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**Title:** Winter Commercial Seines in Six Mile Creek Halsted's Bay Subwatershed

**Resolution number:** 20-009

**Prepared by:** Name: Tom Langer  
Phone: 952-471-7873  
tlanger@minnehahacreek.org

**Reviewed by:** Name/Title: Anna Brown / Planner – Project Manager

**Recommended action:** Authorization to Contract for Winter Commercial Seines in SMCHB Subwatershed

**Schedule:** Date: 2/14/2020  
Date: 3/13/2020

**Budget considerations:** Fund name and code: 500-5007 SMCHB Carp Management  
Fund budget: \$567,000  
Expenditures to date: \$306,600  
Requested amount of funding: \$39,478

**Past Board action:** Res # 17-036 Title: Authorization to request funds from Lessard Sams Outdoor Heritage Council  
Res # 18-060 Title: Authorization to execute contracts for carp removal  
Res # 19-049 Title: Authorization to execute contracts for carp removal

Summary:

In September 2017, the Lessard Sams Outdoor Heritage Council recommended the Six Mile Creek-Halsted Bay (SMCHB) Habitat Restoration Project for \$567,000 to the Minnesota State Legislature. The funding bill was approved by the legislature and funds were made available July 1, 2018 for project implementation.

The program takes a holistic and comprehensive approach to managing common carp in the SMCHB Subwatershed, consisting primarily of three management strategies:

- Adult biomass removal
- Barriers to prevent carp movement between waterbodies and assist with removal
- Aeration of shallow lakes to prevent successful carp reproduction

Consistent with the accomplishment plan approved by the Lessard Sams Outdoor Heritage Council, the grant funds will be used to pay for the capital cost of barrier installation, utility installation for aeration, and the fish removal contracts. The Minnehaha Creek Watershed District (MCWD) match includes equipment for removal and monitoring, the aeration units, and design services for barriers.

In 2018 and 2019, staff made significant progress implementing each of the carp management strategies. Barrier installation is complete at three of the four locations, utilities are installed for all projected aeration sites, and removal efforts have carried through the last two years of implementation. Carp removal will be a primary focus for the remaining year and a half of grant implementation.

There are four techniques that have been tested in other areas of the state that may be applicable for removing carp within the SMCHB subwatershed. Each of these four techniques has strengths and weaknesses and is limited to different times of the year and specific waterbodies. These techniques include:

- Winter seining
- Open water seining
- Box netting
- Stream trapping

To-date, MCWD has successfully implemented stream trapping (2019) and box netting (2018 and 2019). Open water seining has proven a difficult technique to implement due to limited aggregation of carp during open water season, early ice on in the fall, and limited commercial fisherman interest outside of the fall season. Winter seining shows the greatest promise to remove large amounts of carp, but pursuit of this effort has fallen short in prior years due to lack of commercial interest.

In the fall of 2019, staff began conversations with consultants to explore alternative removal techniques and/or assistance with the four established techniques. Wenck, WSB, and Carp Solutions LLC all provided feedback on various services and capacities to assist MCWD. WSB, who has existing relationship with many of the regions commercial fisherman, was the only consultant able to facilitate winter seining in the winter of 2020.

MCWD worked with WSB to develop a scope of work wherein WSB would facilitate commercial seining on two lakes, Parley and Zumbra. These lakes were selected because:

- They have the highest abundances of carp within the subwatershed
- Carp form dense winter aggregation and are susceptible to this removal technique
- Other removal methods have been attempted on these waterbodies with limited success

Carp removal via winter seining is inherently risky, with a number of factors that could potentially go wrong a limit the success of the seining attempt. Staff have sought to structure the contracts in a way that maximizes oversight and manages that risk. Because there are two different commercial fisherman performing the work, each contract is set up with different logistical and implementation structures to meet the operator's needs.

Specific scope of work services, schedule, and fee schedules are provided in Supporting Documents. The services and compensation are structured in phases to ensure clear expectations of services while providing fair compensation for commercial seining efforts.

**Supporting documents (list attachments):**

- 1) SMC-HB 2019 Carp Density Map
- 2) Zumbra Lake contract agreement
- 3) Zumbra Lake scope of work
- 4) WSB Fee Schedule
- 5) Parley Lake contract agreement
- 6) Parley Lake scope of work



**RESOLUTION**

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**Resolution number:** 20-009

**Title:** Authorization to Contract for Winter Commercial Seines in SMCHB Subwatershed

WHEREAS, pursuant to Resolution 14-047 the MCWD Board of Managers has identified the Six Mile Creek-Halsted Bay (SMCHB) subwatershed as a priority area for focusing District planning activities and coordination efforts with subwatershed partners; and

WHEREAS, on October 10, 2013, the MCWD Board of Managers authorized the execution of a contract with Dr. Peter Sorenson and the University of Minnesota to conduct a three-year carp assessment of the SMCHB subwatershed to identify recruitment, carp census, and management strategies;

WHEREAS, in September 2017, the Lessard Sams Outdoor Heritage Council recommended the SMCHB Habitat Restoration project for \$567,000 in funding, and the funding was approved by the MN Legislature in May of 2018;

WHEREAS, The District has outlined a carp removal strategy utilizing commercial seining, baited box-net trapping and trapping within stream channels during carp migration;

WHEREAS, District policy specifies that professional services in excess of \$25,000 will not be secured without competitive procurement;

WHEREAS, WSB & Associates, is the only contractor providing large-scale commercial fisherman coordination of winter seining services, and therefore is uniquely qualified to perform this work, and accordingly an exception to this policy is warranted.

NOW, THEREFORE, BE IT RESOLVED that the Minnehaha Creek Watershed District Board of Managers authorizes the District Administrator, on advice of counsel, to execute a contract with Carp Solutions, LLC to aid in the removal of common carp in the Six Mile Creek-Halsted Bay Subwatershed consistent with the Lessard-Sams Outdoor Heritage Council Grant Accomplishment Plan in an amount not to exceed \$39,478.

Resolution Number 20- **009** was moved by Manager \_\_\_\_\_, seconded by Manager \_\_\_\_\_. Motion to adopt the resolution \_\_\_ ayes, \_\_\_ nays, \_\_\_ abstentions. Date: 2/13/2020

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

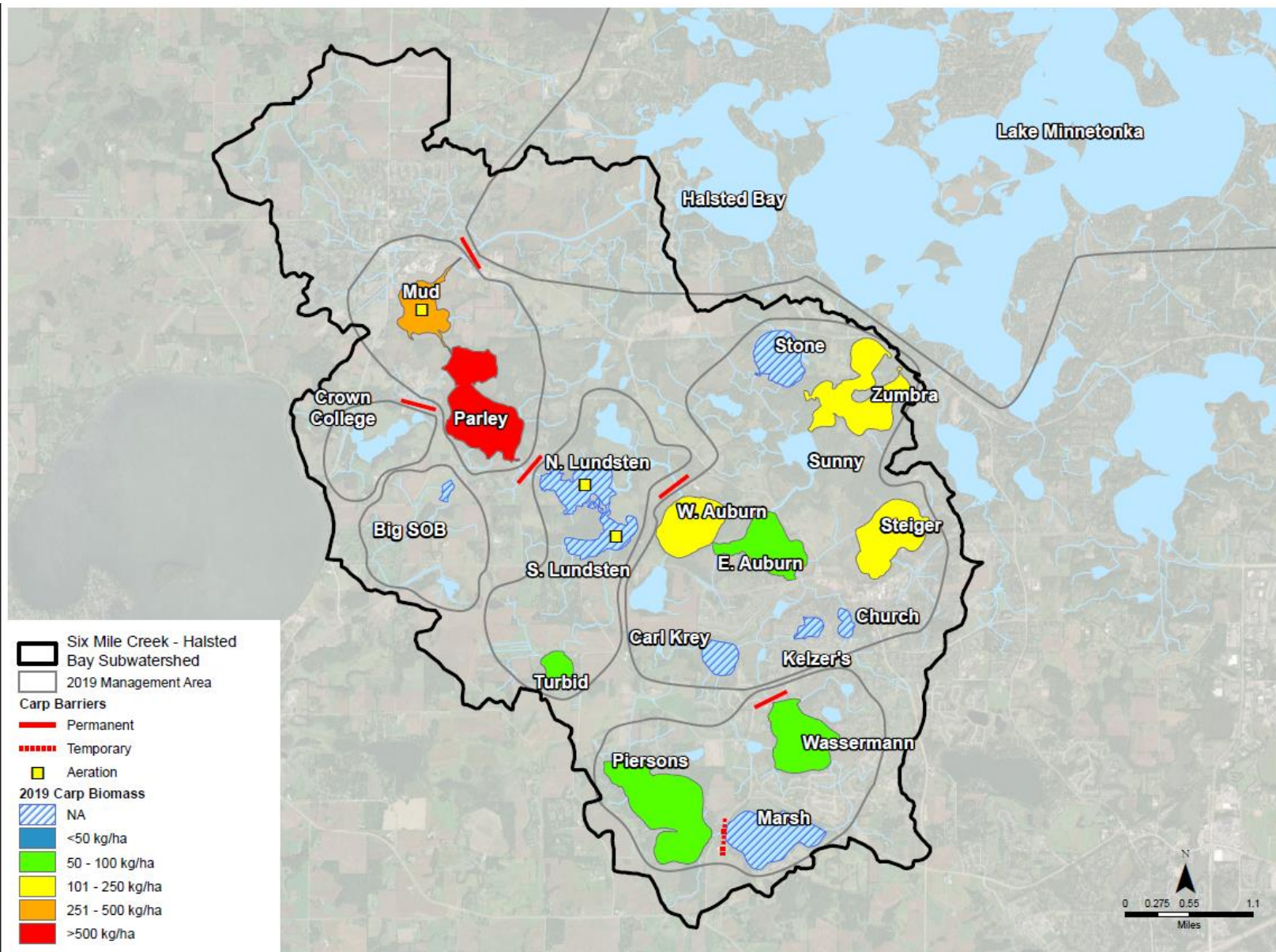


Figure 1. Six Mile Creek – Halsted's Bay Subwatershed 2019 Biomass with management areas & structures.

**AGREEMENT BETWEEN  
MINNEHAHA CREEK WATERSHED DISTRICT and  
WSB**

**Carp Removal Services, Zumbra Lake**

The Minnehaha Creek Watershed District (MCWD) and WSB (“CONTRACTOR”) enter into this agreement for mutual consideration, the sufficiency of which hereby is acknowledged. MCWD and CONTRACTOR agree as follows:

1. Scope of Work

CONTRACTOR will perform the work described in the 2/13/2020 Scope of Services attached as Exhibit A (the “Services”). Exhibit A is incorporated into this agreement and its terms and schedules are binding on CONTRACTOR as a term hereof. At its discretion, MCWD may at any time suspend work or amend the Services to delete any task or part thereof by notifying CONTRACTOR in writing. Authorized work by CONTRACTOR on a task deleted or modified by MCWD will be compensated in accordance with paragraphs 5 and 6. Time is of the essence in the performance of the Services.

2. Independent Contractor

CONTRACTOR is an independent contractor under this agreement. CONTRACTOR will select the means, method and manner of performing the Services. Nothing herein contained is intended or is to be construed to constitute CONTRACTOR as the agent, representative or employee of MCWD in any manner. Personnel performing the Services on behalf of CONTRACTOR or a subcontractor will not be considered employees of MCWD and will not be entitled to any compensation, rights or benefits of any kind from MCWD.

3. No Subcontract or Assignment

CONTRACTOR will not assign, subcontract or transfer any obligation or interest in this agreement or any of the Services without the written consent of MCWD and pursuant to any conditions included in that consent. MCWD hereby approves the use of Jeff Riedemann as a subcontractor.

4. Duty of Care; Indemnification

CONTRACTOR will perform the Services with due care and in accordance with the terms of this agreement, and will be responsible for the subcontractor’s performance to the same standard. CONTRACTOR will defend MCWD, its board members, employees and agents from any and all actions, costs, damages and liabilities of any nature arising from; and hold each such party harmless, and indemnify it, to the extent due to CONTRACTOR’s or the subcontractor’s negligent or otherwise wrongful act or omission, or breach of a specific contractual duty. For any claim subject to this paragraph by an employee of CONTRACTOR or the subcontractor, the indemnification obligation is not limited by a limitation on the amount or type of damages, compensation or benefits payable by or for CONTRACTOR or the subcontractor under workers’ compensation acts, disability acts or other employee benefit acts.

Notwithstanding any other term of this agreement, MCWD waives no immunity in tort. This agreement creates no right in and waives no immunity, defense or liability limit with respect to any third party.

5. Compensation

MCWD will compensate CONTRACTOR for the Services in accordance with Exhibit A. Invoices will be submitted no more frequently than monthly. Payment for undisputed work will be due within 30 days of receipt of invoice. Total payment for the Services will not exceed \$20,618.

CONTRACTOR will maintain all records pertaining to fees or costs incurred in connection with the Services for six years from the date of completion of the Services. CONTRACTOR agrees that any authorized MCWD representative or the state auditor may have access to and the right to examine, audit and copy any such records during normal business hours.

6. Termination; Continuation of Obligations

This agreement is effective when fully executed by the parties and will remain in force until 3/31/2020 unless earlier terminated as set forth herein.

MCWD may terminate this agreement at its convenience, by a written termination notice stating specifically what prior authorized or additional tasks or services it requires CONTRACTOR to complete. CONTRACTOR will receive full compensation for all authorized work performed, except that CONTRACTOR will not be compensated for any part performance of a specified task or service if termination is due to CONTRACTOR's breach of this agreement.

Insurance obligations; duty of care; obligations to defend, indemnify and hold harmless; and document-retention requirements will survive the completion of the Services and the term of this agreement.

7. Insurance

At all times during the term of this Agreement, CONTRACTOR will have and keep in force the following insurance coverages:

- A. Commercial general liability: \$1.5 million or CONTRACTOR's actual coverage, whichever greater, each occurrence and aggregate, covering CONTRACTOR's work on an occurrence basis. Policy must cover standard commercial boat operator liability risk including accidental environmental release, and include contract liability.
- B. Automobile liability: \$1.5 million or CONTRACTOR's actual coverage, whichever greater, combined single limit each occurrence coverage for bodily injury and property damage covering all vehicles on an occurrence basis.
- C. Workers' compensation: in accordance with legal requirements applicable to CONTRACTOR.

CONTRACTOR will not commence work until it has filed with MCWD a certificate of insurance clearly evidencing the required coverages and naming MCWD as an additional insured for general liability, along with a copy of the additional insured endorsement establishing coverage for CONTRACTOR's work as primary coverage on a noncontributory basis. The certificate will name MCWD as a holder and will state that MCWD will receive written notice before cancellation, nonrenewal or a change in the limit of any described policy under the same terms as CONTRACTOR.

8. Compliance With Laws

CONTRACTOR will comply with the laws and requirements of all federal, state, local and other governmental units in connection with performing the Services and will procure all licenses, permits and other rights necessary to perform the Services.

In performing the Services, CONTRACTOR will ensure that no person is excluded from full employment rights or participation in or the benefits of any program, service or activity on the ground of race, color, creed, religion, age, sex, disability, marital status, sexual orientation, public assistance status or national origin; and no person who is protected by applicable federal or state laws, rules or regulations against discrimination otherwise will be subjected to discrimination.

9. Data Practices

The requirements of Minnesota Statutes §13.05, subdivision 11, apply to this agreement.

10. Notices

Any written communication required under this agreement to be provided in writing will be directed to the other party as follows:

To MCWD:

Aquatic Ecologist  
Minnehaha Creek Watershed District  
15320 Minnetonka Boulevard  
Minnetonka MN 55345

To CONTRACTOR:

Either of the above individuals may in writing designate another individual to receive communications under this agreement.

11. Choice of Law; Venue

This agreement will be construed under and governed by the laws of the State of Minnesota. Venue for any action will lie in Carver County.

12. Whole Agreement

The entire agreement between the two parties is contained herein and this agreement supersedes all oral agreements and negotiations relating to the subject matter hereof. Any modification of this agreement is valid only when reduced to writing as an amendment to the agreement and signed by the parties.

***Intending to be legally bound:***

**CONTRACTOR**

By \_\_\_\_\_

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

*Approved as to Form and Execution*

\_\_\_\_\_  
MCWD Attorney

**MINNEHAHA CREEK WATERSHED DISTRICT**

By \_\_\_\_\_  
James Wisker, Administrator

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



**Exhibit A**  
**Scope of Services**

Draft

## **Scope of Work for Carp Removal on Zumbra Lake Through Winter Seining**

This statement of work applies to Zumbra Lake only and addresses carp biomass reduction in Zumbra Lake to meet Minnehaha Creek Watershed District (MCWD) carp management goals to improve water quality and ecological integrity.

The current carp biomass estimate for Zumbra Lake (provided by MCWD) shows the lake supports 37,109 pounds of carp biomass (27,513-46,705) and requires a reduction of 15,411 pounds of carp biomass to reach a density of 100kg/ha (critical threshold).

Under this statement of work, WSB will work collaboratively with Jeff Riedemann (JR Commercial Fish) to complete an under-ice winter seine haul to remove carp biomass.

A detailed description of tasks, as well as a budget and project schedule are provided below.

### **Task 1. Project Management**

Project management includes reviewing and ensuring scope items are being completed on budget, as well as miscellaneous administrative items that need to be addressed during the course of the project.

### **Task 2. Permitting**

Jeff Riedemann is not the licensed commercial fisherman for MN inland commercial fishing area 20, in which the Six Mile Creek-Halsted Bay Subwatershed falls. New legislation enacted in 2019, provides local government units (LGU) the ability to contract with individuals/entities to complete carp removals within areas in which they are not the licensed commercial fisherman. This requires submittal of a class C commercial fishing permit to the Area MN DNR Fisheries office which lists the LGU (MCWD) and WSB subcontractor (Jeff Riedemann). WSB will facilitate the completion, submittal, and issuance of this permit to allow for this project to move forward.

### **Task 3. Project Coordination**

Under ice winter seining for carp removal can be logistically challenging and requires good communication and planning between the fishing crews, project manager, and sponsoring entity. Under this task, WSB staff will coordinate with Jeff Riedemann to schedule permitting, mobilization, and netting. This will be guided in part by telemetry data provided by MCWD once before pre-lining, once after pre-lining, and within 48 hours of when the seine haul is planned to occur. WSB will communicate this information to Jeff Riedemann to schedule the day of netting based on these data as well as weather, fish behavior, tightness of the aggregation, and suitability of the lake bottom to netting in the area of the aggregation.

### **Task 4. Removal Operations**

One (1) WSB staff will be present the day of the seine haul to ensure fish are aggregated in the lined out area, and that the net is deployed. This staff member will also be present should any issues arise with netting and be available to process and handle fish. It is understood under this statement of work that MCWD staff will be present once fish are netted to obtain biological data and scan for radio and PIT tags. WSB is not solely responsible for obtaining biological data and processing netted carp. This task includes 20 hours of labor, which may be used during the day of removal and for additional site visits if necessary, before or after removal, to facilitate the project.

### **Task 5. Reporting**

Post removal, WSB will provide a concise report to document the removals efforts completed under this statement of work. This report may be in the form of a technical memo or other format and will provide details on dates,



permitting, aggregations, net specifics, and biomass removed; as well as any issues observed to enhance future seining and/or commercial fishing operations.

### Schedule

Task	February	March
Task 1		
Task 2		
Task 3		
Task 4		
Task 5		

This project is time sensitive. The project cannot begin until authorization by the MCWD board; based on this the project start date is anticipated to be February 14; with project operations planned to conclude by February 28 and a report to be submitted by March 20<sup>th</sup>, 2020 by 4:00pm.

While commercial fishing operations are planned to be completed February 14 through the 28<sup>th</sup>, this will ultimately be dictated by ice thickness, fish aggregations and behavior, suitability of the aggregation area to be netted, and weather. Commercial fishing activities will occur over these five phases to allow check-ins with commercial operations and ensure that we are maximizing effectiveness of dollars spent and reducing uncertainty for all parties in terms of expectations. WSB will coordinate commercial fishing operation over five phases as outlined here:

- 1) Phase 1 Mobilization (Part 1): Snow plowing, site visit, preparation for pre-lining.
- 2) Phase 2 Mobilization (Part 2): Pre-lining and preparation for seine haul attempt.
- 3) Phase 3 Seine Haul Attempt.
- 4) Phase 4 Demobilization (Part 1): Loading Carp (if captured during seine attempt).
- 5) Phase 5 Demobilization (Part 2): Equipment removal and safety sign posting.

### Project Budget

Task/Activity	Cost
Task 1.	\$572
Task 2.	\$858
Task 3	\$1,124
Task 4.	\$1,740
Task 5.	\$1,324
WSB Fee Total	\$5,618
JR Commercial Fish Contractual Fee-Mobilization/Demobilization	\$2,500/day up to \$10,000
JR Commercial Fish- Netting	\$5,000
<b>Project Total</b>	<b>\$20,618 (Not to exceed)</b>



WSB fees are calculated on an hourly basis, not to exceed the indicated WSB Fee Total. Additional WSB staff time will be billed at an hourly rate according to the attached rate sheet, and only under approval by MCWD.

JR Commercial Fish mobilization fees are calculated at \$2,500/day for Mobilization and Demobilization efforts with a maximum limit of \$10,000. Two mobilization and two demobilization days are standard components to a seine haul attempt with JR Commercial Fishing and are included in this scope of work. These mobilization and demobilization days may include acquiring required permits, preparing and maintaining equipment, plowing, moving fish traps, disposal containers, or any other necessary gear or equipment to and from the lake, winter pre-lining the seine haul, visits to the site to check fish aggregations, disposal of seined carp, and coordination and communications with MCWD staff.

The contractual fees from JR Commercial fish for netting includes activities associated with seining and includes drilling holes in ice to deploy seine, deploying seine net, and seining.

MCWD staff will provide WSB with carp aggregation up to three times during different phases: Pre-Mobilization (Part 1), Pre-Mobilization (Part 2), Pre-Seine Haul Attempt. These efforts are to increase capture rate of carp within the lake, ensure carp do not spook during Mobilization efforts, and reduce overall project costs for consultant time. At any time during the pre-mobilization phase, the parties may consult and determine that the seine attempt should not proceed. In that circumstance, MCWD will only be responsible for fees incurred to date. Some activities (coordination and site visits) may be completed ahead of time and will not fit neatly into a weekly schedule. Given the strict and narrow schedule of this seining attempt, we won't attempt to pursue effort beyond a two week period from the onset of Mobilization (Part 1). If further post-demobilization activities occur outside of the proposed schedule they will be covered by the proposed fee schedule (permit reporting, removal of thin ice signs, net patching).

It is also understood that MCWD maintains a number of radio tagged carp in fish in Zumbra Lake. Any radio tagged carp will be returned to the lake after being identified by MCWD staff.



# 2020 Rate Schedule



	Billing Rate/Hour
PRINCIPAL   ASSOCIATE	\$152 - \$192
SR. PROJECT ENGINEER   SR. PROJECT MANAGER	\$152 - \$192
PROJECT MANAGER	\$135 - \$150
PROJECT ENGINEER   GRADUATE ENGINEER	\$90 - \$146
ENGINEERING TECHNICIAN   ENGINEERING SPECIALIST	\$58 - \$146
LANDSCAPE ARCHITECT   SR. LANDSCAPE ARCHITECT	\$70 - \$150
ENVIRONMENTAL SCIENTIST   SR. ENVIRONMENTAL SCIENTIST	\$58 - \$146
PLANNER   SR. PLANNER	\$70 - \$150
GIS SPECIALIST   SR. GIS SPECIALIST	\$70 - \$150
CONSTRUCTION OBSERVER	\$95 - \$120
SURVEY	
One-Person Crew	\$149
Two-Person Crew	\$196
Three-Person Crew	\$211
OFFICE TECHNICIAN	\$53 - \$94

Costs associated with word processing, cell phones, reproduction of common correspondence, and mailing are included in the above hourly rates. Vehicle mileage is included in our billing rates [excluding geotechnical and construction materials testing (CMT) service rates]. Mileage can be charged separately, if specifically outlined by contract. | Reimbursable expenses include costs associated with plan, specification, and report reproduction; permit fees; delivery costs; etc. | Multiple rates illustrate the varying levels of experience within each category. | Rate Schedule is adjusted annually.

**AGREEMENT BETWEEN  
MINNEHAHA CREEK WATERSHED DISTRICT and  
WSB**

**Carp Removal Services, Parley Lake**

The Minnehaha Creek Watershed District (MCWD) and WSB (“CONTRACTOR”) enter into this agreement for mutual consideration, the sufficiency of which hereby is acknowledged. MCWD and CONTRACTOR agree as follows:

1. Scope of Work

CONTRACTOR will perform the work described in the 2/13/2020 Scope of Services attached as Exhibit B (the “Services”). Exhibit B is incorporated into this agreement and its terms and schedules are binding on CONTRACTOR as a term hereof. At its discretion, MCWD may at any time suspend work or amend the Services to delete any task or part thereof by notifying CONTRACTOR in writing. Authorized work by CONTRACTOR on a task deleted or modified by MCWD will be compensated in accordance with paragraphs 5 and 6. Time is of the essence in the performance of the Services.

2. Independent Contractor

CONTRACTOR is an independent contractor under this agreement. CONTRACTOR will select the means, method and manner of performing the Services. Nothing herein contained is intended or is to be construed to constitute CONTRACTOR as the agent, representative or employee of MCWD in any manner. Personnel performing the Services on behalf of CONTRACTOR or a subcontractor will not be considered employees of MCWD and will not be entitled to any compensation, rights or benefits of any kind from MCWD.

3. No Subcontract or Assignment

CONTRACTOR will not assign, subcontract or transfer any obligation or interest in this agreement or any of the Services without the written consent of MCWD and pursuant to any conditions included in that consent. MCWD hereby approves the use of Don Geyer as a subcontractor.

4. Duty of Care; Indemnification

CONTRACTOR will perform the Services with due care and in accordance with the terms of this agreement, and will be responsible for the subcontractor’s performance to the same standard. CONTRACTOR will defend MCWD, its board members, employees and agents from any and all actions, costs, damages and liabilities of any nature arising from; and hold each such party harmless, and indemnify it, to the extent due to CONTRACTOR’s or the subcontractor’s negligent or otherwise wrongful act or omission, or breach of a specific contractual duty. For any claim subject to this paragraph by an employee of CONTRACTOR or the subcontractor, the indemnification obligation is not limited by a limitation on the amount or type of damages, compensation or benefits payable by or for CONTRACTOR or the subcontractor under workers’ compensation acts, disability acts or other employee benefit acts.

Notwithstanding any other term of this agreement, MCWD waives no immunity in tort. This agreement creates no right in and waives no immunity, defense or liability limit with respect to any third party.

5. Compensation

MCWD will compensate CONTRACTOR for the Services in accordance with Exhibit B. Invoices will be submitted no more frequently than monthly. Payment for undisputed work will be due within 30 days of receipt of invoice. Total payment for the Services will not exceed \$18,860.

CONTRACTOR will maintain all records pertaining to fees or costs incurred in connection with the Services for six years from the date of completion of the Services. CONTRACTOR agrees that any authorized MCWD representative or the state auditor may have access to and the right to examine, audit and copy any such records during normal business hours.

6. Termination; Continuation of Obligations

This agreement is effective when fully executed by the parties and will remain in force until 3/31/2020 unless earlier terminated as set forth herein.

MCWD may terminate this agreement at its convenience, by a written termination notice stating specifically what prior authorized or additional tasks or services it requires CONTRACTOR to complete. CONTRACTOR will receive full compensation for all authorized work performed, except that CONTRACTOR will not be compensated for any part performance of a specified task or service if termination is due to CONTRACTOR's breach of this agreement.

Insurance obligations; duty of care; obligations to defend, indemnify and hold harmless; and document-retention requirements will survive the completion of the Services and the term of this agreement.

7. Insurance

At all times during the term of this Agreement, CONTRACTOR will have and keep in force the following insurance coverages:

- A. Commercial general liability: \$1.5 million or CONTRACTOR's actual coverage, whichever greater, each occurrence and aggregate, covering CONTRACTOR's work on an occurrence basis. Policy must cover standard commercial boat operator liability risk including accidental environmental release, and include contract liability.
- B. Automobile liability: \$1.5 million or CONTRACTOR's actual coverage, whichever greater, combined single limit each occurrence coverage for bodily injury and property damage covering all vehicles on an occurrence basis.
- C. Workers' compensation: in accordance with legal requirements applicable to CONTRACTOR.

CONTRACTOR will not commence work until it has filed with MCWD a certificate of insurance clearly evidencing the required coverages and naming MCWD as an additional insured for general liability, along with a copy of the additional insured endorsement establishing coverage for CONTRACTOR's work as primary coverage on a noncontributory basis. The certificate will name MCWD as a holder and will state that MCWD will receive written notice before cancellation, nonrenewal or a change in the limit of any described policy under the same terms as CONTRACTOR.

8. Compliance With Laws

CONTRACTOR will comply with the laws and requirements of all federal, state, local and other governmental units in connection with performing the Services and will procure all licenses, permits and other rights necessary to perform the Services.

In performing the Services, CONTRACTOR will ensure that no person is excluded from full employment rights or participation in or the benefits of any program, service or activity on the ground of race, color, creed, religion, age, sex, disability, marital status, sexual orientation, public assistance status or national origin; and no person who is protected by applicable federal or state laws, rules or regulations against discrimination otherwise will be subjected to discrimination.

9. Data Practices

The requirements of Minnesota Statutes §13.05, subdivision 11, apply to this agreement.

10. Notices

Any written communication required under this agreement to be provided in writing will be directed to the other party as follows:

To MCWD:

Aquatic Ecologist  
Minnehaha Creek Watershed District  
15320 Minnetonka Boulevard  
Minnetonka MN 55345

To CONTRACTOR:

Either of the above individuals may in writing designate another individual to receive communications under this agreement.

11. Choice of Law; Venue

This agreement will be construed under and governed by the laws of the State of Minnesota. Venue for any action will lie in Carver County.



12. Whole Agreement

The entire agreement between the two parties is contained herein and this agreement supersedes all oral agreements and negotiations relating to the subject matter hereof. Any modification of this agreement is valid only when reduced to writing as an amendment to the agreement and signed by the parties.

***Intending to be legally bound:***

**CONTRACTOR**

By \_\_\_\_\_

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

*Approved as to Form and Execution*

\_\_\_\_\_  
MCWD Attorney

**MINNEHAHA CREEK WATERSHED DISTRICT**

By \_\_\_\_\_  
James Wisker, Administrator

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

**Exhibit B**  
**Scope of Services**

Draft

## **Scope of Work for Carp Removal on Parley Lake Through Winter Seining**

This statement of work applies to Parley Lake only and addresses carp biomass reduction in Parley Lake to meet Minnehaha Creek Watershed District (MCWD) carp management goals to improve water quality and ecological integrity.

The current carp biomass estimate for Parley Lake (provided by MCWD) shows the lake supports 135,144 pounds of carp biomass (130,279-140,010) and requires a reduction of 124,444 pounds of carp biomass to reach a density of 100kg/ha (critical threshold).

Under this statement of work, WSB will work collaboratively with Don Geyer to complete an under-ice winter seine haul to remove carp biomass.

Don Geyer is the licensed commercial fisherman for MN inland commercial fishing area 20, in which the Six Mile Creek-Halsted Bay Subwatershed falls, therefore no work is needed to secure a permit for activities to be completed under this statement of work.

A detailed description of tasks, as well as a budget and project schedule are provided below.

### **Task 1. Project Management**

Project management includes reviewing and ensuring scope items are being completed and tracking budget, as well as miscellaneous administrative items that need to be addressed during the course of the project.

### **Task 2. Project Coordination**

Under ice winter seining for carp removal can be logistically challenging and requires good communication and planning between the fishing crews, project manager, and sponsoring entity. Under this task, WSB staff will coordinate with WSB subcontractor (Don Geyer) to schedule mobilization and netting. This will be guided in part by telemetry data provided by MCWD once before pre-lining, once after pre-lining, and within 48 hours of when the seine haul is planned to occur. WSB will communicate this information to Don Geyer to schedule the day of netting based on these data as well as weather, fish behavior, tightness of the aggregation, and suitability of the lake bottom to netting in the area of the aggregation.

### **Task 3. Removal Operations**

One (1) WSB staff will be present the day of the seine haul to ensure fish are aggregated in the lined-out area, and that the net is deployed. This staff member will also be present should any issues arise with netting and be available to process and handle fish. It is understood under this statement of work that MCWD staff will be present once fish are netted to obtain biological data and scan for radio and PIT tags, and WSB is not solely responsible for obtaining biological data and processing netted carp. This task includes 20 hours of labor, which may be used during the day of removal and for additional site visits if necessary, before or after removal, to facilitate the project.

### **Task 4. Reporting**

Post removal, WSB will provide a concise report to document the removals efforts completed under this statement of work. This report may be in the form of a technical memo or other format and will provide details on dates, aggregations, net specifics, and biomass removed; as well as any issues observed to enhance future seining and/or commercial fishing operations.



**Schedule**

Task	February	March
Task 1		
Task 2		
Task 3		
Task 4		

This project is time sensitive. The project cannot begin until authorization by the MCWD board; based on this the project start date is anticipated to be February 14; with project operations planned to conclude by February 28 and a report to be submitted by March 20<sup>th</sup>, 2020 by 4:00pm.

While commercial fishing operations are planned to be completed February 14 through the 28<sup>th</sup>, this will ultimately be dictated by ice thickness, fish aggregations and behavior, suitability of the aggregation area to be netted, and weather. Commercial fishing activities will occur over these three phases to allow check-ins with commercial operations and ensure that we are maximizing effectiveness of dollars spent and reducing uncertainty for all parties in terms of expectations. WSB will coordinate commercial fishing operation over three phases as outlined here:

- 1) Phase 1 Mobilization: Snow plowing, site visit, preparation for pre-lining. Pre-lining and preparation for seine haul attempt.
- 2) Phase 2 Seine Haul Attempt.
- 3) Phase 3 Demobilization: Loading Carp (if captured during seine attempt). Equipment removal and safety sign posting.

**Project Budget**

Task/Activity	Cost
Task 1.	\$572
Task 2.	\$1,124
Task 3	\$1,840
Task 4.	\$1,324
WSB Fee Total	\$4,860
Don Geyer Contractual Fee- Mobilization/Demobilization	\$1,500
Don Geyer- Netting	\$2,500
Don Geyer- Carp Bounty	Not to exceed \$10,000
<b>Project Total</b>	<b>\$18,860</b>

WSB fees are calculated on an hourly basis, not to exceed the indicated WSB Fee Total. Additional WSB staff time will be billed at an hourly rate according to the attached rate sheet, and only under approval by MCWD.



Don Geyer Commercial Fishing operates under a lump sum fee schedule for Mobilization and Demobilization. Mobilization/ Demobilization may include preparing and maintaining equipment, plowing, moving fish traps, disposal containers, or any other necessary gear or equipment to and from the lake, winter pre-lining the seine haul, visits to the site to check fish aggregations, disposal of seined carp, and coordination and communications with MCWD staff.

The contractual fees from Don Geyer for netting includes activities associated with seining and includes drilling holes in ice to deploy seine, deploying seine net, and seining.

Don Geyer Commercial Fishing implements a bounty for carp captured. The carp bounty is calculated at \$0.25/pound of carp removed not to exceed \$10,000 (40,000 pounds of carp).

MCWD staff will provide WSB with carp aggregation up to three times during different phases: Pre-Mobilization, Post-Mobilization, Pre-Seine Haul Attempt. These efforts are to increase capture rate of carp within the lake, ensure carp do not spook during Mobilization efforts, and reduce overall project costs for consultant time. At any time during the premobilization phase, the parties may consult and determine that the seine attempt should not proceed. In that circumstance, MCWD will only be responsible for fees incurred to date.

Some activities (coordination and site visits) may be completed ahead of time and will not fit neatly into a weekly schedule. Given the strict and narrow schedule of this seining attempt, we won't attempt to pursue effort beyond a two week period from the onset of Mobilization. If further post-demobilization activities occur outside of the proposed schedule they will be covered by the proposed fee schedule (permit reporting, removal of thin ice signs, net patching).

It is also understood that MCWD maintains a number of PIT and radio tags in fish in Parley Lake. Any PIT tagged or radio tagged fish will be returned to the lake after being identified by MCWD staff.

