



**City of Annapolis**  
Recreation and Parks Department  
**Harbormaster**  
1 Dock Street  
Annapolis, MD 21401-1818



[Harbormaster@annapolis.gov](mailto:Harbormaster@annapolis.gov) • 410-263-7973 • Fax 410-295-9018 • TDD use MD Relay or 711 • [www.annapolis.gov](http://www.annapolis.gov)

**CITY OF ANNAPOLIS PUMPOUT SERVICES AGREEMENT**

**THIS PUMPOUT SERVICES AGREEMENT** (the "Agreement") is made this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, by and between the City of Annapolis, a municipal corporation of the State of Maryland, on behalf of its Harbormaster's Office (collectively, "City"), and \_\_\_\_\_ (the "Marina").

**WHEREAS**, the Marina is the owner of property known and described as \_\_\_\_\_ and located at \_\_\_\_\_, Annapolis, Maryland (collectively, the "Property"); and

**WHEREAS**, the City operates a pumpout boat to pump off untreated waste effluent from private vessels in City waters in exchange for set fees and on a first-come-first-serve basis; and

**WHEREAS**, the Marina is requesting the City to dedicate one (1) day a week to provide its customers with pumpout boat services at the Property (collectively, the "Services"); and

**WHEREAS**, the parties recognize the need for a written contract to clarify expectations of each with regards to the Services.

**NOW, THEREFORE**, in consideration of the above recitals and in consideration of the premises, mutual promises and covenants herein, and other good and valuable consideration, the receipt and sufficiency which are hereby acknowledged the parties hereto agree as follows:

**1. The Services.**

a. The Marina hereby grants unto the City, and its employees, staff and agents, and the latter hereby accepts a non-exclusive, revocable, temporary right of entry to enter upon the Property for the purpose of the Services, and for any other purpose permitted by law. The City's employees, staff and agents must be given access to restrooms at the Property whenever they are needed.

b. The City will make a reasonable effort to provide the Services at the Property on Monday, each week, from May 1<sup>st</sup> through October 31<sup>st</sup>, of each year during the Term of this Agreement. These Services may not be available if there are maintenance issues, manpower shortages, and/or weather concerns, as determined in the City's sole discretion.

c. No later than 10:00 AM each Monday, the Marina must provide the City on VHF 17 and/or via mobile at (410) 320-6852 with a complete list of the names of all vessels requiring the Services, and the approximate number of gallons to be pumped off for each vessel on that list.

d. The Marina must provide a working and available pumpout station on the Property to allow pumpout of any untreated waste effluent on board the City's pumpout boat.

e. The Marina must provide an authorized staff member to board each private vessel requesting the Services. The City and its employees, staff and agents cannot and will not board any private vessel.

**2. Term.**

This Agreement shall commence on the date on which it is signed by all parties and shall continue through an original term of \_\_\_\_\_ (\_\_\_\_) years (the "Term"), unless otherwise terminated in accordance with the provisions herein contained in Paragraph 6.

**3. Payment.**

The City will assess the Marina for the Services at the rates specified on the City's website (each, a "Service Fee"). Service Fees must be made paid in full by the Marina on the day of service. Such rates are subject to change.

**4. Insurance.**

The Marina must carry adequate insurance against any damage that may occur as a result of this Agreement or the Services throughout the Term. The Marina must provide the City with evidence of such insurance coverages, in a form acceptable to the City, prior to the commencement of any Services at the Property. In addition, the City may request any additional information related to the insurance coverages at any reasonable time. The provision of any insurance herein does not relieve the Marina of any of the responsibilities or obligations which the Marina may be liable by law or otherwise. Failure to provide and continue in force the required insurance shall be deemed a material breach of this Agreement.



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**5. Waiver of Liability; Indemnification; Damage.**

a. In consideration for this Agreement and the Services, the Marina, its officers, employees, members, agents, and representatives hereby forever releases, waives, discharges, and covenants not to sue the City, its elected officials, appointees, directors, employees, agents, and representatives, and forever waives its right to initiate, make or file any claim, cause of action, or legal proceeding whether now known or later discovered, including but not limited to, any and all loss, liability, damage, claim, cost or expense incurred by the Marina, at the Property, or arising out of or in connection with the Services or this Agreement, REGARDLESS OF WHETHER SUCH LOSS, LIABILITY, DAMAGE, CLAIM, COST OR EXPENSE IS CAUSED BY THE NEGLIGENCE OF THE CITY, or otherwise, and regardless of whether such liability arises in tort, contract, strict liability, or otherwise, to the fullest extent allowed by law

b. The Marina shall forever indemnify, defend and hold harmless the City, its elected officials, appointees, directors, employees, agents, and representatives from and against all liability for injuries to persons, including death, and damage to City property and other property arising from acts or omissions of the Marina, its officers, employees, members, agents, representatives, contractors, patrons, volunteers, guests or invitees resulting in connection with the Services and this Agreement. The Marina's indemnifications include reasonable attorney fees and costs incurred by the City in defending any claims, complaints, causes of action, lawsuits, or other such actions. The City, in its sole discretion, may participate in handling its own defense or exclusively handle its own defense, and select its own attorneys, including the City Attorney. The indemnification for attorney fees applies whether or not the City Attorney or other attorney handles the defense. Marina indemnification does not limit any immunity which the City, its elected officials, appointed officers, directors, employees, agents, and representatives are entitled to assert, and includes all costs and expenses, including attorney's fees, whether or not related to administrative or judicial proceedings.

c. The Marina shall reimburse the City, within thirty (30) calendar days after invoicing for such reimbursement, for any damage to the City's facilities, equipment or property caused by the negligence or willful misconduct of the Marina, its officers, employees, members, agents, representatives, contractors, patrons, volunteers, guests or invitees.

**6. Breach; Termination.**

a. If the Marina, or its officers, employees, members, agents, and representatives, breach any of the terms and conditions of this Agreement, this Agreement may be voided, at the sole discretion of the City, if such breach is not cured in a manner satisfactory to the City, in its sole discretion, within seven (7) calendar days following written notice thereof, or immediately where such breach poses a threat to the public health, safety, or welfare. In addition, the City may pursue all legal and equitable remedies which it may have against the Marina. In the event of a breach which poses a threat to the public health, safety or welfare, the City may take any action immediately to remedy such breach, including pursuing all legal and equitable actions against the Marina.

b. The City may terminate this Agreement, without prior notice to the Marina, at any time and for any reason. The Marina may terminate this Agreement, with seven (7) calendar days prior notice to the City, at any time and for any reason, but any outstanding Service Fees and/or any other costs, expenses, or fees due to the City pursuant to this Agreement shall survive such termination.

c. Regardless of any termination of or breach under this Agreement, an individual owner with a vessel located at the Property may still contact the City for individual pumpout services for that vessel in accordance with the City's policies and procedures, and subject to any applicable fees.

**7. Reservation by the City; Priority.**

a. The City reserves the right at all times to exercise full municipal control and regulation with respect to all matters connected with this Agreement, but not limited to, the Marina, the Property and the Services, not inconsistent with the terms of this Agreement.

**b. The City maintains the absolute right to service any customers, marinas and/or vessels on any schedule, as it sees fit and in its sole discretion. Individual customers in City waters will take priority over any Marina vessel and/or customer. This Agreement only obligates the City to make a reasonable effort to provide the Services to the Marina as described herein.**

**8. Miscellaneous.**

a. No failure or delay by the City to insist upon the strict performance of any term, condition or covenant of this Agreement, or to exercise any right, power or remedy consequent upon a breach thereof, shall constitute a waiver of any such term, condition or covenant or of any such breach, or preclude the City from exercising any such right, power or remedy at any later time or times.

b. The Marina shall not assign, subcontract or transfer the rights it has or the obligations imposed on it by this Agreement, and no assignment shall release or discharge the Marina from any duty or responsibility under this Agreement.

- c. Nothing herein shall be construed to create any personal or individual liability upon any employee, officer or elected official of the City, nor shall this Agreement be construed to create any rights hereunder in any person or entity other than the parties hereto.
- d. Nothing contained in this Agreement shall be construed to constitute the Marina as an agent, representative or employee of the City. Nor shall anything contained in this Agreement be construed in any manner to create any relationship between the Marina and the City other than what is expressly specified herein, and the Marina and the City shall not be considered partners or co-venturers for any purpose on account of this Agreement.
- e. The terms of this Agreement shall be binding on and enforceable against the parties and their respective successors and assigns.
- f. In all actions arising from this Agreement, the laws of the State of Maryland shall govern, and the venue for all actions initiated pursuant to this Agreement shall be exclusively the Courts of Anne Arundel County, Maryland. The parties hereby waive jury trial in all actions initiated pursuant to this Agreement.
- g. The Recitals (WHEREAS clauses) are hereby incorporated into this Agreement.
- h. If any of the provisions of this Agreement are declared by a court or other lawful authority to be unenforceable or invalid for any reason, the remaining provisions hereof shall not be affected thereby and shall remain enforceable to the full extent permitted by law.
- i. This Agreement sets forth the entire agreement between the parties relative to the subject matter hereof. No representation, promise or condition, whether oral or written, not incorporated herein shall be binding upon either party to this Agreement. This Agreement shall not be waived, amended or modified except in writing and signed by the authorized representative(s) of the parties.
- j. Any notice required to be delivered shall be deemed to have been received when the notice has been sent by certified mail, return receipt, overnight carrier, or hand delivered with signed receipt to the following address and individual or such other address and/or such other individual as a party may identify in writing to the other party. To the City at City Harbormaster's Office, 1 Dock Street, Annapolis, MD 21401, with a copy to City Attorney, 160 Duke of Gloucester Street, Annapolis, MD 21401. To the Marina at \_\_\_\_\_.

**IN WITNESS WHEREOF**, it is the intent of the parties that the Marina has signed this Agreement under seal and, further, that the parties have executed this Agreement the day and year first written above.

WITNESS:

MARINA

\_\_\_\_\_

By: \_\_\_\_\_  
 Name:  
 Title:

ATTEST:

CITY OF ANNAPOLIS

\_\_\_\_\_  
 Regina C. Watkins-Eldridge, MMC,  
 City Clerk

By: \_\_\_\_\_  
 Gavin Buckley, Mayor

APPROVED FOR FORM AND LEGAL SUFFICIENCY:

REVIEWED AND APPROVED BY:

\_\_\_\_\_  
 OFFICE OF LAW  
 D. Michael Lyles, City Attorney

\_\_\_\_\_  
 HARBORMASTER'S OFFICE