

**LLCD Private Dredging Service Agreement**

**Project Authorization Page**

Agreement Number \_\_\_\_\_ Date Issued \_\_\_\_\_ Estimated Project Price \_\_\_\_\_

Projected Start Date \_\_\_\_\_ Projected Completion Date \_\_\_\_\_ Estimated Volume (Y<sup>3</sup>) \_\_\_\_\_

I have read, acknowledge, and agree to the attached terms and conditions.

\_\_\_\_\_  
Freeholder's Signature

\_\_\_\_\_  
LLCD Manager's Signature

\_\_\_\_\_  
Printed Name

Date: \_\_\_\_\_

Date: \_\_\_\_\_

\_\_\_\_\_  
Mailing Address

\_\_\_\_\_  
Lake Address

\_\_\_\_\_  
Telephone

**Authorization for Additional Work**

I have read and acknowledge the attached terms and conditions. I hereby authorize the additional price.

Reason for Price Increase \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Freeholder's Signature

Additional Price \_\_\_\_\_  
Estimated Volume (Y<sup>3</sup>) \_\_\_\_\_

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
LLCD Manager's Signature

Date: \_\_\_\_\_

Date: \_\_\_\_\_

**To Be Completed By LLCD**

Initial Amount Paid \_\_\_\_\_ Check Number \_\_\_\_\_ Date Received \_\_\_\_\_

Amount Paid for Added Work \_\_\_\_\_ Check Number \_\_\_\_\_ Date Received \_\_\_\_\_

Final Settlement Refund Amount \_\_\_\_\_ LLCD Check Number \_\_\_\_\_ Date Paid \_\_\_\_\_

**ALL ATTACHED TERMS AND CONDITIONS APPLY**

## 2020

### LLCD Private Dredging Service Agreement

#### Terms and Conditions

Lake Lemon Conservancy District (LLCD) is a special taxing unit responsible for the operation and maintenance of Lake Lemon. The LLCD acquired equipment to perform sediment removal based on a long term schedule that prioritizes the removal of sediment based on measured depth of water and the number of freeholders impacted. This long term plan focuses on the maintenance of navigation channels needed for lake access and restoration of navigational depth in the main body of the lake. The plan does not include the removal of sediment from docking areas. As a service to our freeholders, the LLCD is offering dredging services funded exclusively by the freeholder. This service is designed to provide sediment removal from docking areas not included in the dredging plan and areas within the plan where one or more freeholders wish to have sediment removed.

#### Pricing

LLCD will provide dredging services to its freeholders at a rate based on its estimated direct costs of service, including labor, repair, fuel, maintenance, and supplies, all as determined and approved by the Board of Directors, in its discretion, which shall be referred to herein as the "Work". The current price for sediment removal is as follows:

- Minimum Orders
  - \$1,000.00 per small barge load (up to approximately 33 cubic yards)
  - \$1,500.00 per large barge load (up to approximately 100 cubic yards)
  - \$2,000.00 if both barges are used (up to approximately 100 cubic yards)
- Partial barge loads are priced at the minimum order cost.

Due to difficulty in estimating the amount of sediment removed from direct measurement of the lake bottom, pricing will be based on the amount of sediment placed on the barge, which has a measured full capacity of approximately 100 cubic yards for the large barge and 33 cubic yards for the small barge.

#### Estimating the Sediment Quantity

The sediment quantity to be removed from an Agreement area will be estimated by the LLCD based on the size of the removal area, estimated current depth and estimated target depth. This sediment quantity will then be converted to estimated barge load(s) to compute the estimated price for the job. LLCD will strive to satisfy the sediment removal needs of its freeholders, however, it should be understood that sediment removal is an inherently imprecise operation and the estimate is the best determination of cost prior to commencement of the Work.

### Payment

The total amount charged to the freeholder will be based on the amount of sediment removed, measured to the full-barge load and not in smaller increments. LLCD will provide the freeholder with a volume and cost estimate at the time of Agreement execution. The freeholder shall remit payment to the LLCD, in advance of the Work being commenced, in the amount of the cost estimate. Within thirty (30) days after completion of the Work, the LLCD will refund payment in excess of the actual amount determined due upon completion of the Work, if applicable. If the actual Work exceeds the estimated amount paid in advance by the Freeholder or if the freeholder requests additional Work, the LLCD will provide the freeholder with an estimate for the additional amount due by the freeholder. LLCD must receive authorization for the additional work and collect the estimated additional price prior to completing or increasing the scope of the Work.

### Job Standards

LLCD will remove sediment based on the work order area that will be marked with temporary markers where feasible to clearly designate the sediment removal area. LLCD will only remove the amount of sediment required to service the work area and will not exceed the estimated volume and price agreed to by the freeholder without authorization to increase the volume/cost of the job. Each barge load of sediment will be verified by signed load tickets and completed by the barge operator. The LLCD Manager will review and approve all load tickets. Determinations regarding measurements of sediment and the accompanying charge are made by the LLCD and are final. The barge operator will not be authorized to work outside the designated project area without approval of the LLCD Manager. The freeholder will not be authorized to make changes to the job with the barge operator but shall direct all requests to the LLCD Manager. The barge operator will be directed to immediately cease dredging operations if a dispute arises.

The Work will be completed to the best of the LLCD's ability and the Freeholder agrees and understands that the work shall be "as is, where is" and shall not include any warranty, express or implied. Once concluded, the LLCD shall not return to the site to remediate Work performed except as expressly agreed by the Freeholder and the LLCD. Notwithstanding anything contained herein to the contrary, damages against the LLCD arising from or out of the Work shall not, in any circumstance, exceed the *actual* amount paid to the LLCD by the Freeholder for the Work.

### Liability and indemnification

The Freeholder shall indemnify and hold harmless Lake Lemon Conservancy District "LLCD" and the City of Bloomington Utilities, its representatives, members, designees, officers, directors, employees, agents, successors, and assigns ("Indemnified Parties"), from and against any and all claims for bodily injury, death or damage to property, demands, damages, actions, causes of action, suits, losses, judgments, obligations and any liabilities, costs and expenses (including but not limited to investigative and repair costs, attorneys' fees and costs, and consultants' fees and costs)("Claims") which arise or are in any way connected with the Work performed, Materials furnished, or Services provided under this Agreement by LLCD or its agents. Said indemnity and defense obligations shall further apply, whether or not said claims arise out of the concurrent act, omission, or negligence of the Indemnified Parties, whether active or

passive. LLCDC shall not be obligated to indemnify and defend claims found to be due to the negligence or willful misconduct of Indemnified Parties.

#### Dispute Resolution

If a dispute arises out of this Agreement, the freeholder must first submit such dispute to the LLCDC Manager who shall attempt to resolve the dispute informally. In the event that the dispute is not resolved through the LLCDC Manager, it shall be submitted to the LLCDC Board of Directors for review and consideration at the next scheduled board meeting. The freeholder agrees to submit to this procedure to attempt to resolve any dispute before resorting to legal action against the LLCDC. In the event that the LLCDC incurs damages, attorney fees and/or expenses arising from this agreement, the freeholder shall pay such damages, attorney fees, and expenses incurred by the LLCDC.

#### Schedule

The start date and completion date indicated in this Agreement is an estimate and the dates are not guaranteed. LLCDC reserves the right to amend the dates, in its sole discretion, based on the conditions, requirements and other factors impacting scheduling and use of the dredging equipment.

#### Agreement Termination

The freeholder or LLCDC may terminate the Agreement for any reason with written notice. If the freeholder terminates the agreement before the work begins, all money initially paid to the LLCDC will be refunded in total within 30 days of Agreement termination. Termination of the Agreement during the project by either party will result in immediate cessation of sediment removal and the freeholder will be refunded any unused portion of payment(s) received based on the amount of sediment removed prior to Agreement termination, as defined by this Agreement.

#### Miscellaneous conditions

The provisions of this Agreement shall be construed in accordance with Indiana law. The parties waive trial by jury for any dispute arising out of this Agreement. The parties hereby stipulate that Monroe County, Indiana shall be the sole and exclusive venue for any dispute arising from this Agreement.

This Agreement contains and memorializes the entire understanding agreement of the parties and may be modified only by a written document, executed by the parties, except as expressly provided herein.

In the event any provision of this Agreement conflicts with applicable law, such conflict shall not affect other provisions of this Agreement which shall remain in full force and effect.

Any notices required to be given under this Agreement shall be given to the address of the freeholder supplied above and to LLCDC: Attn: LLCDC Manager at 7599 N. Tunnel Road, Unionville, IN 47468.