and all preliminary negotiations and agreements of whatsoever kind or nature are merged herein. No verbal agreement or implied covenant shall be held to vary the provisions hereof. Any modification of this Agreement will be effective only by written execution signed by both City and Provider.

**25. DEPARTMENT OF INDUSTRIAL RELATIONS COMPLIANCE AND PREVAILING WAGE REQUIREMENTS ON PUBLIC WORKS PROJECTS:**

Effective January 1, 2015, no Contractor or Subcontractor may be listed on a bid proposal for a public works project (submitted after March 1, 2015) unless registered with the Department of Industrial Relations pursuant to Labor Code Section 1725.5 (with the limited exceptions from this requirement for bid purposed only under Labor code Section 1771.1(a)). Register at <https://efiling.dir.ca.gov/PWCR>

No Contractor or Subcontractor may be awarded a contract for public work on a public works project (awarded on or after April 1, 2015) unless registered with the Department of Industrial Relations pursuant to Labor Code Section 1725.5.

This project is subject to compliance monitoring and enforcement by the Department of Industrial Relations.

The Prime Contractor is required to post job site notices prescribed by regulations. See 8 Calif. Code Regulation §16451(d).

Effective April 1, 2015, All Contractors and Subcontractors must furnish electronic certified payroll records directly to the Labor Commissioner at: <https://apps.dir.ca.gov/ecpr/das/altlogin>

**26. REGISTRATION OF CONTRACTORS:**

Before submitting bids, contractors shall be licensed in accordance with the provisions of Chapter 9, Division 3, of the Business and Professional Code of the State of California.

**27. PCC SECTION 9204 SUMMARY - CLAIMS SUBMITTED BETWEEN 01-01-2017 AND 01-01-2020.:**

Notwithstanding anything else to the contrary stated in the Information For Bidders (IFB) or the Contract Documents, all claims, regardless of dollar amount, submitted between January 1, 2017 and January 1, 2020 shall be governed by PCC Section 9204 and this section.

The following provisions and procedures shall apply:

A. For the purposes of this section, the term "Claim", "Contractor", "mediation", "Public Entity" "Public works project" and "Subcontractor" shall have the meaning provided for in PCC Section 9204.



B. Contractor shall submit each Claim (whether for a time extension, payment for money or damages) in writing and in compliance with PCC Section 9204. Contractor must include reasonable documentation to support each claim.

C. Upon receipt of a Claim, the City shall conduct a reasonable review and respond in writing within 45 days of receipt and shall identify in a written statement what portions of the claim are disputed and undisputed. Undisputed portions of the Claim shall be process and paid within 60 days of the written statement. Undisputed amounts not paid in a timely manner shall bear interest at 7% per annum. The City and Contractor may mutually agree to extend the 45 day response time.

D. If the City needs approval from the City Council to provide a written statement, the 45 days may be extended to 3 days following the next duly noticed public meeting pursuant to PCC Section 9204(d)(1)(C).

E. If the City fails to timely respond to a Claim or if Contractor disputes the City's response, Contractor may submit a written demand for an informal meet and confer conference with the City to settle the issues in dispute. The demand must be sent via registered or certified mail, return receipt requested. Upon receipt, the City shall schedule the conference within 30 days.

F. Within 10 business days following the informal meet and confer conference, the City shall submit to Contractor a written statement describing any issues remaining in dispute and that portion which is undisputed. Undisputed portions of the Claim shall be process and paid within 60 days of the written statement. Undisputed amounts not paid in a timely manner shall bear interest at 7% per annum. The issues remaining in dispute shall be submitted to non-binding mediation. If the City and Contractor mutually agree on a mediator, each party shall pay equal portions of all associated costs. If within 10 business days, the City and Contractor cannot agree on a mediator, each party shall select a mediator (paying all costs associated with their selected mediator), and those mediators shall select a qualified neutral third party to mediate the disputed issues. The City and Contractor shall pay equal portions of all associated costs of such third party mediator.

G. Unless otherwise agreed by the City and Contractor, any mediation conducted hereunder shall excuse any further obligation under Public Contract Code Section 20104.4 to mediate after litigation has commenced.

H. The City reserves all rights and remedies that it has pursuant to the Construction Contract, plans and specification, at law or in equity which are not in conflict with PCC 9204.

I. This Section shall be automatically extended if legislation is lawfully passed which extends the terms of Public Contract Code Section 9204 beyond January 1, 2020.

**28. CAPTIONS:**

The captions in this Agreement are for convenience only, are not a part of the Agreement and in no way affect, limit or amplify the terms or provisions of this Agreement.

**26. COUNTERPARTS:**

This Agreement may be executed in any number of counterparts (including by fax, PDF, DocuSign, or other electronic means), each of which shall be deemed an original, but all of which shall constitute one and the same instrument.

**27. SIGNATORY:**



By signing this Agreement, signatory warrants and represents that he/she executed this Agreement in his/her authorized capacity and that by his/her signature on this Agreement, he/she or the entity upon behalf of which he/she acted, executed this Agreement.

**28. CONTROLLING AGREEMENT:**

In the event of a conflict between the terms and conditions of this Agreement and any other terms and conditions wherever contained, including, without limitation, terms and conditions included within exhibits, the terms and conditions of this Agreement shall control and be primary.

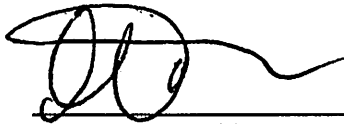
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IN WITNESS WHEREOF, the parties have each caused this Agreement to be duly executed on its behalf as of the Effective Date.

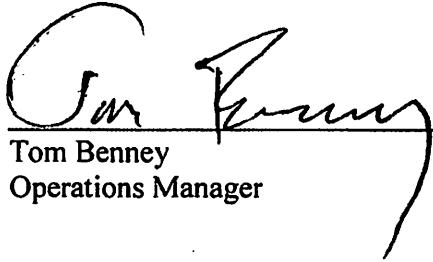
CLEAN LAKES, INC.  
A California Corporation



Thomas McNabb  
President

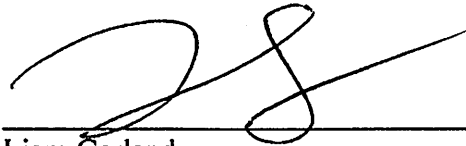
CITY OF ALAMEDA  
A Municipal Corporation

Eric J. Levitt  
City Manager



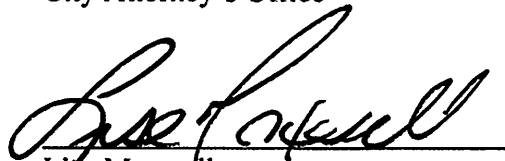
Tom Benney  
Operations Manager

RECOMMENDED FOR APPROVAL



Liam Garland  
Public Works Director

APPROVED AS TO FORM:  
City Attorney's Office



Lisa Maxwell  
Assistant City Attorney

### Scope of Services

The City and AWLHOA Board shall provide Clean Lakes Inc (CLI) access to the lagoon system to perform the following scope of services. The Cost Schedule for these services is included as **Exhibit B**. CLI will leave the work site in an acceptable and clean manner at the end of each work day. CLI will clear the street and all grounds occupied by the CLI of all rubbish, excess materials, temporary structures, and equipment; and all parts of the work will be left in a neat and presentable condition.

**Inspection and Water Quality Sampling:** CLI will inspect the lagoons on a weekly basis to identify and prepare for nuisance plant and algae growth and evaluate ambient water quality indicators.

- CLI will provide the City with an accurate assessment of the lagoon conditions with respect to the emergence of aquatic plant nuisance conditions and other issues. Email communication has been used in the past between CLI, the City and the AWLHOA and has been effective at reaching decisions on treatment timing based on the emergence of aquatic plants that may develop into nuisance proportions. It is expected that if the drawdown schedule and the APAP is altered as outlined above, a reduction in the potential for nuisance growths of aquatic vegetation will occur. Other tools and techniques that will be utilized will include pictures of potential problem areas that can be included in email communications.
- CLI will collect water quality samples from a depth of 1 foot below the water's surface. Samples will be analyzed by a certified laboratory, and will be collected and stored in suitable containers provided by the laboratory. Routine monthly water quality sampling, not associated with aquatic pesticide application, will include the following indicators at the following five (5) distinct locations within the lagoon system:
  - i) Monthly monitoring will consist of the following:
  - ii) Temperature, dissolved oxygen (DO), salinity, and pH – Tested at three feet (3') from the surface at five (5) locations – L1A, L2A, L3A, L4A, and L5A; and



clarity (secchi disk measurement) – Tested at required depth of clarity at five (5) locations – L1A, L2A, L3A, L4A and L5A.

- iii) Fecal Coliform (FC) – Tested at one (1') foot from the surface at five (5) locations – L1A, L2A, L3A, L4A and L5A. Levels of FC greater than 400 MPN/100ml will be reported immediately to the Public Works Superintendent and additional samples will be taken at the direction of the Public Works Superintendent.

- iv) The parameters to be tested include the following:

- o Temperature
- o Dissolved Oxygen
- o Salinity
- o pH
- o Turbidity
- o Fecal Coliform

Samples that exceed water quality objectives designated for the San Francisco Bay will be reported to the City immediately. Follow up sampling will be required to demonstrate exceedance is resolved. All results to be included in the monthly report, described below.

During the year additional tests may be utilized to establish a database for managing and monitoring the water quality of the lagoons. CLI has included costs for the following tests, on a cost per test per location basis, should these tests be needed in the future for monitoring purposes.

- o CLI has provided costs for the following tests that will only be performed as directed by the Public Works Superintendent on a cost per test basis.

- i) Chlorophyll a – Tested at a three foot (3) from surface.

- ii) Total Coliform – Tested at one foot (1) from surface. Levels of Total Coliform greater than 1000 CFU will be reported immediately to the Deputy Public Works Director

- iii) Fecal streptococcus – Tested at one foot (1) from surface.

- iv) Escherichia coli (e. coli) – Tested at one foot (1) from surface.

- v) Orthophosphates PO<sub>4</sub> – Tested at one foot (1) from surface.

- vi) Nitrates NO<sub>3</sub> – Tested one foot (1) from surface, or at a depth to be determined.
- vii) Nutrients – Tested at one foot (1) from bottom, or at a depth to be determined.
- CLI will provide the City the Inspection and Water Quality recordkeeping form, included as Attachment 1, following the weekly inspection activities. The form has a section for “comments” where a note if any finding would be addressed as part of the already approved monthly work plan (“routine maintenance”), and/or an approved chemical treatment. For inspection findings not addressed by routine maintenance and/or an approved chemical treatment, CLI will recommend a solution for the City and AWLHOA to discuss and authorize, as decided.

**Debris and Trash Removal:** Routine debris and trash removal from the lagoons will be performed weekly, at a minimum. CLI will be responsible for providing all the necessary equipment to collect and properly haul and dispose of material collected (organic and inorganic).

- The Debris and Trash Removal field form (Attachment II) will be completed for each day of service. The City shall be notified at the completion of service to sign off on the form, approving the work to be satisfactory. The form includes a description of activities performed and number of 32-gallon cans of debris removed from each lagoon.
- CLI will take before and after remediation photographs of each of the areas outlined below, and the photos will be provided to the City at the time the services are performed at the following locations:
  - i. Court Street (east end)
  - ii. Mini Park (at south end of Oak Street)
- Special attention for debris and trash removal will be given to the following areas:
  - i. Court Street (east end)
  - ii. Grand Street Bridge, N/E corner
  - iii. Mini Park (at south end of Oak Street)
  - iv. Burbank Street and Portola Avenue
  - v. Inside and outside the Willow Street Weir



vi. Willow Street (east)

vii. Broadway

City signature on the debris and trash removal field form means the contract obligations for that week were met.

**Aquatic Pesticide Application** The use of aquatic pesticides will be performed in strict compliance with Water Quality Order No. 2013-0002-DWQ, Statewide General National Pollutant Discharge Elimination System Permit for Residual Pesticide Discharges to Waters of the United States from Algae and Aquatic Weed Control Applications, General Permit No. CAG990005 ("General Permit"), WDID NO. 2 01AP00013, the City's Aquatic Pesticide Application Plan (APAP) and the City of Alameda Integrated Pest Management Policy. CLI developed the APAP that specifies the aquatic herbicides and algaecides that may be used in the aquatic plant and algae control program, the criteria for when these are used, the best management practices that are required during application, the monitoring and reporting requirements, and sampling methodology.

CLI would use the forms included in the APAP to track information required for each treatment event.

- Indicators (thresholds) that will be used to trigger a chemical treatment are outlined as follows:
  - The decision to implement aquatic vegetation control treatments is based on the plant's growth stage in the spring of each season, and re-evaluated during the summer months. Planktonic and filamentous algae treatments are based on growth as well their nuisance level as they develop, typically through the spring and summer months. When submerged vegetation or planktonic algae is treated in an early growth stage, there is less plant biomass that is controlled, and decomposing in the system, which helps reduce and protect against impacts to dissolved oxygen depletion from decomposing biomass. Based on nuisance levels of aquatic plant growth, and or algae densities and their potential to impact beneficial uses of the lagoon system, CLI's Pest Control Advisor (PCA) will review control options. Based on the PCA's findings, a Pest Control

Recommendation (PCR) will be developed for aquatic pesticide applications.

Aquatic herbicide and algaecide treatments are determined based on the following characteristics:

- CLI would regularly monitors the lagoons for vegetation growth. When the threshold is reached CLI would initiate discussions with the City and AWLHOA to implement an aquatic pesticide application. Aquatic weeds are continually monitored throughout the growing season.
- The process for communicating and coordinating the aquatic pesticide treatment schedule with the City prior to any chemical treatments to allow for public notice, water sampling that may be required by a NPDES permit, or other purpose(s) would include the following;
  - When thresholds for an aquatic pesticide application have been reached per the APAP guidelines, CLI would open discussions with the City and AWLHOA, develop a treatment plan for the application per the APAP requirements, develop the required PCR for the application, get City approvals, and schedule the application. It is expected this would be communicated via email and through phone discussions if required.
- The process for notifying City and applicable regulatory bodies of any non-compliance with the NPDES Permit or APAP within the timeframes specified in the NPDES permit would include the following.
  - CLI would communicate via phone with the City to provide an initial oral report of any non-compliance. This includes any unexpected or unintended effect of the use of an algaecide or aquatic herbicide that may danger health or the environment. Per the regulations, this information will be provided orally within 24 hours from the time the City or CLI becomes aware of the circumstances. As required in the APAP and under the General NPDES Permit, CLI will provide a written report of the non-compliance within five (5) days of the time the City and or CLI becomes aware of the noncompliance. The 24 hour report as well as the 5 day written report will follow the format in Attachment C of the APAP.



- CLI's pesticide application strategy to abate or minimize the use of copper-based formulations is to first review other options like GreenClean, increases in water circulation within the lagoon system, and the use of the aquatic herbicide diquat that has some algaecide affects. If no other options are available, CLI would discuss the use of copper based algaecides with City staff and jointly make a determination on how to proceed.
- CLI would be responsible for the preparation of the Annual Report, as required in the Monitoring and Reporting Program of the General Permit. CLI would provide a draft for City review and signature 30 days in advance of its due date to the Water Board.

### **Professional Consulting and Monthly Meetings.**

- CLI will provide staff for attendance at the monthly AWLHOA Board Meetings to provide a summary of the past month's work and answer questions.
- CLI will provide monthly reports no later than the second Tuesday of each month outlining the previous month's activities, amount of debris removal, water quality sampling results and current budget status. The report will include:
  - A general observation and description of plant growth and debris material removed for each week;
  - A detailed summary of work performed and locations for each week
  - A tentative action plan for the upcoming month, including recommendations to improve the lagoon system operation and maintenance, if necessary
    - A summary of types, product names, and amounts of aquatic pesticides used for each treatment, using Department of Pesticide Regulation (DPR) monthly pesticide use report form or equivalent
  - The current budget status

CLI understands that lagoon residents are advised to contact the City with service requests. However, it is anticipated that CLI would likely have regular interaction with residents and recreationists. CLI has had communication with residents both via on site meetings within the lagoons, via email communications, and via phone calls. CLI's customer service and complaint resolution process entails on site meetings with residents if required. A recent example was in

July 2019 when CLI staff McNabb and Benney met a group of residents on the bridge between lagoons 1 and 2 to discuss the algae issues and the extended drawdown. After explaining the current circumstances, that included the inability for the pumps to fill the lagoons as quickly as desired due to tide levels, the residents understood and hoped the water levels would increase soon, and normal July conditions would return.

### **Optional Services**

**Mechanical Control Methods:** CLI has sufficient equipment available for the mechanical control of aquatic vegetation and debris removal. In the event the recommendations outlined above under Section IV, Proposed Work Plan are implemented, specifically an alteration to the drawdown schedule, increased circulation during the spring months, and the modification of the APAP to allow the use of Sonar Genesis, CLI feels that the use of mechanical harvesting equipment will not be required. In the event it is required, CLI would discuss the need and associated costs with the City, and mobilize equipment based on those discussions. CLI has the skilled staff and all necessary equipment and materials required to perform mechanical control methods safely and pursuant to local, state and federal laws. The proposed Work Plan shall include services that:

- CLI would remove accumulated floating matter, as needed, to prevent or mitigate nuisance conditions, particularly at private dock areas, and along shorelines area via the use of manual control operations as the mechanical harvesters have difficulty operating in and around docks, and along shallow shoreline areas.
- In the event of large scale nuisance cut and floating material that requires removal, CLI would mobilize harvesting equipment following discussions with the City staff;
- Indicators (thresholds) that will be used to trigger mechanical cutting and removal operations would include the inability to control aquatic vegetation and or debris accumulation, complaints from homeowners, a discussion with City and AWLHOA staff, and an evaluation of costs would be the primary indicators to determine if mechanical control options are warranted.
- CLI would schedule a dump truck for handling and disposal of harvested plant material to a local landfill.



**Alameda Lagoons NPDES General Permit  
Water Quality Monitoring Field Data**

Date: _____ Name(s) of Field Personnel: _____ _____ _____	<u>Water Body Sampled:</u> <u>Alameda Lagoons</u> <u>Location (City):</u> <u>Alameda</u>
<b>Weather Conditions</b>	
<u>Air Temperature:</u> _____	
<u>Wind Conditions:</u> Light Moderate High <u>Percent Cloudy:</u> _____	

Sampling Station	Time	Water Temp°C	Dis. Oxy. Mg/l	pH	Salinity ppt	Secchi	Fecal Coliform
Lagoon 1							
Lagoon 2							
Lagoon 3							
Lagoon 4							
Lagoon 5							

Alameda Lagoons Weekly Maintenance Report

Date: _____ Name(s) of Field Personnel: _____ _____	<u>Water Body Sampled:</u> <u>Alameda Lagoons</u> <u>Location (City):</u> <u>Alameda</u>
<b>Weather Conditions</b>	
<u>Air Temperature:</u> _____	
<u>Wind Conditions:</u> Light   Moderate   High <u>Percent Cloudy:</u> _____	

Site Name	Time	Debris Removed/Notes
Lagoon 1		
Lagoon 2		
Lagoon 3		
Lagoon 4		
Lagoon 5		

Clean Lakes Inc. Staff Signature: \_\_\_\_\_ Time: \_\_\_\_\_

City of Alameda Staff Signature: \_\_\_\_\_ Time: \_\_\_\_\_



[illegible]