

Agreement for Watercraft Inspection Services

PARTIES AND TERMS:

Name: Holly Kalbus, Le Sueur County (“Governmental Unit”)

Name of Lake(s) Various, Le Sueur County (“Lake(s)”)

Physical Address: 515 S. Maple Ave.
Le Center, MN 56057

Mailing Address: 88 S Park Ave.
Le Center, MN 56057

WaterGuards, LLC (“WaterGuards”)
PO Box 277
St. Joseph, MN 56374

Schedule of Services (hours of coverage and other detail attached as Exhibit A) (“Exhibit A”)

RECITALS:

1. Governmental Unit desires to reduce the risk of introducing Aquatic Invasive Species (AIS) to the Lake(s). AIS are nonnative species that cause or may cause economic or environmental harm or harm to human health or threatens or may threaten natural resources or the use of natural resources in the state.
2. WaterGuards provides a service of watercraft inspections at lake access points pursuant to DNR training techniques and DNR developed AIS inspection protocols.
3. Governmental Unit desires to enter into this agreement with WaterGuards for WaterGuards to provide watercraft inspection services on its Lake(s) to aid in the prevention of spreading invasive species.

AGREEMENT:

NOW THEREFORE, in consideration of the agreements contained herein and other valuable consideration the receipt of which is hereby acknowledged, the parties agree as follows:

WATERGUARD RESPONSIBILITIES:

1. **Hire Inspectors.** WaterGuards agrees to provide inspectors to inspect watercraft at the access point(s) on the Lake(s) subject to this agreement for the coverage hours outlined in Exhibit A. WaterGuards agrees that its inspectors will meet the following qualifications.
 - 1.1. **DNR Trained.** The inspectors will be trained pursuant to the DNR training program for watercraft inspections. The inspectors will be authorized inspectors in accordance with Minnesota Statutes section 84D.105, subd. 2(a).
 - 1.2. **Age/Maturity.** The inspectors will be at least 16 years of age unless otherwise agreed.
 - 1.3. **Uniforms.** The inspectors will wear official uniforms (vests) provided by WaterGuards.
2. **Schedule Inspectors.** WaterGuards will perform the following services.

- 2.1. Inspect Boats/Interview Boaters.** WaterGuards inspectors will visually and tactilely inspect boats and water-related equipment to determine whether aquatic invasive species may be present.
 - 2.2. Educate Boaters.** WaterGuards inspectors will be trained to educate boaters on how to comply with AIS laws by removing AIS, draining, decontamination, or treating AIS and water-related equipment to prevent the transportation and spread of aquatic invasive species. WaterGuards inspectors will be prepared and willing to educate boaters on the types of AIS and how to identify AIS.
 - 2.3. Interview Boaters/Data Collection.** WaterGuards inspectors will interview the boaters and collect data consistent with DNR rules and processes for collecting data. Governmental Unit can contract for additional data collection beyond the DNR process; however, that is not part of the standard services. WaterGuards inspectors will upload collected inspection data at a minimum of once per week.
 - 2.4. Issue Verbal Warnings.** WaterGuards inspectors will issue verbal orders to prohibit placing water-related equipment, which has AIS attached or contains water that has not been into the waters of the Lake(s).
 - 2.5. Assist in the Removal of AIS.** With the boater's consent, WaterGuards inspectors will assist with the removal of AIS.
 - 2.6. Contact Conservation Officers or Police.** WaterGuards inspectors will contact Conservation Officers or local deputies if a person transporting watercraft or water-related equipment refuses to take corrective actions to remove AIS or fails to comply with the requirements to drain water prior to leaving the water access or entering the Lake(s).
 - 2.7. Meet Coverage Expectations.** WaterGuards will work with the Governmental Unit to determine coverage requirements at the outset of the program and work to meet the coverage requirements documented in Exhibit A.
 - 2.8. Schedule and Supervise Inspectors.** WaterGuards will schedule all inspectors and manage the ongoing calendar to ensure coverage for lakes outlined in Exhibit A.
 - 2.9. Manage Schedule Changes.** WaterGuards will manage the day-to-day coverage of the Lake access point(s). Although every effort will be made to provide coverage for all days and times requested by the Governmental Unit or Lake Association, there will be some times when the Governmental Unit budget will not provide for full coverage, where the weather or other extenuating circumstances will require or suggest the need for a schedule change, or for other reasons the schedule will require changes. WaterGuards will manage the schedule with input from the Governmental Unit, as appropriate (Sheriff's Department has first priority at accesses for inspections).
 - 2.10. Manage Budget.** WaterGuards will work with the Governmental Unit to set a budget for the season's watercraft inspection program and that budget will be reflected in Exhibit A. WaterGuards will then manage the hours to meet the budget expectations.
 - 2.11. Enforce Best Practices.** WaterGuards will remain current on invasive species issues and best practices for watercraft inspection services.
- 3. Reporting.** WaterGuards engages in a number of different data collection and reporting activities.
- 3.1. Hours Worked Report.** WaterGuards will provide the Governmental Unit a report of hours covered by month. WaterGuards will provide the report to the Governmental Unit by the 10th day following the end of the month.

- 3.2. DNR Data Collection.** WaterGuards will follow DNR protocol and procedures for making records of boats and boaters entering the Lake(s). This data is provided directly to the DNR via a DNR online data entry system. In rare cases when the access is very busy, the inspector is occupied with a problem boat/boater, or the inspector is otherwise occupied, a boater refuses to cooperate, a boat could enter the lake without inspection and/or an interview.
- 3.3. Report.** WaterGuards will provide the Governmental Unit a report at the end of the summer summarizing and totaling the hours worked. WaterGuards will not request data from the DNR. The Governmental Unit is responsible to request data from the DNR.
- 4. Payroll.** WaterGuards is an independent contractor and takes responsibility for hiring, paying and managing its inspectors whom it hires as its employees.

 - 4.1. Government Reporting.** WaterGuards will collect required forms from employees (e.g. W-4) and provide required reports to the government (e.g. W-2).
 - 4.2. Payroll.** WaterGuards will pay inspectors an hourly wage with payments made on either a semi-monthly, bi-weekly or monthly basis at WaterGuards discretion.
 - 4.3. Payroll Taxes/Withholding/Workers Comp/Unemployment/Other Taxes.** WaterGuards will pay or withhold for FICA, FUTA, State Unemployment, Workers Compensation, and state and federal withholding, as necessary. WaterGuards will provide proof of Workers Compensation coverage to Governmental Unit.
 - 4.4. Certificate of Insurance.** WaterGuards will provide a certificate of insurance to Governmental Unit demonstrating any insurance coverage it has beyond Workers Compensation and Unemployment.
- 5. Hold Harmless/Limitation on Liability.** Governmental Unit acknowledges that even with the best efforts of WaterGuards, AIS could enter the Lake(s). The inspection service is a preventative measure but WaterGuards does not guarantee that no AIS will enter the Lake. Governmental Unit and WaterGuards agree to hold each other harmless in the event that an AIS enters the Lake(s).

GOVERNMENTAL UNIT RESPONSIBILITIES:

- 6. Payments.** Governmental Unit agrees to pay WaterGuards pursuant to the payment terms below.

 - 6.1. Hourly Rate.** Governmental Unit agrees to pay WaterGuards Twenty-Three Dollars (\$23) per hour worked.
 - 6.2. Training Rate.** Governmental Unit agrees to pay WaterGuards Twenty Dollars (\$20) per hour for inspector DNR training (not to exceed eight hours per inspector), and other trainings that may be provided by the County.
 - 6.3. Services Invoiced Monthly.** WaterGuards will invoice the Governmental Unit at the end of each month for that month's hours of coverage provided. WaterGuards agrees to provide the hours worked for the previous month by the 10th day of the month along with a note highlighting any variation from the budget. WaterGuards will not exceed a monthly budget without prior permission from the Governmental Unit. A monthly invoice could be less than the budgeted amount due to inclement weather, employee emergencies or other unforeseen circumstances.

6.4. Invoices Due in 30 Days. Governmental Unit agrees to pay WaterGuards within thirty (30) days of receiving the invoice.

7. Other Terms.

- 7.1. Term and Termination.** This agreement shall remain in effect for the summer following the Effective Date of this Agreement. Either party may terminate upon thirty-days prior written notice. WaterGuards may stop coverage immediately if Governmental Unit fails to pay.
- 7.2. Notices.** All communications, demands, notices, and other communications from any party hereto to the other party shall be in writing and, except as otherwise provided herein, shall be considered to have been duly given, if deposited in the United States mail, certified postage prepaid, return receipt requested, and addressed to the respective party at its address set forth herein or at such other address as such party may hereafter designate by notice to the other party. Email serves as an acceptable method of communication provided a confirmation method is used to confirm receipt of the email for formal notices.
- 7.3. Amendment.** This Agreement cannot be amended, altered, enlarged, supplemented, abridged, modified, or any provisions waived except by a writing duly signed by both parties hereto.
- 7.4. Titles, Headings, or Captions.** The titles, headings, or captions in the paragraphs or sections of this Agreement are inserted for the convenience of reference only and shall not constitute a part of this Agreement.
- 7.5. Entire Agreement.** This Agreement contains the entire understanding of the parties with respect to the relationship contemplated hereby and supersedes all prior agreements and understandings between the parties with respect to such subject matter.
- 7.6. Severability.** Whenever possible, each provision of this Agreement will be interpreted in such a manner as to be effective and valid under applicable law, but if any provision of this Agreement is held to be invalid, illegal, or unenforceable under any applicable law or rule in any jurisdiction, such provision will be ineffective only to the extent of such invalidity, illegality, or unenforceability in such jurisdiction, without invalidating the remainder of this Agreement in such jurisdiction or any provision hereof in any other jurisdiction.
- 7.7. Assignment.** Either party to this Agreement may assign its interest in this Agreement to a third party upon the express written consent of the other party. An assignment of this Agreement shall not relieve the assignor of its obligations under this Agreement. This Agreement shall be binding on, and shall inure to the benefit of, the parties to this Agreement and their respective heirs, legal representatives, successors and assigns.
- 7.8. Counterparts.** This Agreement may be executed in counterparts and by different parties on different counterparts with the same effect as if the signatures thereto were on the same instrument. This Agreement shall be effective and binding upon all parties hereto at such time as all parties have executed a counterpart of this Agreement.
- 7.9. State Law.** This Agreement shall be construed and enforced in accordance with the laws of the State of Minnesota.
- 7.10. Rights of Third Parties.** Nothing in this Agreement, whether express or implied, is intended to confer any rights or remedies under this Agreement on any persons other than the parties to this Agreement and their respective successors and assigns. Further, nothing in this Agreement is intended to relieve or discharge the obligations or liabilities of any third persons to any party to this Agreement.

7.11. Waiver. The waiver of any of the rights and/or remedies arising under the terms of the Agreement on any one occasion by any party hereto shall not constitute a waiver of any rights and/or remedies in respect to any subsequent breach or default of the terms of the Agreement. The rights and remedies provided or referred to under the terms of this Agreement are cumulative and not mutually exclusive.

7.12. Confidentiality. Both parties agree to keep this Agreement and corresponding discussions and work confidential unless agreed otherwise.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized representatives as of the day and year set forth below.

Effective Date of Agreement: from signature date below through December 31, 2021.

Governmental Unit

WaterGuards, LLC

By: _____

By: _____

Its: _____
Print Name / Title

Its: Stephanie Johnson, President
Print Name / Title

Date _____

Date _____

Schedule of Services
Exhibit A to Agreement for Watercraft Services

Governmental Unit Name: **Le Sueur County**
 Contact Person for Billing and Reports:

Names: Holly Kalbus
 Title: Environmental Resources Specialist
 Email: hkalbus@co.le-sueur.mn.us
 Phone: 507.357.8540
 Address: 515 S. Maple Ave. Le Center, MN 56057

Table 1. Lakes and Accesses Watercraft Inspection Program

WaterGuards will provide inspection services from mid-May to October 2021.

Level I Inspectors

Lake Name	Number of Hours	Number of Accesses	Dates/Times of Inspections	Additional Comments
Volney	175	1	Holidays (include the weekend and/or week the holiday falls on), opening weekend for fishing	Most people use lake during holidays and opening weekend for fishing, have inspectors there during those times
Emily	100	1	Holidays, opening weekend for fishing	Unsure of number of boaters at access, the Lake Association isn't very active, limit number of hours and see how it goes
Rays	125	1	Holidays (include the weekend and/or week the holiday falls on), opening weekend for fishing	Unsure of number of boaters at access, there isn't a lake association established, limit number of hours and see how it goes, any remaining hours after holidays and opening weekend for fishing can be filled in as needed
Francis	500	2-east and west end	Holidays (include the weekend and/or week the holiday falls on), opening weekend for fishing	Inspectors already at the east access in the City of Elysian, only need inspectors at the west access, any remaining hours after holidays and opening weekend for fishing can be filled in as needed
Gorman	150	3	Holidays (include the weekend and/or week the holiday falls on), opening weekend for fishing	Unsure of the number of boaters at accesses, the Lake Association isn't very active, limit the number of hours and see how it goes, any remaining hours after holidays and opening weekend for fishing can be filled in as needed
Tetonka	265.5	1	Holidays (include the weekend and/or week the holiday falls on), opening weekend for fishing, most weekends	Heavy use by boaters and fishermen, inspectors there almost every weekend, on average sheriff's department is there for 100 hours
German	325	1	Holidays (include the weekend and/or week the holiday falls on), opening weekend for fishing, most weekends	Heavy use by boaters and fishermen, inspectors there almost every weekend, on

				average sheriff's department is there for 150 hours
West Jefferson	250	1	Holidays (include the weekend and/or week the holiday falls on), opening day for fishing, most weekends	Heavy use by boaters and fishermen, inspectors there almost every weekend, on average sheriff's department is there for 75 hours
East Jefferson	300	1	Holidays (include the weekend and/or week the holiday falls on), opening weekend for fishing, most weekends	Heavy use by boaters and fishermen, inspectors there almost every weekend, on average sheriff's department is there for 100 hours
Washington	500	2	Holidays (include the weekend and/or week the holiday falls on), opening weekend for fishing	Heavy use by boaters and fishermen, two accesses will need to split time between the two (focus during holidays and opening day of fishing), any remaining hours after holidays and opening weekend for fishing can be filled in as needed, on average sheriff's department is there for 100 hours
Pepin	100	1	Holidays (include the weekend and/or week the holiday falls on), opening weekend for fishing, both opening weekends for waterfowl hunting season, fill in remaining hours during summer and fall weekends	Unsure the number of boaters at access, I don't think there is a lake association, limit number of hours and see how it goes, any remaining hours after holidays and opening weekend can be filled in as needed
Scotch	100	1	Holidays (include the weekend and/or week the holiday falls on), opening weekend for fishing, both opening weekends waterfowl hunting season, fill in remaining hours during summer and fall weekends	Unsure the number of boaters at access, I don't think there is a lake association, limit number of hours and see how it goes, any remaining hours after holidays and opening weekend can be filled in as needed
Dora	75	1	Holidays (include the weekend and/or week the holiday falls on), opening weekend for fishing, both opening weekends waterfowl hunting season, fill in remaining hours during summer and fall weekends	Unsure the number of boaters at access, I don't think there is a lake association, limit number of hours and see how it goes, any remaining hours after holidays and

				opening weekend can be filled in as needed
Greenleaf	50	1	Holidays (include the weekend and/or week the holiday falls on), opening weekend for fishing, both opening weekends waterfowl hunting season, fill in remaining hours during summer and fall weekends	Unsure the number of boaters at access, I don't think there is a lake association, limit number of hours and see how it goes, any remaining hours after holidays and opening weekend can be filled in as needed
Sabre	50	1	Holidays (include the weekend and/or week the holiday falls on), opening weekend for fishing, fill in remaining hours during summer and fall weekends	Unsure the number of boaters at access, I don't think there is a lake association, limit number of hours and see how it goes, any remaining hours after holidays and opening weekend can be filled in as needed
Clear	100	1	Holidays (include the weekend and/or week the holiday falls on), opening weekend for fishing, fill in remaining hours during summer weekends	Unsure the number of boaters access, I don't think there is a lake association, limit number of hours and see how it goes, any remaining hours after holidays and opening weekend can be filled in as needed

- Hours between German, West Jefferson, and East Jefferson are flexible. Really dependent on whether the sheriff's department is at an access more than others. Will not exceed a total of 875 hours of inspections between the three lakes. Heavy fishing lake, preference is inspectors for early morning hours or later afternoon hours.

- Gorman lake has three different accesses. State access is used more than the dam access; unsure about the west access. I would split the hours between the three accesses (State access has the most inspection hours, then west access, then dam access). We can always adjust hours at each access during the season. Fishing lake, preference is inspectors for early morning hours or later afternoon hours.
- Hours between the two accesses for Lake Washington are flexible. Really dependent on whether the sheriff's department is at an access more than others. Will not exceed a total of 500 hours of inspections between the two accesses.
- Unknown how active Pepin, Scotch, Dora, Greenleaf, Sabre, and Clear lakes are. Focus hours on holidays and opening weekend for fishing. Additionally, Pepin, Scotch, Dora, and Greenleaf lakes are used for waterfowl hunting. Would like inspectors at these accesses during opening weekends for waterfowl hunting.

Table 2. Planned Overall Schedule for Watercraft Monitoring.

Actual schedule to be determined. Total number of hours for the season: 3165.5

Inspection start date is dependent on DNR training schedule and availability of training sessions for Le Sueur County.

Hours of operation will concentrate around the busiest time periods and will vary over the course of the season based on daylight.

Inspectors will use personal electronic devices for data collection.