

ORDINANCE NO. 2457-25

AN ORDINANCE RATIFYING AND CONFIRMING THE EXECUTION OF A PREVIOUSLY EXECUTED AGREEMENT WITH MCCLLOUD AQUATICS OF ELBURN, ILLINOIS FOR POND MAINTENANCE AT HERITAGE OAKS PARK

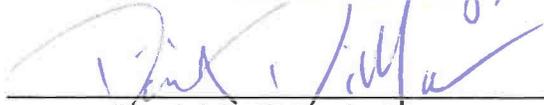
BE IT ORDAINED by the Mayor and Board of Trustees of the Village of Hawthorn Woods, Illinois, that this ordinance is ratification in furtherance of a previously executed Contract with McCloud Aquatics of Elburn, Illinois, for pond maintenance at Heritage Oaks Park. Such Agreement is by and between the Village of Hawthorn Woods and McCloud Aquatics, a copy of which is attached hereto as Exhibit "A", and, by this reference made a part hereof.

The foregoing Ordinance was adopted by the Village Board of Hawthorn Woods, Illinois on March 24, 2025:

AYES: Kaiser, Rychcik, Hurst, Roman

NAYS: 0

ABSENT AND NOT VOTING: McCortley, Bayer

APPROVED: 
Dominick DiMaggio, Mayor

ATTEST: 
Donna Lobaito, Village Clerk

ADOPTED: March 24, 2025

APPROVED: March 24, 2025



Proposal #105363

Date 11/14/2024

From: House

Proposal For

Village of Hawthorn Woods

2 Lagoon Drive
Hawthorn Woods, IL 60047

Location

310 N Fairfield Rd
Hawthorn Woods, IL 60047

Customer Contact

main: 847-847-3533

Village of Hawthorn Woods 2025/2026

Terms

Due Upon Receipt

ACCEPT	ITEM DESCRIPTION	QUANTITY	AMOUNT
<input checked="" type="checkbox"/>	5% Discount <i>Optional Accepted</i> 5% Annual PRE- PAY DISCOUNT is valid only on "STANDARD POND/LAKE "CONTRACTS". EXCLUDES Equipment Sales/Repairs &/or APPLICATION services). PAYMENT MUST be RECEIVED BY MARCH 31ST, of the contracted year. NO EXCEPTIONS will be granted.	1	\$ 0.00
<input checked="" type="checkbox"/>	Single Payment <i>Optional Accepted</i> Invoice will be sent on April 1st of the contracted year. Contracts signed after April 1st are due upon receipt for the first year of contracted services before scheduling.	1	\$ 0.00
<input type="checkbox"/>	Two-Part Payment <i>Optional Excluded</i> Two-part payment for contracted services only, single applications due not apply. Invoices will be sent out on 4/1 and 6/1 of the contracted year. Contracts signed after July 1st are not subject to two-part payment on the first year of a multiyear contract.	1	\$ 0.00
<input type="checkbox"/>	Irrigation? <i>Optional Excluded</i> PLEASE SELECTED IF YOUR POND/LAKE IS USED FOR IRRIGATION LEAVE BLANK IF THERE ARE NOT IRRIGATION RESTRICTIONS	1	\$ 0.00
#105365 - QUESTIONNAIRE		310 N FAIRFIELD RD HAWTHORN WOODS, IL 60047	\$ 0.00
<input checked="" type="checkbox"/>	Standard Pond/Lake Contract <i>Included Accepted</i> Treat for Algae/Chara and submerged weeds with inspections that focus on harmful algae blooms (HAB's) along with identification of invasive species not covered under contract.	2.65 Acr	\$ 3,110.14



Period of Control: Bi-weekly visits Mid-April through Mid-October. Refer to Scope Of Service for additional details.

✓	Duckweed - Contract <i>Included Accepted</i>	13 Visit	\$ 0.00
	<i>*Limited Control. Water bodies that are 100% covered can only be treated partially and no more than half of the water at time of treatment. Included with standard contract.</i>		

#105364 - VILLAGE OF HAWTHORN WOODS 2025/2026 310 N FAIRFIELD RD HAWTHORN WOODS, IL 60047 \$ 3,110.14

Client Notes

Please choose one of the two payment methods and let us know if the pond or lake is used for irrigation purposes.

This proposal is a per season price for the 2025 and 2026 season.

Our quotation is based on access of your lake/pond via our trailered boat and equipment, your current irrigation status, and reflects the entire cost of labor, equipment, chemical, insurance, state and local licensing, NPDES permit and guarantee. (No guarantee for ponds with average depth less than 2 feet or no boat access).

SUBTOTAL	\$ 3,110.14
SALES TAX	\$ 0.00
TOTAL	\$ 3,110.14

Estimate is only valid for 30 days for the date of quote. We reserve the right to revoke (or null) the proposal if not accepted within 30 days.

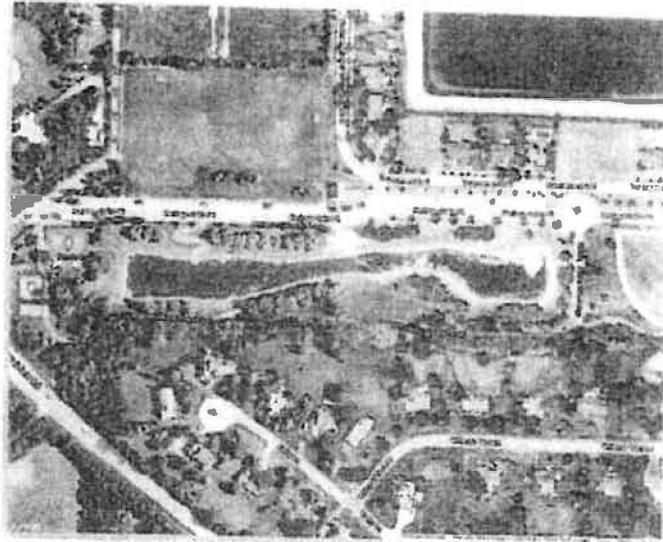
See attached for Scope of Service & Term and Conditions. EPA registered.

Signature

x Camela O. Velasco Date: 3/31/25

Please sign here to accept the terms and conditions





ID	DESCRIPTION	COLOR
Village of Hawthorn Woods Pond -----	The Village of Hawthorn Woods Pond is estimated to be 2.65 acres and is located at Heritage Oaks Park.	
Boat Launch -----	Designated boat access.	



cause, diagnosis, prevention, or odor reduction offered by McCloud Aquatics. McCloud Aquatics shall be held harmless should these events occur.

SPECIAL PROCEDURES

- A. Any service required outside the scope of the agreement will have to be agreed upon by both parties before any application can be performed

ONGOING MAINTENANCE PROGRAM

- A. The terms of agreement for all ongoing programs or other annual plans are from the date of the proposal. All annual programs will not renew automatically after the term of the agreement unless the contract is terminated by either party within a written 30-day notice
- B. All equipment purchased by the customer is your sole responsibility unless McCloud Aquatics is retained to perform any maintenance/service. Any aeration equipment that is missing or becomes damaged while under McCloud Aquatics winter storage program will be replaced by McCloud Aquatics personnel
- C. Customer approval of this contract includes the specifications that McCloud Aquatics will provide all services as scheduled in this document. Customer agrees to pay for all such services even if no client representative is available nor approving signature obtained by McCloud Aquatics at the time service is performed.
- D. Customer approval of this contract indicates your willingness to pay any associated fees for non-contracted vegetation treatments, special services, product/equipment purchases, and/or for add-on service to additional locations verbally requested and approved by you or your representatives

INSURANCE

McCloud Aquatics provides the following insurance coverage at this time:

Worker's Compensation and Employer's Liability.....	\$1,000,000
General Liability	\$2,000,000 / \$4,000,000
Automobile	\$2,000,000

The above is included in the Standard Policies from McCloud Aquatics. A certificate of insurance will be issued upon request and submitted upon acceptance of this agreement.

CANCELLATION

If for any reason you are not satisfied with McCloud Aquatics services, you may cancel this contract with a written 30-day cancellation notice mailed to the McCloud Aquatics office. McCloud Aquatics also reserves the right to cancel this agreement before 1 year for any reason.

For special jobs (i.e., dredging) that require specialty equipment and/or equipment rentals we shall require a 24-hour cancellation notice or customer will incur a \$125.00 cancellation fee.

SCOPE OF SERVICE

Period of Control: Bi-weekly visits mid-April through mid-October. Should the need for services arise prior to the start of the season, McCloud Aquatics will respond to your request as soon as possible (additional charges may apply).

Frequency: You will receive a site visit approximately every two weeks after initial service is started. Service is dictated by weather, boat access, dissolved oxygen levels and other growth-related conditions. A service report will be sent after each site visit. Photos can be provided upon request.

Herbicides/Algaecides: Our herbicide selection and the rates applied are dictated by the product label, species and extent of vegetation present, current and proposed water usage (i.e. used for irrigation, swimming, fishing, etc.), dissolved oxygen levels (no applications will be made when levels are below 5.0 ppm), other environmental conditions and our discretion, as there is an inherent risk of dissolved oxygen problems in waterbodies. All herbicides utilized are EPA registered, labeled for use in aquatic resources, and applied by licensed applicators. McCloud Aquatics will not be liable for clean-up or replacement of dead fish that could result from a decrease in dissolved oxygen.

Communication: McCloud Aquatics requires an on-site/off-site point of contact for communication purposes. McCloud Aquatics is always open to your questions or concerns and will provide factual answers to the point of contact(s) only. McCloud Aquatics will email a service report to the point of contact after each site visit. Our service report includes dissolved oxygen level, pH, water temperature, infestation(s), action taken, and water use restrictions, if applicable.

Vegetation categories below are NOT included in the Standard Pond/Lake Maintenance Program.

- Free Floating Plants, i.e., Duckweed*, Watermeal* (limited control)
- Floating Pondweed, i.e., American & IL Pondweeds
- Emerged Plants, i.e., Cattails, Arrowheads, American Lotus, Waterlily, Creeping Water Primrose
- Submerged Vegetation, i.e., Eelgrass*
- Terrestrial vegetation in rocky shoreline
- No physical removal is offered.

*Limited control is due to the genetic makeup of Duckweed, Watermeal, and Eelgrass, which can form a resistance to products used during treatment. It is also difficult to gain control due to the reintroduction through stormwater systems and waterflow.

Our quotation is based on access to your lake/pond via our trailered boat and equipment, your current irrigation status, and reflects the entire cost of labor, equipment, chemical, insurance, state, and local licensing, NPDES permit, and guarantee (No guarantee for ponds with average depth less than 2 feet or no boat access).

TERMS AND CONDITIONS

MATERIALS

- A. The Herbicide/materials used in aquatic services shall conform to federal, state, and local ordinances and are EPA registered for aquatic use.

CLIENT RESPONSIBILITIES

- A. The customer shall extend all necessary cooperation to ensure effective results from aquatic management services such as availability of boat access. With boat access comes the possibility of minor shoreline disturbances, such as tire depressions, shoreline tears and mud trails, if not a man-made structure. McCloud Aquatics shall be held harmless should events of this type occur.
- B. Customer is responsible for passing information along to the appropriate parties on restrictions due to herbicide applications that is related to: Fish consumption, live-stock drinking, swimming, irrigation.
- C. Label will dictate which restrictions will apply. High winds, heavy rains, water temperature, dissolved oxygen levels will determine any and all applications.
- D. Customer's signature attests to 1) financial responsibility, ability, and willingness to pay McCloud Aquatics within stated terms of Upon Receipt, 2) agreement to pay a finance charge of 1/2 % per month or 15% per year on all past due amounts older than 30 days, 3) agreement to pay all costs of collecting to include attorney's fees, 4) agreement that for purposes of determining the location for bringing any legal action on the account, client agrees that any such action may be brought in a court in the county in which McCloud Aquatics principal place of business is located, or in such other county chosen by McCloud Aquatics.
- E. Allegations of property damage resulting from a service visit by McCloud Aquatics must be submitted in writing within 5 business days. McCloud Aquatics will review and submit McCloud Aquatics findings to determine a fair and equitable resolution if McCloud Aquatics is found to be at fault.
- F. Fish kills must be reported with 24-48 hours to determine the "root" cause of the kill by calling 847-226-4718 for inspection and gathering of water parameters by McCloud Aquatics. If determined that the resultant fish kill was caused by our actions, McCloud Aquatics will remove and dispose of the fish collected and will replace only those game species at the time of stocking (spring and fall only), if requested. Fish replacement will be based only on the number of game species collected and not by the size. Exotic species and non-native game fish are excluded from replacement and/or monetary reimbursement. Fish kills caused by acts of nature, weather, disease, bacteria, runoff, foul hooking, vandalism, pollution, turnover, or other events beyond our control, are not covered under the contract with McCloud Aquatics. There are no provisions, written or implied, concerning removal, disposal, or water testing to determine

Accepted
3/6/15
TJ McCloud

LIMITED WARRANTY - THIS WARRANTY PROVIDES CERTAIN IMPORTANT LIMITED RIGHTS .

McCloud Aquatics will guarantee up to 80% covered submerged vegetation and 80% of algae, excluding resistant algae, which are: *Microcystis* spp., *Lyngbya* spp., *Oscillatoria* spp., *Hydrodictyon* spp. There is no guarantee for non-covered vegetation. Use of any other products (aquatic or otherwise) and/or service provider by any individual(s), agents, board members or owners of the property shall be cause for termination of the contract and McCloud Aquatics shall be held harmless as a result of such actions. McCloud Aquatics warrants that its application of treatments here under shall be in accordance with applicable herbicide/algaeicide regulations of the Environmental Protection Agency (EPA) and other applicable government agencies. This warranty is exclusive and is lieu of any warranty of merchantability, fitness for a particular purpose or any other warranty or representation, expressed or implied, of any type or nature, with respect to any goods or services furnished by McCloud Aquatics, pursuant to this contract. McCloud Aquatics representatives will make additional calls and treatments for covered vegetation in areas covered by this agreement, when deemed necessary and these extra service calls will be provided at no additional charge during work hours. Unless specified otherwise in the service agreement, special services and after-hours service calls will be provided on a cost-per-treatment basis. The parties agree that the client's sole and exclusive remedy against McCloud Aquatics in the event of continued infestation shall be the manipulation of treatment as described above. Client agrees that no other remedy shall be available to them. ~~ORAL STATEMENTS DO NOT CONSTITUTE WARRANTIES.~~

While McCloud Aquatics will employ every reasonable step to avert or limit fish kills regardless of the exercise of any level of care, it is impossible and impracticable to warrant that the application of any treatment or any actions or failures to act by McCloud will not cause directly or indirectly conditions to develop or persist in any treated water which could lead to or contribute to the death of any fish or other aquatic animals, or any other animal, insect or other creature who may interact with any treated water. Client expressly acknowledges and understands that there is a risk of a decrease in dissolved oxygen in treated bodies of water, as well as other conditions known and unknown which could arise in treated water that could lead to decreased oxygen levels or other conditions in the water which could result in fish kills or other loss of aquatic creatures. Fish kills must be reported within 24 hours following chemical applications by McCloud Aquatics employees. While McCloud Aquatics and its employees take the greatest care possible to read and follow product directions, resulting fish loss may still occur. McCloud Aquatics is NOT responsible for any fish kills should Client perform their own submerged weed or algae applications. Accordingly, Client hereby agreed that McCloud Aquatics will not be liable for any harm, clean-up, and/or replacement of dead fish resulting from such decrease in dissolved oxygen or any other conditions of the treated water. Client further agrees to indemnify and hold McCloud Aquatics harmless from and to pay upon demand any claims, judgments, suits, complaints filed in any court or administrative agency, demands for arbitration ("Indemnity Items"), and all reasonable costs and attorneys fee incurred or anticipated to be incurred by McCloud in defending against said Indemnity Items including but not limited to any attorneys.

In no event shall McCloud Aquatics be responsible or liable for any failure or delay in the performance of its obligations hereunder arising out of or caused by, directly or indirectly, forces beyond its control, including, without limitation, weather, naturally occurring conditions of any kind or nature, the use or misuse of the Subject Property by Owner and any of Owner's other contractors, agents, guests and invitees, any failure to observe the Client's Responsibilities as outlined in this Agreement, strikes, work stoppages, accidents, acts of war or terrorism, civil or military disturbances, nuclear or natural catastrophes or acts of God, and interruptions, loss or malfunctions of utilities, communications or computer (software and hardware) services; it being understood that the Contractor shall use reasonable efforts which are consistent with accepted practices in Contractor's industry to resume performance as soon as practicable under the circumstances.

The entire contract is embodied in this writing and NO OTHER WARRANTIES are given beyond those set forth in this contract. This writing constitutes the final expression of the parties' agreement and it is a complete and exclusive statement of the terms of that agreement. Any different additional terms proposed in Client's order are rejected unless expressly agreed to in writing by McCloud Aquatics authorized agent. The terms and conditions contained herein shall constitute an offer by McCloud Aquatics and may only be accepted on the terms herein set forth.

Client's Initials

APN

*Modifications to limited warranty
are not accepted*

See attached 3/6/15

[Signature] 3/6/15