

SERVICES CONTRACT

CUSTOMER NAME: Maria McFarland, Board Administrator – West Tisbury Conservation Commission
PROPERTY NAME: Pear Tree Cove – Tisbury Great Pond
CONTRACT DATE: November 19, 2020
SUBMITTED BY: Keith Gazaille, Regional Director
SPECIFICATIONS: 2021 Hand-Pulling for Parrot Feather in Pear Tree Cove – Tisbury Great Pond

This agreement (the "Agreement") is made as of the date indicated above, and is by and between SOLitude Lake Management, LLC ("Solitude" or the "Company") and the customer identified above (the "Customer") on the terms and conditions set forth in this Agreement.

1. The Services. SOLitude will provide services at the Customer's property as described in Schedule A attached hereto:

2. PAYMENT TERMS. The fee for the Hand-Pulling Services is **\$4,100.00**. The Customer shall pay 50% of this service fee upon execution of this Agreement. The balance (remaining 50% of fee) will be invoiced to Customer by SOLitude following completion of the Services. For any work completed or materials in storage on the customer's behalf at the end of each month, the company will invoice and the customer will be responsible for paying the percent of the total work completed as of that date, less any previous deposit paid. Should the work performed be subject to any local, state, or federal jurisdiction, agency, or other organization of authority for sales or other taxes or fees in addition to those expressly covered by this contract, customer will be invoiced and responsible for paying said additional taxes in addition to the fee above. Customer agrees to pay all invoices within thirty (30) days of invoice date. The Customer will be liable for any returned check fees and any collection costs, including reasonable attorney fees and court costs, for any invoices not otherwise timely paid, and interest at the rate of 1% per month may be added to all unpaid invoices. Company shall be reimbursed by the Customer for any non-routine expenses, administrative fees, compliance fees, or any other similar expense that are incurred as a result of requirements placed on the Company by the Customer that are not covered specifically by the written specifications of this contract.

3. TERM AND EXPIRATION. This Agreement is for a one-time service as described in the attached Schedule A. Any additional services will be provided only upon additional terms as agreed to by the parties in writing.

4. DISCLAIMER. SOLitude is not responsible for the failure of any treatment, equipment installation, or other work that result from dam or other structural failures, severe weather and storms, flooding, or other acts of God that are outside of the control of SOLitude. Customer understands and acknowledges that there are irrigation restrictions associated with many of the products used to treat lakes and ponds. The customer is responsible for notifying SOLitude in advance of the contract signing and the start of the contract if they utilize any of the water in their lakes or ponds for

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irrigation purposes. The customer accepts full responsibility for any issues that may arise from the irrigation of turf, ornamentals, trees, crops, or any other plants as a result of treated water being used by the customer for irrigation without the consent or knowledge of SOLitude.

Although there is rarely direct fish toxicity with the products used for treatment when applied at the labeled rate, or the installation and normal operation of the equipment we install, there is a risk under certain circumstances of significant dissolved oxygen drops. This risk is most severe in times of extremely hot weather and warm water temperatures, as these are the conditions during which dissolved oxygen levels are naturally at their lowest levels. Often times lakes and ponds will experience natural fish kills under these conditions even if no work is performed. Every effort, to include the method and timing of application, the choice of products and equipment used, and the skill and training of the staff, is made to avoid such problems. However, the customer understands and accepts that there is always a slight risk of the occurrence of adverse conditions outside the control of SOLitude that will result in the death of some fish and other aquatic life. The customer also understands and accepts that similar risks would remain even if no work was performed. The customer agrees to hold SOLitude harmless for any issues with fish or other aquatic life which occur as described above, or are otherwise outside the direct control of the SOLitude, unless there is willful negligence on the part of SOLitude.

While SOLitude Lake Management LLC makes every effort to thoroughly inspect the site before providing this contract proposal or beginning any work, it is possible, without fault or negligence, that unforeseen circumstances may arise, or that hidden conditions on the site might be found in the course of the performance of the contract work, which would result in additional time or material costs that exceed this contract pricing. Should this occur, the customer will be notified of these unforeseen circumstances or conditions and be responsible for the costs associated with remedying. By signing this agreement, the customer acknowledges that they have informed SOLitude Lake Management® of all known and relevant current site conditions that would be reasonable to expect could affect our ability to successfully complete the contract work.

5. INSURANCE AND LIMITATION OF LIABILITY. Solitude will maintain general liability and property damage insurance as necessary given the scope and nature of the Services. The Company will be responsible for those damages, claims, causes of action, injuries or legal costs to the extent of its own direct negligence or misconduct, and then only to an amount not to exceed the annual value of this Agreement. In no event will any party to this Agreement be liable to the other for incidental, consequential or purely economic damages.

6. FORCE MAJEURE. The Company shall not be liable for any delay in performing the Services, nor liable for any failure to provide the Services, due to any cause beyond its reasonable control.

7. ANTI-CORRUPTION AND BRIBERY. Each party represents that neither it nor anyone acting on its behalf has offered, given, requested or accepted any undue financial or other advantage of any kind in entering into this Agreement, and that it will comply with all applicable laws and regulations pertaining to corruption, competition and bribery in carrying out the terms and conditions of this Agreement.

8. GOVERNING LAW. This Agreement shall be governed and construed in accordance with the laws of the state in which the Services are performed.

9. ENTIRE AGREEMENT. This Agreement constitutes the entire agreement between the parties with respect to the subject matter and replaces any prior agreements or understandings, whether in writing or

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otherwise. This Agreement may not be modified or amended except by written agreement executed by both parties. In the event that any provision of this Agreement is determined to be void, invalid, or unenforceable, the validity and enforceability of the remaining provisions of this Agreement shall not be affected.

10. **NOTICE.** Any written notice provided under this Agreement may be sent via overnight mail, certified mail, hand delivery or electronic mail with delivery confirmation, to the individuals and addresses listed below.

11. **BINDING.** This Agreement shall inure to the benefit of and be binding upon the legal representatives and successors of the parties.

ACCEPTED AND APPROVED:

SOLITUDE LAKE MANAGEMENT, LLC.

WEST TISBURY CONSERVATION COMMISSION

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

Please Remit All Payments to:

**1320 Brookwood Drive Suite H
Little Rock AR 72202**

Customer's Address for Notice Purposes:

Please Mail All Contracts to:

**2844 Crusader Circle, Suite 450
Virginia Beach, VA 23453**

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SCHEDULE A – INVASIVE VEGETATION HAND-PULLING SERVICES

Invasive Aquatic Weed Control:

1. Any growth of Parrot Feather (*Myriophyllum aquaticum*) found in Pear Tree Cove shall be manually hand-pulled including root system not the extent reasonably possible.
2. Install floating fragment barrier around work site to prevent fragments from potentially migrating out of the cove.
3. Contract price includes a crew of two (2) Aquatic Specialists for one (1) day (6-8 hrs.) of hand-pulling effort. If additional days are required/desired, they will be performed at an additional cost.
4. All reasonably accessible Parrot Feather growth will be removed at the time of service. SOLitude is not responsible for the extent and rate of any target plot growth.

Permitting:

1. SOLitude staff will be responsible for the following:
 - a. Prepare & file Request for Determination of Applicability (RDA) required to perform any work specified in this contract where applicable.
 - b. Filing of any notices or year-end reports with the appropriate agency as required by any related permit.
 - c. Notifying the Customer of any restrictions or special conditions put on the site with respect to any permit received, where applicable.

Customer Responsibilities:

1. Customer will be responsible for the following:
 - a. Providing information required for the permit application process upon request.
 - b. Attending any public hearings or meetings with regulators as required in support of the permitting process.
 - c. Providing Certified Abutters List for abutter notification where required.
 - d. Perform any public filings or recordings with any agency or commission associated with the permitting process, if required.
 - e. Provide a suitable upland disposal site for removed plant material.
 - f. Compliance with any Order of Conditions or other special requirements or conditions required by the local municipality.
 - g. Compliance and enforcement of temporary water-use restrictions where applicable.

Service Reporting:

1. Customer will be provided with a monthly service report detailing all of the work performed as part of this contract.

General Qualifications:

1. Company is a licensed pesticide applicator in the state in which service is to be provided.

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2. Individual Applicators are Certified Pesticide Applicators in Aquatics, Public Health, Forestry, Right of Way, and Turf/Ornamental as required in the state in which service is to be provided.
3. Company is a SePRO Preferred Applicator and dedicated Steward of Water. Each individual applicator has been trained and educated in the water quality testing and analysis required for site specific water quality management prescriptions and utilizes an integrated approach that encompasses all aspects of ecologically balanced management. Each applicator has received extensive training in the proper selection, use, and application of all aquatic herbicides, algaecides, adjuvants, and water quality enhancement products necessary to properly treat our Customers' lakes and ponds as part of an overall integrated pest management program.
4. Company guarantees that all products used for treatment are EPA registered and labeled as appropriate and safe for use in lakes, ponds, and other aquatic sites, and are being applied in a manner consistent with their labeling.
5. All pesticide applications made directly to the water or along the shoreline for the control of algae, aquatic weeds, or other aquatic pests as specified in this contract will meet or exceed all of the Company's legal regulatory requirements as set forth by the EPA and related state agencies for NPDES and FIFRA. Company will perform treatments that are consistent with NPDES compliance standards as applicable in and determined by the specific state in which treatments are made. All staff will be fully trained to perform all applications in compliance with all federal, state, and local law.
6. Company will continue to maintain all appropriate training and licensing necessary to perform all specified work in a safe and legal manner throughout the entire contract period.
7. Company will furnish personnel, equipment, boats, materials, and other items required to provide the foregoing at his expense.

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