

## **TOWN OF RICHMOND SERVICE AGREEMENT**

This AGREEMENT is between the **Inhabitants of the Town of Richmond** (hereinafter referred to as the “Town”) and \_\_\_\_\_ (hereinafter referred to as the “Contractor,” including its officers, employees and agents). The subject of this Agreement is the cleanup and removal of items from the property located at 640 Alexander Reed Road in Richmond, Maine (hereinafter referred to as the “Property”).

### **1. Scope of Work.**

- (a) The Contractor agrees to remove from the Property all materials that are designated in *Appendix A*, which shall be performed in a lawful and environmentally appropriate manner, and shall comply with all other applicable federal, state and local laws and regulations. To the extent that the provisions of this Agreement conflict with any applicable federal, state or local laws or regulations, the applicable provisions of law shall control. The restatement in this Agreement of any of the terms of the Invitation to Bid for Cleanup of Junkyard/Automobile Graveyard dated \_\_\_\_\_ (“Invitation to Bid”), shall not be deemed to waive any terms not so restated. To the extent that there is any conflict between the Invitation to Bid and this Agreement, the terms of this Agreement shall control.
- (b) The Contractor shall supply the necessary vehicles, machinery, equipment and personnel to perform the cleanup and removal work at the Property. The vehicles, machinery and equipment for the purposes of this Agreement shall be maintained in good working order and condition at all times. The vehicles, machinery and equipment need not be owned by the Contractor.

### **2. Town Representative.**

The Town’s Representative shall be the Town Manager.

### **3. Independent Contractor.**

The Contractor, its officers, agents and employees, during the performance of this Agreement, shall act as an independent contractor and not as officers or employees of the Town. The Contractor, its officers, agents and employees, during the performance of this Agreement, shall not hold itself or themselves out as employees of the Town. Any personnel needed to fulfill the obligations of this Agreement shall be employed by the Contractor (either as employees or independent contractors), and the Contractor shall be solely responsible for complying with applicable state and federal laws, including, but not limited to, worker’s compensation and minimum wage. As an independent contractor, the Contractor is also responsible for maintaining its equipment in a safe, operable and legal condition and providing for a safe work environment at the Property.

#### **4. Performance Standards.**

- (a) The Contractor shall remove and dispose of all materials in a lawful and environmentally appropriate manner.
- (b) The Contractor will be responsible for submitting to the Town an inventory of all materials and vehicles (including VIN numbers) removed from the Property.
- (c) The Contractor will be responsible for procuring and paying for all permits required to perform the outlined scope of work, if any.
- (d) The Contractor shall fully comply with all applicable federal, state, and local laws, ordinances, rules and regulations and all orders and rules of any duly constituted authorities affecting the Property or bearing on the performance of the services.
- (e) The Contractor shall provide the Town with adequate notice of the scheduled start date of work under this Agreement, such that the Town will be able to provide a minimum of seven (7) days' notice to the owner of the Property, as required by court order.
- (f) The Code Enforcement Officer will take "before" and "after" photos to document the condition of the Property.
- (g) The Town will provide for the presence of at least one (1) police officer at the Property at all times during the Contractor's performance of the work required under this Agreement.

#### **5. Insurance.**

The Contractor shall purchase from and maintain in a company or companies lawfully authorized to do business in Maine such insurance as will protect the Contractor from claims set forth below which may arise out of or result from the Contractor's operations under this Agreement and for which the Contractor may be legally liable, whether such operations be by the Contractor or by a subcontractor or by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable. The Contractor shall obtain and maintain throughout the term of this Agreement, at no expense to the Town, the following insurance coverages written for not less than the following limits, or greater if required by law:

- (a) Commercial General Liability Insurance, including products and completed operations liability in the amount of not less than One Million Dollars (\$1,000,000.00) per occurrence and not less than Two Million Dollars (\$2,000,000.00) annual aggregate, to protect the Contractor, any subcontractor performing work covered by this Agreement, and the Town from claims and damages that may arise from operations under this Agreement, whether such operations be by Contractor or by a subcontractor or by anyone directly or indirectly employed by them.

(b) Automobile Liability Insurance (owned, non-owned and hired vehicles) for bodily injury and property damage in at least the amount of One Million Dollars (\$1,000,000) each accident.

(c) Workers' Compensation Insurance in such amount as required by Maine law and Employer's Liability Insurance, as necessary, as required by Maine law. In case any class of employees engaged in hazardous work under this Agreement is not protected under the Worker's Compensation Act, the Contractor shall, at its own expense, provide for the protection of its employees not otherwise protected.

(d) All such insurance policies shall name the Town and its officers, agents and employees as additional insureds, except that for purpose of workers' compensation insurance, the Contractor instead may provide a written waiver of subrogation rights against the Town. The Contractor, prior to commencement of work under this Agreement shall deliver to the Town certificates evidencing such insurance coverages, which certificates shall state that the Contractor must provide written notice to the Town at least thirty (30) days prior to cancellation, non-renewal, material modification or expiration of any policies, evidenced by return receipt of United States Certified Mail. Replacement certificates shall be delivered to the Town prior to the effective date of cancellation, termination, material modification or expiration of any such insurance policy. The Contractor shall not commence work under this Agreement until it has obtained all insurance coverages required under this subparagraph and such insurance policies have been approved by the Town.

## **6. Indemnification.**

The Contractor shall defend, indemnify and hold harmless the Town of Richmond, its employees and agents, from and against any and all liabilities, causes of action, judgments, claims, damages, losses and expenses (including, without limitation, reasonable attorneys' fees) for personal injury (including death) or property damage arising out of, or in consequence of, any negligent or intentional act or omission of the bidder, its employees, agents or subcontractors.

## **7. Bills and Claims.**

The Contractor is responsible for all bills for labor, materials, equipment, fuel and other items incurred in the performance of this Agreement. If at any time before final payment of any money due the Contractor under the terms of this Agreement any claim for labor, materials, equipment, fuel or other items, or damages by reason of the work, shall be presented to the Town, the Town may retain such sum or sums from the funds due the Contractor under this Agreement as is necessary to discharge all such claims, whether for labor, materials or for damages as aforesaid. When the validity of any such claim is established and finally determined, any such claim may be paid from the amount so retained if it is sufficient for that purpose. If such claim is invalid and groundless, any amount retained shall be paid to the Contractor, or in the case of default by the Contractor, to the Contractor's surety. Neither the Town nor any officer, agent or employee thereof shall be liable to any individual, firm or corporation making any such

claim for failure or refusal to hold and retain any money due under this Agreement for the purpose of payment of any such claim.

**8. Breach of Contract.**

If the Contractor fails to perform according to the terms of this Agreement at the time and in the manner specified, that failure shall be a breach of contract.

In the event of a breach, the Town (through its Town Representative, Town Manager or Board of Selectmen) shall immediately give oral notice to the Contractor. The Contractor will then be required to perform within a reasonable time. In the event that the Contractor still does not (for whatever reason) perform duties in the time stated, the Town shall have the following options:

- (a) Terminate this Agreement: The Town, acting through its Board of Selectmen, shall reserve the right to terminate this Agreement for cause. The Contractor will be paid for all work that is satisfactorily done until the date of termination.
- (b) Substitution: The Town may hire a substitute contractor to perform the work required under this Agreement. This substitution may be paid with money from the Contractor's performance bond (if required) or from the remainder of any money due to the Contractor (but unearned) under this Agreement.
- (c) The Town may also seek any other legal remedies available to enforce this Agreement.

**9. Supervision and Control.**

As an independent contractor, the Contractor has the right and duty to supervise and control its employees, agents and equipment. The Town's Representative has the right to inspect the Property and notify the Contractor of any problems. In the event of a disagreement between the Contractor and the Town's Representative, either or both may request mediation with the Board of Selectmen, whose decision shall be final.

**10. Notice and Contact.**

The following persons shall be available and authorized to accept notices (written or oral), calls and orders:

For the Contractor:

For the Town: Adam Garland, Town Manager  
Telephone:  
Emergency Telephone:

**11. Commencement of the Work/Completion.**

The Agreement shall become effective upon execution by the parties. The Contractor shall commence the work required under this Agreement no later than **March 25, 2019**, with a completion date not later than five (5) business days from commencement.

**12. Price.**

In exchange for the Contractor’s performance of the services under this Agreement, the Town agrees to pay the Contractor the total lump sum of \$\_\_\_\_\_.

The Town will pay for Contractor’s services upon completion by the Contractor and following an inspection by the Town’s Code Enforcement Officer to confirm that the work has been performed to the satisfaction of the Town’s Representative.

**13. Subcontracting or Assignment.**

Contractor shall not subcontract or assign in total or in part this Agreement or any of its rights or obligations under the terms of this Agreement without the prior written consent of the Town.

**14. Amendment, Severability, Jurisdiction.**

This Agreement can be amended only by written consent of the Town, acting by and through its Board of Selectmen. If any provision of this Agreement is declared by a court to be void or unenforceable, the rest of the Agreement continues to be valid and effective. This Agreement is made and shall be construed under the laws of the State of Maine without regard to conflict of law rules. Except as otherwise expressly agreed by the parties in writing, exclusive venue for any civil action shall be in Maine Superior Court (Sagadahoc County).

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

**CONTRACTOR**

\_\_\_\_\_  
Witness

\_\_\_\_\_  
By:  
Its:

**INHABITANTS OF THE  
TOWN OF RICHMOND**

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Adam Garland, Town Manager

STATE OF MAINE  
SAGADAHOC, ss.

\_\_\_\_\_, 2018

Then personally appeared the above named Adam Garland, Town Manager of the Town of Richmond, and acknowledged the foregoing instrument to be his/her free act and deed and the free act and deed of the Inhabitants of the Town of Richmond.

Before me,

\_\_\_\_\_  
Notary Public/Attorney at Law

\_\_\_\_\_  
Print Name

## APPENDIX A

The following materials shall be removed and disposed of by the Contractor and/or its agents or sub-contractors, including without limitation scrap metal dealers, auto salvage companies, antiques dealers, or waste hauling companies:

1. All materials stored on the Property along the roadway, including:
  - All materials stored on the 1958 Hawk-Bilt Spreader
  - Miscellaneous materials located adjacent to the spreader
  - Open pile of returnable bottles/cans and black trash bags on top of open pile filled with unidentified materials
  - Sink, metal ductwork, and other miscellaneous debris located at the roadside adjacent to the John Deere vehicle
  - Oil drums in front yard filled with miscellaneous materials
  - Gasoline and propane tanks stored outside next to the farm vehicles near the vegetable garden
  - Wood pile that is currently on the shoulder of Alexander Reed Road
  
2. All materials stored at interior portions of the Property, including:
  - Pile of junked lumber in front yard
  - Pile of junked metal roofing material in front yard
  - Pile of Styrofoam insulation sheets located on the easterly side of the house
  - All oil tanks located on the Property (4-5 tanks located near the easterly boundary of the Property and 9-10 tanks located closer to the house)
  - Various piles of scrap metal
  - All appliances and furnaces stored outside on the Property
  - All walk-behind lawnmowers not currently in use
  
3. The following vehicles:

1.	1967	Farmall 656
2.	1957	International 350 Utility
3.	1968	Case W-14
4.	196_	BLH Loader
5.	1958	Hawk-Bilt Spreader
6.	1968	John Deere 480B
7.	1965	Model B Mack Dump
8.	1962	GMC Dump
9.	1990	Kodiak Boom Truck
10.	1988	Freightliner FL120
11.	1981	Ford F150
12.	1987	Ford F150
13.	1984	Chevrolet 2500
14.	1984	Volvo 240D Sedan

15.	1987	Volvo 240D Sedan
16.	1980	Volvo 240D Sedan
17.	1981	Volvo 240D Sedan
18.	1987	Volvo 240D Wagon
19.	1981	Volvo 240D Wagon
20.	1983	Volvo 240D Wagon
21.	1974	Link Belt Excavator