



LAKE COUNTY FOREST PRESERVES  
www.LCFPD.org

Preservation, Restoration, Education and Recreation

**DATE:** April 4, 2016

**MEMO TO:** Bonnie Thomson Carter, Chair  
Planning and Restoration Committee

S. Michael Rummel, Chair  
Finance and Administrative Committee

**FROM:** James L. Anderson, Director  
Natural Resources

**RECOMMENDATION:** Recommend approval of a Resolution awarding a Contract for the Ecological Assessment of District Lands in 2016 to Northern Illinois University, Institute for the Study of Environment, Sustainability & Energy, DeKalb, Illinois, in the Contract Price of \$175,012.00.

**STRATEGIC DIRECTIONS SUPPORTED:** Conservation, Leadership, Communication, Education and Outreach

**FINANCIAL DATA:** This item was approved as part of the adopted FY2015/2016 Budget's Capital Improvement Plan in the amount of \$500,000.00. Of the actual cost of \$175,012.00, \$165,000.00 will be charged to the Habitat Restoration Fund account (20104100-7803200-60004) and \$10,012.00 will be charged to the USFWS Spring Bluff Coastal Habitat Grant Fund (69644100-803200-56052).

**BACKGROUND:** In order to identify wildlife species within our preserves, prepare master plans, plan management activities and implement capital improvement projects, an ecological assessment of District lands is necessary. This is accomplished through the Wildlife Monitoring Program, by which staff is able to: 1) detect species' presence or absence, 2) determine long-term population changes, and 3) provide reliable standardized biological information that can be used to develop site management goals and assess habitat management and restoration practices.

During the 2016 monitoring season, 110 locations will be inventoried at 22 preserves. Wildlife species monitored will include amphibians, birds, mammals and reptiles. Staff wildlife biologists will oversee and coordinate field data collection and incorporate the data received into District data files. To assist this process, staff recommends hiring Northern Illinois University's Institute for the Study of the Environment, Sustainability & Energy (NIU) to provide ecological assessment services. NIU would provide wildlife monitoring technicians and a PhD candidate for these services. Data collected as part of the wildlife monitoring program and existing geographical information system (GIS) habitat management data will be analyzed in order to provide recommendations to more efficiently and effectively manage habitat for populations of wildlife. 2016 will be the first year of a three-year PhD lead project and partnership with NIU to complete an in-depth analysis of the District's wildlife data.

The District awarded a contract to NIU for these services at the District Board's February 9, 2016 meeting. However, NIU has asked for changes to that contract, which are now reflected in the version being presented to the Committees and Board.

**REASON FOR RECOMMENDATION:** Committee recommendation and Board approval are required in accordance with District policy.

**REVIEW BY OTHERS:** Chief Operations Officer, Director of Finance, Corporate Counsel

**PRESENTER:** Alex Ty Kovach

STATE OF ILLINOIS)  
                                    ) SS  
COUNTY OF LAKE )

**BOARD OF COMMISSIONERS  
LAKE COUNTY FOREST PRESERVE DISTRICT  
REGULAR APRIL MEETING  
APRIL 12, 2016**

**MADAM PRESIDENT AND MEMBERS OF THE BOARD OF COMMISSIONERS:**

Your **PLANNING AND RESTORATION COMMITTEE**; and **FINANCE AND ADMINISTRATIVE COMMITTEE** present herewith "A Resolution Awarding a Contract for the Ecological Assessment of District Lands in 2016 to Northern Illinois University," and request its adoption.

**PLANNING AND RESTORATION COMMITTEE:**

Date:           4/7/16                 Roll Call Vote: Ayes:          Nays:           
    Voice Vote Majority Ayes; Nays: 0-

**FINANCE AND ADMINISTRATIVE COMMITTEE**

Date:          Roll Call Vote: Ayes:          Nays:           
    Voice Vote Majority Ayes; Nays:

**LAKE COUNTY FOREST PRESERVE DISTRICT  
LAKE COUNTY, ILLINOIS**

**A RESOLUTION AWARDING A CONTRACT FOR THE ECOLOGICAL  
ASSESSMENT  
OF DISTRICT LANDS IN 2016 TO NORTHERN ILLINOIS UNIVERSITY**

**WHEREAS**, the District desires to purchase ecological assessment services to detect the presence or absence of species on District property, detect long-term species population changes, develop standardized biological information regarding species on District property, and develop ecological management goals and objectives (the “Services”); and

**WHEREAS**, the District’s Purchasing Manager and Director of Natural Resources have determined that the Services require personal confidence; and

**WHEREAS**, the District in 2015 conducted a competitive Request for Statements of Qualifications process to select a qualified academic institution to provide ecological assessment services; and

**WHEREAS**, Northern Illinois University (NIU) submitted a proposal for the Services (the “Proposal”), and the District’s staff, the Purchasing Manager, the Director of Natural Resources, the Planning and Restoration Committee, and the Finance and Administrative Committee have reviewed the Proposal and recommend that the Board of Commissioners (i) find the Proposal submitted by Northern Illinois University to be the proposal that is most advantageous to the District; and (ii) award a contract for the Services to Northern Illinois University in substantially the form attached hereto (the “New Contract”) in the amount of \$175,012.00 (the “Contract Price”); and

**WHEREAS**, the Board of Commissioners hereby finds that the Proposal for the Services submitted by Northern Illinois University is the proposal that is most advantageous to the District; and

**WHEREAS**, at its February 9, 2016, meeting, the District Board of Commissioners awarded a contract for the Services to NIU (the “Original Contract Award”) pursuant to a resolution approved that day (the “Original Resolution”); and

**WHEREAS**, it is in the District’s best interest to repeal the Original Resolution and rescind the Original Contract Award and award the New Contract to NIU as provided herein;

**NOW, THEREFORE, BE IT RESOLVED** by the Board of Commissioners of the Lake County Forest Preserve District, Lake County, Illinois THAT:

Section 1. Recitals. The recitals set forth above are incorporated as a part of this Resolution by this reference.

Section 2. Rescission and Repeal. The Original Contract Award is hereby rescinded and the Original Resolution is hereby repealed.

Section 3. Award of New Contract. The New Contract in the amount of the Contract Price, in substantially the form attached hereto, is hereby awarded to NIU.

Section 4. Execution of New Contract. The Executive Director of the District is hereby authorized and directed to execute the New Contract for the Services in the amount of the Contract Price.

Section 5. Payments. The Treasurer shall make payments under the New Contract only pursuant to and in accordance with the New Contract terms.

Section 6. Effective Date. This Resolution shall be in full force and effect from and after its passage and approval in the manner provided by law.

PASSED this \_\_\_\_ day of \_\_\_\_\_, 2016

AYES:

NAYS:

APPROVED this \_\_\_\_ day of \_\_\_\_\_, 2016

---

Ann B. Maine, President  
Lake County Forest Preserve District

ATTEST:

---

Julie Gragnani, Secretary  
Lake County Forest Preserve District

Exhibit # \_\_\_\_\_

# **Lake County Forest Preserves**

---

[www.LCFPD.org](http://www.LCFPD.org)



CONTRACT BETWEEN

LAKE COUNTY FOREST PRESERVE DISTRICT

AND

NORTHERN ILLINOIS UNIVERSITY

FOR THE

ECOLOGICAL ASSESSMENT OF

DISTRICT LANDS 2016

MULTIPLE FOREST PRESERVES

PROJECT NO: 60004-133-826



## TABLE OF CONTENTS

ARTICLE I - THE SERVICES .....	1
1.1 Performance of the Services .....	1
1.2 Commencement and Completion Dates.....	1
1.3 Required Submittals .....	1
1.4 Review and Incorporation of Contract Provisions.....	2
1.5 Financial and Technical Ability to Perform .....	2
1.6 Time.....	2
1.7 Consultant's Personnel and Sub-Consultants .....	2
1.8 Owner's Responsibilities .....	3
1.9 Owner's Right to Terminate or Suspend Services for Convenience.....	3
ARTICLE II - CHANGES AND DELAYS .....	4
2.1 Changes .....	4
2.2 Delays.....	4
2.3 No Constructive Change Orders .....	4
ARTICLE III - CONSULTANT'S RESPONSIBILITY FOR DEFECTIVE SERVICES.....	5
3.1 Representation of Compliance .....	5
3.2 Corrections .....	5
3.3 Risk of Loss .....	5
ARTICLE IV - INSURANCE; INDEMNIFICATION .....	5
4.1 Insurance.....	5
4.2 Indemnification .....	6
ARTICLE V - PAYMENT .....	6
5.1 Contract Price.....	6
5.2 Taxes, Benefits and Royalties .....	6
5.3 Progress Payments .....	6
5.4 Final Acceptance and Final Payment.....	7
5.5 Deductions.....	7
5.6 Accounting.....	7

ARTICLE VI - REMEDIES ..... 7

6.1 Owner’s Remedies .....7

6.2 Terminations and Suspensions by Owner Deemed for Convenience ..... 8

ARTICLE VII - LEGAL RELATIONSHIPS AND REQUIREMENTS ..... 8

7.1 Binding Effect ..... 8

7.2 Relationship of the Parties..... 8

7.3 No Collusion ..... 8

7.4 Assignment..... 9

7.5 Confidential Information..... 9

7.6 No Waiver..... 9

7.7 No Third Party Beneficiaries ..... 10

7.8 Notices..... 10

7.9 Governing Laws..... 10

7.10 Changes in Laws ..... 10

7.11 Compliance with Laws and Grants ..... 11

7.12 Ownership of Documents ..... 11

7.13 Time..... 11

7.14 Severability ..... 11

7.15 Entire Agreement..... 11

7.16 Amendments ..... 12

ATTACHMENT A – SUPPLEMENTAL SCHEDULE OF CONTRACT TERMS

ATTACHMENT B – CONSULTANT’S SCOPE OF WORK

ATTACHMENT C – KEY PERSONNEL



**CONTRACT BETWEEN  
LAKE COUNTY FOREST PRESERVE DISTRICT  
AND  
NORTHERN ILLINOIS UNIVERSITY  
FOR THE  
ECOLOGICAL ASSESSMENT OF DISTRICT LANDS 2016**

In consideration of the agreements set forth below, the Lake County Forest Preserve District, a body corporate and politic and unit of local government organized and existing under the Downstate Forest Preserve District Act, 70 ILCS 805/.001 et seq., 1899 West Winchester Road, Libertyville, Illinois 60048, ("Owner") and the Board of Trustees of Northern Illinois University , a body politic and corporate of the State of Illinois, on behalf of Northern Illinois University Sponsored Programs Administration, 203 Lowden Hall, DeKalb, IL 60115 ("Consultant") make this Contract as of April 12, 2016 and hereby agree as follows:

**ARTICLE I - THE SERVICES**

**1.1 Performance of the Services**

Consultant shall provide, perform, and complete all of the following professional ecological assessment services, all of which is referred to in this Agreement as the "Services":

- A. Professional Services. Provide, perform, and complete, in the manner described and specified in this Contract, all professional services necessary to accomplish the "Project," as defined in Attachment A, in accordance with the Scope of Services attached hereto as Attachment B.
- B. Approvals. Procure and furnish all approvals and authorizations specified in Attachment A.
- C. Insurance. Procure and furnish all required certificates and policies of insurance specified in Attachment A.
- D. Standard of Performance. Provide, perform, and complete all of the foregoing in full compliance with this Contract, in a competent and professional manner, and in accordance with the standards applicable in the field or industry (the "Standard of Performance").

**1.2 Commencement and Completion Dates**

Consultant shall commence the Services not later than the "Commencement Date" set forth in Attachment A, and shall diligently and continuously prosecute the Services at such a rate as will allow the Services to be fully provided, performed and completed in full compliance with this Contract not later than the "Completion Date" or, if the Services are to be performed in separate phases, the "Completion Dates," set forth in Attachment A. The time of commencement, rate of progress, and time of completion are referred to in this Contract as the "Contract Time."

**1.3 Required Submittals**

- A. Submittals Required. Consultant shall submit to Owner all reports, documents, data, and information required to be submitted by Consultant under this Contract ("Required Submittals").

B. Time of Submission and Owner's Review. All Required Submittals shall be provided to Owner no later than the time, if any, specified in Attachment A, or otherwise in this Contract. If no time for submission is specified for any Required Submittal, then that Submittal shall be submitted within a reasonable time in light of its purpose and, in all events, in sufficient time, in Owner's reasonable opinion, to permit Owner to review that Submittal same prior to the commencement of any part of the Services to which that Submittal may relate. Owner shall have the right to require such corrections as may be necessary to make any Required Submittal conform to this Contract. No Services related to any Required Submittal shall be performed by Consultant until Owner has completed review of such Required Submittal with no exception noted. Owner's review and approval of any Required Submittal shall not relieve Consultant of the entire responsibility for the performance of the Services in full compliance with, and as required by or pursuant to this Contract, and shall not be regarded as any assumption of risk or liability by Owner. The Consultant shall not be held liable for claims of delay caused by the Owner's failure to timely review and approve any Required Submittal.

C. Responsibility for Delay. Consultant shall be responsible for any delay in the Services resulting from Consultant's, or its Sub-consultant's, delay in providing Required Submittals conforming to this Contract.

#### **1.4 Review and Incorporation of Contract Provisions**

Consultant represents and declares that it has carefully reviewed, and fully understands, this Contract, including all of its Attachments, all of which are by this reference incorporated into and made a part of this Contract.

#### **1.5 Financial and Technical Ability to Perform**

Consultant represents and declares that it is financially solvent, and has the financial resources necessary, and has sufficient experience and competence, and has the necessary capital, facilities, organization, and staff necessary to provide, perform, and complete the Services in full compliance with, and as required by or pursuant to, this Contract.

#### **1.6 Time**

Consultant represents and declares that the Contract Time is sufficient time to permit completion of the Services in full compliance with, and as required by or pursuant to, this Contract for the Contract Price.

#### **1.7 Consultant's Personnel and Sub-Consultants**

A. Consultant's Personnel. Consultant shall provide all personnel necessary to complete the Services, including without limitation, the "Key Project Personnel" identified in Attachment C. Consultant shall provide to Owner telephone numbers at which the Key Personnel can be reached on a 24-hour basis. Consultant and Owner may, by mutual agreement, make changes and additions to the designations of Key Project Personnel. Consultant shall have no claim for a Change Order, for compensation in excess of the Contract Price, or for a delay or extension of the Contract Time as a result of any such termination, reassignment, resignation, or substitution of Key Project Personnel.

B. Approval and Use of Sub-Consultants. Consultant shall perform the Services with its own personnel and under the management, supervision, and control of its own organization unless otherwise approved by Owner in writing. All sub-consultants and subcontracts used by Consultant shall be acceptable to, and approved in advance by, Owner. Owner's approval of any

sub-consultant or subcontract shall not relieve Consultant of full responsibility and liability for the provision, performance, and completion of the Services in full compliance with, and as required by or pursuant to, this Contract. All Services performed under any subcontract shall be subject to all of the provisions of this Contract in the same manner as if performed by employees of Consultant. Every reference in this Contract to "Consultant" shall be deemed also to refer to all sub-consultants of Consultant. Every subcontract shall include a provision binding the sub-consultant to all provisions of this Contract.

C. Removal of Personnel and Sub-Consultants. If any personnel or sub-consultant fails to perform the part of the Services undertaken by it in compliance with this Contract or in a manner reasonably satisfactory to Owner, Consultant, immediately upon notice from Owner, shall remove and replace such personnel or sub-consultant. Consultant shall have no claim for damages, for compensation in excess of the Contract Price, or for a delay or extension of the Contract Time as a result of any such removal or replacement.

### **1.8 Owner's Responsibilities**

Owner shall, at its sole cost and expense: (i) designate in writing a person with authority to act as Owner's representative and on Owner's behalf with respect to the Services except those matters that may require approval of Owner's Board of Commissioners; (ii) provide to Consultant all criteria and full information as to Owner's requirements for the Project or work to which the Services relate, including Owner's objectives and constraints, schedule, space, capacity and performance requirements, and budgetary limitations relevant to the Project; (iii) provide to Consultant all existing studies, reports, and other available data relevant to the Project; (iv) arrange for access to and make all provisions for Consultant to enter upon public and private property as reasonably required for Consultant to perform the Services; (v) provide surveys describing physical characteristics, legal limitations, and utility locations for the Project and the services of geotechnical engineers or other consultants when such services are reasonably requested by Consultant and are necessary for the performance of the Services, and are not already provided for in this Contract; (vi) provide structural, mechanical, chemical, air and water pollution tests, test for hazardous materials, and other laboratory and environmental tests, inspections, and reports required by law to be provided by Owner in connection with the Project; (vii) review Required Submittals and other reports, documents, data, and information presented by Consultant as appropriate; (viii) except as otherwise provided in Attachment A, provide approvals from all governmental authorities having jurisdiction over the Project when such services are reasonably requested by Consultant; (ix) attend Project related meetings; (x) give prompt written notice to Consultant whenever Owner observes or otherwise becomes aware of any development that affects the scope or timing of the Services, provided, however, that failure to give such notice shall not relieve Consultant of any of its responsibilities under this Contract; (xi) provide prompt feedback to questions and concerns raised by Consultant to help ensure the timely performance of Services and completion of the Project hereunder; and (xii) timely pay all fees, costs and expenses which are the responsibility of Owner in accordance with the terms set forth in this Contract.

### **1.9 Owner's Right to Terminate or Suspend Services for Convenience**

A. Termination or Suspension for Convenience. Owner shall have the right, at any time and for its convenience, to terminate or suspend the Services in whole or in part at any time by written notice to Consultant. Every such notice shall state the extent and effective date of such termination or suspension. Upon receipt of such written notice or on such effective date, whichever is later, Consultant shall, as and to the extent directed, stop Services under this Contract, cease all placement of further orders or subcontracts, terminate or suspend Services under existing orders and subcontracts, and cancel any outstanding orders or subcontracts that may be canceled.

B. Payment for Completed Services. In the event of any termination pursuant to Subsection 1.9A above, Owner shall pay Consultant (i) such direct costs, including overhead, as Consultant shall have paid or incurred for all Services done in compliance with, and as required by or pursuant to, this Contract up to the effective date of termination or date of receipt of written notice, whichever is later; and (ii) such other costs pertaining to the Services, exclusive of overhead and profit, as Consultant may have reasonably and necessarily incurred as the result of such termination. Any such payment shall be offset by any prior payment or payments and shall be subject to Owner's rights, if any, to withhold and deduct as provided in this Contract.

## **ARTICLE II - CHANGES AND DELAYS**

### **2.1 Changes**

Owner shall have the right, by written order executed by Owner, to make changes to the timing or scope of the Services to be provided pursuant to this Contract (a "Services Change Order"). When a Change Order causes an increase or decrease in the amount of the Services, an equitable adjustment in the Contract Price or Contract Time may be made. No decrease in the amount of the Services caused by any Change Order shall entitle Consultant to make any claim for damages, anticipated profits, or other compensation. Consultant shall not undertake any change in the Services without receipt of an executed Change Order from Owner.

### **2.2 Delays**

For any delay resulting from a cause that Consultant could not reasonably avoid or control, Consultant, upon timely written application, shall be entitled to issuance of a Change Order providing for an extension of the Contract Time for a period of time equal to the delay resulting from such unavoidable cause. No extension of the Contract Time shall be allowed for any other delay in completion of the Services.

### **2.3 No Constructive Change Orders**

No claims for equitable adjustments in the Contract Price or Contract Time shall be made or allowed unless embodied in a Change Order. If Owner fails to issue a Change Order including or fully including an equitable adjustment in the Contract Price or Contract Time to which Consultant claims it is entitled or, if Consultant believes that any requirement, direction, instruction, interpretation, determination or decision of Owner entitles Consultant to an equitable adjustment in the Contract Price or Contract Time that has not been included or fully included in a Change Order, then Consultant shall submit to Owner a written request for the issuance of or revision of a Change Order including the equitable adjustment or the additional equitable adjustment in the Contract Price or Contract Time that Consultant claims has not been included or fully included in a Change Order. Such request shall be submitted before Consultant proceeds with any Work for which Consultant claims an equitable adjustment is due and shall, in all events, be submitted no later than two (2) business days after receipts of such Change Order or receipt of notice of such requirement, direction instruction, interpretation, determination or decision. Notwithstanding the submission of any such request, Consultant shall, unless otherwise directed by Owner within two (2) business days after receipt by Owner of such request, proceed without delay to perform the Work in compliance with the Change Order or as required, directed, instructed, interpreted or decided by Owner, and shall, pending a final resolution of the issue, keep a daily record of such Work. Unless Consultant submits such a request within two (2) business days after receipt of such Change Order or receipt of notice of such requirement, direction, instruction, interpretation, determination or decision, Consultant shall be conclusively deemed (i) to have agreed that such Change Order, requirement, direction, instruction, interpretation, determination or decision does not entitle Consultant to an equitable adjustment in the Contract Price or Contract Time; and (ii) to have waived all claims based on such Change Order, requirement, direction, instruction, interpretation, determination or decision.

### **ARTICLE III - CONSULTANT'S RESPONSIBILITY FOR DEFECTIVE SERVICES**

#### **3.1 Representation of Compliance**

A. Scope of Representation. Consultant shall perform all Services in conformance with this Contract, free from defects and flaws in design, and in accordance with the Standard of Performance (the "Representation of Compliance").

B. Opinions of Cost. It is recognized that neither Consultant nor Owner has control over the costs of labor, material, equipment or services furnished by others or over competitive bidding, market or negotiating conditions, or construction contractors' methods of determining their prices. Accordingly, any opinions of probable Project costs or construction costs provided for herein are estimates only, made on the basis of Consultant's experience and qualifications and represent Consultant's best judgment as an experienced and qualified professional, familiar with the industry. Consultant does not guarantee that proposals, bids or actual Project costs or construction costs will not vary from opinions of probable cost prepared by Consultant.

#### **3.2 Corrections**

Consultant shall be responsible for the quality, technical accuracy, completeness and coordination of all Services under this Contract. Consultant shall correct and remedy all of its failures to provide Services as required by this contract.

#### **3.3 Risk of Loss**

The Services shall be provided, performed, and completed at the risk and cost of Consultant. Consultant shall be responsible for any and all damages to property or persons as a result of Consultant's errors, omissions, or negligent acts and for any losses or costs to repair or remedy any work undertaken by Owner based on the Services as a result of any such errors, omissions, or negligent acts. Subject to Illinois law, Consultant's obligations under this Section 3.3 shall exist without regard to, and shall not be construed to be waived by, the availability or unavailability of any insurance, either of Owner or Consultant, to indemnify, hold harmless, or reimburse Consultant for such damages, losses, or costs.

### **ARTICLE IV - INSURANCE; INDEMNIFICATION**

#### **4.1 Insurance**

Contemporaneous with Consultant's execution of this Contract, Consultant shall provide certificates and policies of insurance evidencing at least the minimum insurance coverage and limits set forth in Attachment A. For good cause shown, Owner may extend the time for submission of the required policies of insurance upon such terms, and with such assurances of complete and prompt performance, as Owner may impose in the exercise of its sole discretion. Such policies shall be in a form reasonably acceptable to Owner. Consultant shall ensure that no cancellation of any insurance, nor any reduction in limits or coverage, shall become effective until the expiration of thirty (30) days after written notice thereof shall have been given by the Consultant to Owner. Consultant shall, at all times while providing, performing, or completing the Services, including without limitation at all times while providing corrective Services pursuant to Section 3.2 of this Contract, maintain and keep in force, at Consultant's expense, at least the minimum insurance coverage and limits set forth in Attachment A.

## **4.2 Indemnification**

Consultant, without regard to the availability or unavailability of any insurance, either of Owner or Consultant, shall, to the fullest extent permitted by law, indemnify, save harmless, and reimburse Owner against any and all lawsuits, claims, demands, damages, liabilities, losses, and expenses, including reasonable attorneys' fees, that may arise or be alleged to have arisen out of or in connection with Consultant's negligent acts, errors, or omissions, except only to the extent caused by the negligence of Owner.

## **ARTICLE V - PAYMENT**

### **5.1 Contract Price**

Owner shall pay to Consultant, in accordance with and subject to the terms and conditions set forth in this Article V and Attachment A, and Consultant shall accept in full satisfaction for providing, performing, and completing the Services, the amount or amounts set forth in Attachment A ("Contract Price"), subject to any additions, deductions, or withholdings provided for in this Contract.

### **5.2 Taxes, Benefits and Royalties**

The Contract Price includes applicable federal, state, and local taxes of every kind and nature applicable to the Services as well as all taxes, contributions, and premiums for unemployment insurance, old age or retirement benefits, pensions, annuities, or other similar benefits and all costs, royalties, and fees arising from the use on or the incorporation into the Services of patented equipment, materials, supplies, tools, appliances, devices, processes, or inventions. Subject to the limitations of applicable Illinois law, including the Court of Claims Act and the State Employee Indemnification Act, Consultant waives and releases any claim against Owner arising from the payment of any such tax, contribution, premium, benefit, cost, royalty, or fee.

### **5.3 Progress Payments**

A. Payment in Installments. The Contract Price shall be paid in installments in the manner set forth in Attachment A ("Progress Payments").

B. Pay Requests. Consultant shall, as a condition precedent to its right to receive each Progress Payment, submit to Owner an invoice accompanied by such receipts, vouchers, and other documents as may be necessary to reasonably establish Consultant's prior payment for all labor, material, and other things covered by the invoice and the absence of any lien or other interest of any party in regard to the Services performed under this Contract. In addition to the foregoing, such invoice shall include (i) employee classifications, rates per hour, and hours worked by each classification, and, if the Services are to be performed in separate phases, for each phase; (ii) total amount billed in the current period and total amount billed to date, and, if the Services are to be performed in separate phases, for each phase; (iii) the estimated percent completion, and, if the Services are to be performed in separate phases, for each phase; and (iv) Consultant's certification that all prior Progress Payments have been properly applied to the Services with respect to which they were paid. Owner may, by written notice to Consultant, designate a specific day of each month on or before which pay requests must be submitted.

#### **5.4 Final Acceptance and Final Payment**

The Services or, if the Services are to be performed in separate phases, each phase of the Services, shall be considered complete on the date of final written acceptance by Owner of the Services or each phase of the Services, as the case may be, which acceptance shall not be unreasonably withheld or delayed. The Services or each phase of the Services, as the case may be, shall be deemed accepted by Owner if not objected to in writing within sixty (60) days after submission by Consultant of the Services or such phase of Services for final acceptance and payment plus, if applicable, such additional time as may be considered reasonable for obtaining approval of governmental authorities having jurisdiction to approve the Services, or phase of Services, as the case may be. Within thirty (30) days after final acceptance, Owner shall pay to Consultant the balance of the Contract Price or, if the Services are to be performed in separate phases, the balance of that portion of the Contract Price with respect to such phase of the Services, after deducting therefrom charges, if any, against Consultant as provided for in this Contract ("Final Payment").

#### **5.5 Deductions**

A. Owner's Right to Withhold. Notwithstanding any other provision of this Contract and without prejudice to any of Owner's other rights or remedies, Owner shall have the right at any time or times, whether before or after approval of any pay request, to deduct and withhold from any Progress or Final Payment that may be or become due under this Contract, such amount as may reasonably appear necessary to compensate Owner for any actual or prospective loss due to: (i) liens or claims of lien, regardless of merit; (ii) inability of Consultant to complete the Services; or (iii) failure of Consultant to perform any of its obligations under this Contract.

B. Use of Withheld Funds. Owner shall be entitled to retain any and all amounts withheld pursuant to Subsection 5.5A above until Consultant shall have either performed the obligations in question or furnished security for such performance satisfactory to Owner. Owner shall be entitled to apply any money withheld or any other money due Consultant under this Contract to reimburse itself for any and all costs, expenses, losses, damages, liabilities, suits, judgments, awards, attorneys' fees and administrative expenses incurred, suffered or sustained by Owner and chargeable to Consultant under this Contract.

#### **5.6 Accounting**

Consultant shall keep accounts, books, and other records of all its billable charges and costs incurred in performing the Services in accordance with generally accepted accounting practices, consistently applied, and in such manner as to permit verification of all entries. Consultant shall make all such material available for inspection by Owner, at the office of Consultant during normal business hours during this Contract and for a period of three years after termination of this Contract. Copies of such material shall be furnished, at Owner's expense, upon request.

### **ARTICLE VI - REMEDIES**

#### **6.1 Owner's Remedies**

If it should appear at any time prior to Final Payment that Consultant has failed or refused to prosecute, or has delayed in the prosecution of the Services with diligence at a rate that assures completion of the Services in full compliance with the requirements of this contract, or has falsely made any representation or warranty in this Contract, or has otherwise failed, refused or delayed to perform or satisfy any other requirement of this Contract, or has failed to pay its debts as they

come due ("Event of Default"), and has failed to cure any such Event of Default within five (5) business days after Consultant's receipt of written notice of such Event of Default, Owner shall have the right, at its election and without prejudice to any other remedies provided by law or equity, to pursue any one or more of the following remedies:

- A. Owner may require Consultant, within such reasonable time as may be fixed by Owner, to complete or correct all or any part of the Services that are defective, damaged, flawed, unsuitable, nonconforming or incomplete to accelerate all or any part of the Services, and to take any or all other action necessary to bring Consultant and the Services into strict compliance with this Contract.
- B. Owner may accept the defective, damaged, flawed, unsuitable, nonconforming, incomplete or dilatory Services as part thereof and make an equitable reduction in the Contract Price.
- C. Owner may terminate this Contract without liability for further payment of amounts due or to become due under this Contract.
- D. Owner may withhold from any Progress Payment or Final Payment, whether or not previously approved, or may recover from Consultant any and all costs including attorneys' fees and administrative expenses incurred by Owner as the result of any Event of Default or as a result of actions taken by Owner in response to any Event of Default.

## **6.2 Terminations and Suspensions by Owner Deemed for Convenience**

Any termination or suspension by Owner of Consultant's rights under this Contract for an alleged Event of Default that is ultimately held unjustified shall automatically be deemed to be a termination or suspension for the convenience of Owner under Section 1.9 of this Contract.

## **ARTICLE VII - LEGAL RELATIONSHIPS AND REQUIREMENTS**

### **7.1 Binding Effect**

This Contract shall be binding on Owner and Consultant and on their respective heirs, executors, administrators, personal representatives, and permitted successors and assigns. Every reference in this Contract to a party shall also be deemed to be a reference to the authorized officers, employees, agents, and representatives of such party.

### **7.2 Relationship of the Parties**

Consultant shall act as an independent contractor in providing and performing the Services. Nothing in, nor done pursuant to, this Contract shall be construed (i) to create the relationship of principal and agent, partners, or joint ventures between Owner and Consultant or (ii) to create any relationship between Owner and any sub-consultant of Consultant.

### **7.3 No Collusion**

Consultant hereby represents and certifies that Consultant is not barred from contracting with a unit of state or local government as a result of (i) a delinquency in the payment of any tax administered by the Illinois Department of Revenue unless Consultant is contesting, in accordance with the procedures established by the appropriate revenue Act, its liability for the tax or the amount of the tax, as set forth in 65 ILCS 5/11-42.1-1; or (ii) a violation of either Section



33E-3 or Section 33E-4 of Article 33E of the Criminal Code of 1961, 720 ILCS 5/33E-1 et seq. Consultant hereby represents that the only persons, firms, or corporations interested in this Contract as principals are those disclosed to Owner prior to the execution of this Contract, and that this Contract is made without collusion with any other person, firm, or corporation. If at any time it shall be found that Consultant has, in procuring this Contract, colluded with any other person, firm, or corporation, then Consultant shall be liable to Owner for all loss or damage that Owner may suffer thereby, and this Contract shall, at Owner's option, be null and void.

Consultant hereby represents and warrants that neither Consultant nor any person affiliated with Consultant or that has an economic interest in Consultant or that has or will have an interest in the Work or will participate, in any manner whatsoever, in the Work is acting, directly or indirectly, for or on behalf of any person, group, entity or nation named by the United States Treasury Department as a Specially Designated National and Blocked Person, or for or on behalf of any person, group, entity or nation designated in Presidential Executive Order 13224 as a person who commits, threatens to commit, or supports terrorism, and neither Consultant nor any person affiliated with Consultant or that has an economic interest in Consultant or that has or will have an interest in the Work or will participate, in any manner whatsoever, in the Work is, directly or indirectly, engaged in, or facilitating, the Work on behalf of any such person, group, entity or nation.

#### **7.4 Assignment**

Consultant shall not (i) assign this Contract in whole or in part, (ii) assign any of Consultant's rights or obligations under this Contract, or (iii) assign any payment due or to become due under this Contract without the prior express written approval of Owner, which approval may be withheld in the sole and unfettered discretion of Owner; provided, however, that Owner's prior written approval shall not be required for assignments of accounts, as defined in the Illinois Commercial Code, if to do so would violate Section 9-318 of the Illinois Commercial Code, 810 ILCS 5/9-318. Owner may not assign this Contract, in whole or in part, including any or all of its rights or obligations under this Contract, without the prior express written consent of Consultant.

#### **7.5 Confidential Information**

Subject to Illinois law, all information supplied by Owner to Consultant for or in connection with this Contract or the Services shall be held confidential by Consultant and shall not, without the prior express written consent of Owner, be used for any purpose other than performance of the Services.

#### **7.6 No Waiver**

No examination, inspection, investigation, test, measurement, review, determination, decision, certificate or approval by Owner, nor any order by Owner for the payment of money, nor any payment for or use, occupancy, possession or acceptance of the whole or any part of the Services by Owner, nor any extension of time granted by Owner, nor any delay by Owner in exercising any right under this Contract, nor any other act or omission of Owner shall constitute or be deemed to be an acceptance of any defective, damaged, flawed, unsuitable, nonconforming or incomplete Services, nor operate to waive or otherwise diminish the effect of any warranty or representation made by Consultant or of any requirement or provision of this Contract or of any remedy, power or right of Owner. Consultant does not waive any right under this Contract by failing to insist on compliance with any of the terms of this Contract or by failing to exercise any right hereunder. Any waivers granted by Consultant hereunder are effective only if recorded in a writing signed by the Consultant.

### **7.7 No Third Party Beneficiaries**

No claim as a third party beneficiary under this Contract by any person, firm, or corporation (other than Owner and Consultant) shall be made or be valid against Owner or Consultant.

### **7.8 Notices**

All notices required or permitted to be given under this Contract shall be in writing and shall be deemed received by the addressee thereof when delivered in person on a business day at the address set forth below or on the third business day after being deposited in the United States mail, for delivery at the address set forth below by properly addressed, postage prepaid, certified or registered mail, return receipt requested.

Notices and communications to Owner shall be addressed to, and delivered at, the following address:

Lake County Forest Preserve District  
1899 West Winchester Road  
Libertyville, Illinois 60048  
Attention: Gary Glowacki, Wildlife Biologist

Notices and communications to Consultant shall be addressed to and delivered at the following address:

Northern Illinois University  
Sponsored Programs Administration, Lowden Hall 203  
DeKalb, Illinois 60115-2828  
Attention: Kellie M. Dyslin

The foregoing shall not be deemed to invalidate any written notice in another form that is actually delivered and received.

By notice complying with the requirements of this Section 7.8, Owner and Consultant each shall have the right to change the address or addressee or both for all future notices to it, but no notice of a change of address or addressee shall be effective until actually received.

### **7.9 Governing Laws**

This Contract and the rights of Owner and Consultant under this Contract shall be interpreted according to the internal laws, but not the conflict of laws rules, of the State of Illinois.

### **7.10 Changes in Laws**

Unless otherwise explicitly provided in this Contract, any reference to laws shall include such laws as they may be amended or modified from time to time.

### **7.11 Compliance with Laws and Grants**

Consultant shall perform, or cause its Sub-consultants to perform, the Services in accordance with all required governmental permits, licenses, or other approvals and authorizations, and with applicable statutes, ordinances, rules, and regulations. This requirement includes, but is not limited to, compliance with the Fair Labor Standards Act; any statutes regarding qualification to do business; any statutes prohibiting discrimination because of, or requiring affirmative action based on, race, creed, color, national origin, age, sex, or other prohibited classification, including, without limitation, the Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12101 et seq., and the Illinois Human Rights Act, 775 ILCS 5/1-101 et seq. Consultant shall also comply with applicable conditions of any federal, state, or local grant received by Owner or Consultant with respect to this Contract or the Services.

Subject to Illinois law, Consultant shall be liable for any fines or civil penalties that may be imposed or incurred by a governmental agency with jurisdiction over the Services as a result of Consultant's or its sub-consultants' improper performance of, or failure to properly perform, the Services or any part thereof.

Every provision of law required by law to be inserted into this Contract shall be deemed to be inserted herein.

### **7.12 Ownership of Documents**

Consultant and Consultant's sub-consultants shall be deemed the original authors and owners respectively of materials produced pursuant to this Contract and shall retain all common law, statutory and other reserved rights, including copyrights. Consultant hereby grants and conveys to Owner perpetual, irrevocable non-exclusive rights and license to use all Required Submittals and other materials produced under this Contract for District purposes and no other purposes. The Owner agrees to defend and hold the Consultant and the Consultant's sub-consultants harmless from any causes of action, claims, losses, damages and expenses of any nature whatsoever, including reasonable attorney's fees, resulting from any unauthorized re-use of the Consultant's and Consultant's sub-consultants' materials.

### **7.13 Time**

The Contract Time is of the essence of this Contract. Except where otherwise stated, references in this Contract to days shall be construed to refer to calendar days.

### **7.14 Severability**

The provisions of this Contract shall be interpreted when possible to sustain their legality and enforceability as a whole. In the event any provision of this Contract shall be held invalid, illegal, or unenforceable by a court of competent jurisdiction, in whole or in part, neither the validity of the remaining part of such provision, nor the validity of any other provisions of this Contract shall be in any way affected thereby.

### **7.15 Entire Agreement**

This Contract sets forth the entire agreement of Owner and Consultant with respect to the accomplishment of the Services and the payment of the Contract Price therefore, and there are no other understandings or agreements, oral or written, between Owner and Consultant with respect to the Services and the compensation therefore.

**7.16 Amendments**

No modification, addition, deletion, revision, alteration, or other change to this Contract shall be effective unless and until such change is reduced to writing and executed and delivered by Owner and Consultant.

IN WITNESS WHEREOF, Owner and Consultant have caused this Contract to be executed as of the day and year first written above.

(SEAL)

Attest/Witness

LAKE COUNTY FOREST PRESERVE DISTRICT

By: \_\_\_\_\_  
Julie A. Gragnani  
Title: Secretary

\_\_\_\_\_  
Alex Ty Kovach  
Title: Executive Director

Attest/Witness

BOARD OF TRUSTEES OF NORTHERN  
ILLINOIS UNIVERSITY

By: \_\_\_\_\_  
Susan J. Bergman  
Title: Office Administrator

By: \_\_\_\_\_  
Kellie M. Dyslin, MSW, CRA  
Title: Associate Director

**ATTACHMENT A - SUPPLEMENTAL SCHEDULE OF CONTRACT TERMS**

1. Project:  
Provide ecological assessment services at various preserves throughout Lake County, Illinois, which services include:

Provide two (2) qualified field staff (WMP Field Technician) and a PhD candidate to collect and analyze comprehensive wildlife monitoring program data 37.5 hours per week for an approximately 7-month period beginning April through the end of October of each year, with appropriate transportation. Provide two (2) qualified field staff to collect comprehensive Blanding's Turtle (BT Field Technician) data 37.5 hours per week for an approximately 2.5-month period from May 9, 2016 until July 31, 2016, with appropriate transportation. Included in this work are all indirect and overhead costs such as mileage reimbursements, benefits and administrative costs.

The Services include, but are not limited to, all of the Services provided in Consultant's detailed Scope of Work. See Attachment B.

2. Approvals and Authorizations:

Consultant shall obtain the following approvals and authorizations from the following governmental bodies on or before the following dates:

<u>Approval/Authorization</u>	<u>Date</u>
NONE	

3. Commencement Date:

**April 18, 2016**

4. Completion Date:

**March 31, 2019**

The following is a tentative Schedule for Performance of Services:

**2016**

April:

Recruit PhD candidate

Recruit and hire Field Technicians

April – October:

Conduct field work

November – December:

Compile and analyze data

Submit annual progress report to District Project Manager

**2017**

February – March:

Recruit and hire Field Technicians

April – October:

Conduct field work

November – December:

Compile and analyze data

Submit annual progress report to District Project Manager

**2018**

February – March:

Recruit and hire Field Technicians

April – October:

Conduct field work

November – December:

Compile and analyze data

Submit annual progress report to District Project Manager

**2019**

February – March:

Compile and analyze data

Submit final report to District Project Manager

5. Insurance Coverage:

A. Worker's Compensation and Employer's Liability with limits not less than:

(1) Worker's Compensation: Statutory

(2) Employer's Liability: Statutory

Such insurance shall evidence that coverage applies in the State of Illinois.

B. Comprehensive Motor Vehicle Liability with a combined single limit of liability for bodily injury and property damage of not less than \$1,000,000.00 for vehicles owned, non-owned or rented. All employees shall be included as insured's.

C. Comprehensive General Liability with coverage written on an "occurrence" basis and with limits no less than:

(1) General Aggregate: \$2,000,000.00

(2) Bodily Injury: \$2,000,000.00 per person  
\$2,000,000.00 per occurrence

(3) Property Damage: \$2,000,000.00 per person  
\$2,000,000.00 aggregate

Coverages shall include:

❖ Broad Form Property Damage Endorsement

- D. Owner as Additional Insured. Owner shall be named as an Additional Insured with respect to the Comprehensive General Liability policy only
- E. Other Parties as Additional Insured. In addition to Owner, the following parties shall be named as Additional Insured on the following policies:

Additional Insured	Policy or Policies
NA	NA

- F. Evidence of Insurance. Consultant shall furnish Owner with a certificate(s) of insurance executed by a duly authorized representative of the insurer, showing compliance with the insurance requirements set forth above. Failure of Owner to demand such certificate, of full compliance with these insurance requirements or failure of Owner to identify a deficiency from evidence that is provided shall not be construed as a waiver of Consultant's obligation to maintain such insurance. Owner shall have the right, but not the obligation, of prohibiting Consultant from entering the premises until such certificates or other evidence that insurance has been placed in complete compliance with these requirements is received and approved by the Owner. Failure to maintain the required insurance may result in termination of this Contract at the Owner's option. Consultant shall provide the certificate of insurance required above within 10 days of Owner's written request for said copies.

6. Contract Price:

- A. Schedule of Prices – Not to Exceed:

For providing, performing, and completing all Services, Consultant shall be compensated for all services rendered by principals and employees directly on the Project at the following rates for the following positions:

POSITION	YEAR 1	YEAR 2	YEAR 3
PhD Candidate	\$18,744.00	\$19,119.00	\$19,501.00
WMP Field Technician (2)	\$18,000.00	\$18,360.00	\$18,727.00
BT Field Technician 800 Hours	\$8,000.00	NA	NA
Senior Personnel for 3 Months	\$2,500.00	\$2,550.00	\$2,601.00
Fringe Benefits (WMP Technician)	\$1,386.00	\$1,414.00	\$1442.00
Fringe Benefits (BT Technician)	\$612.00	NA	NA
Fringe Benefits (Senior Personnel)	\$363.00	\$370.00	\$377.00

Funding for Year 2 and 3 of this contract are dependent upon the annual approval of funding by the District's Board of Commissioners. If funding is not approved by the District's Board of Commissioners, District staff will notify the Consultant in writing that the contract has been terminated.

Owner shall also reimburse Consultant for the following (and no other) reimbursable costs and expenses in the following amounts, which shall be reimbursed at the actual out of pocket cost to Consultant:

REIMBURSABLES	YEAR 1	YEAR 1	YEAR 3
Miscellaneous Supplies	\$500.00	\$500.00	\$500.00
Facilities & Administrative Costs	\$4,914.00	\$4,996.00	\$5,080.00
WMP Travel & Transportation Services	\$7,050.00	\$7,100.00	\$7,106.00
BT Travel & Transportation Services	\$1,400.00	NA	NA
LCFPD Housing	\$600.00	\$600.00	\$600.00

Notwithstanding the foregoing, the total portion of the Contract Price based on Consultant's hourly rates of principals and employees shall not exceed \$175,012.00 and the total portion of the Contract Price based on reimbursable expenses shall not exceed \$30,518.00.

7. Payments:

Regardless of whether the Contract Price is based upon hourly rates or a lump sum, Consultant shall, not later than ten (10) days after execution of the Contract and before submitting its first pay request, submit to Owner a schedule showing the value of each component part or phase of the Services in form and with substantiating data acceptable to Owner ("Breakdown Schedule"). The sum of the items listed in the Breakdown Schedule shall equal the lump sum Contract Price or the not to exceed Contract Price, as the case may be. An unbalanced Breakdown Schedule providing for overpayment of Consultant on component parts or phases of the Services to be performed first will not be accepted. The Breakdown Schedule shall be revised and resubmitted until acceptable to Owner. No payment shall be made for Services until Consultant has submitted, and Owner has approved, an acceptable Breakdown Schedule. When a component or phase of the Services, as identified in the Breakdown Schedule, is complete, Owner will pay Consultant the value of such component or phase as provided in the Breakdown Schedule; however, Owner shall not be required to make payments more frequently than once per month.

All pay requests from Consultant shall be made using the pay request format supplied by Owner.

Owner may require that the approved Breakdown Schedule be revised based on developments occurring during the provision and performance of the Services. If Consultant fails to submit a revised Breakdown Schedule that is acceptable to Owner, Owner shall have the right either to suspend Progress and Final Payments for Services or to make such payments based on Owner's determination of the value of the Services completed.



## **ATTACHMENT B - CONSULTANT'S SCOPE OF WORK**

1. Project Description:

Provide appropriate wildlife field data collection following District provided protocol over the course of a 7-month assessment period (April through October) during each year of the contract term. Consultant will also analyze current and historic wildlife and habitat management data to provide recommendations for future monitoring and habitat management efforts. In addition, technicians will be provided in order to conduct a 2.5-month assessment of Blanding's Turtles through standard research methods in multiple forest preserves. The work area is located throughout Lake County.

2. Consultant's Responsibility:

- A. Meet with Owner's staff to initiate project, review existing wildlife and habitat management data, discuss design intent and attend any other meetings as necessary to gather and/or present information.
- B. Collect wildlife monitoring program data on reptiles, amphibians, and mammals according to the District's Standard Operating Procedures Manual (v2015) under the direction of the Owner's Project Manager.
- C. Provide a PhD candidate to analyze wildlife monitoring program and habitat management data with the specific objectives of providing recommendations to:
  - 1) maximize the utility and efficiency of the District's Wildlife Monitoring Program; and
  - 2). best utilize habitat management practices (burning, clearing, etc.) to maximize biological diversity and/or the conservation rare, threatened and endangered wildlife resources; and
  - 3). set restoration goals and targets and evaluate attainment of said goals.
- D. Provide Owner with a monthly invoice detailing hours, vehicle rental and overhead costs.
- E. Provide Owner's Project Manager with annual and final reports detailing progress made towards project objectives listed above.

3. Owner's Responsibility:

Throughout the progress of the Work, as described in this Contract, Owner shall:

- A. Notify Consultant in writing to proceed with the Work described herein and designate in writing a person to act as Owner's representative with respect to the Services to be rendered under this Contract.
- B. Arrange for access to and make provisions for Consultant to enter upon the site as required to perform the Work.
- C. Assist Consultant by placing at its disposal all available information concerning existing site conditions possessed by Owner including reports, records, drawings, maps or other pertinent information which may be useful to Consultant in the preparation of the Work
- D. Assist Consultant by furnishing all necessary equipment and protocols necessary for Consultant in the preparation and completion of the Work
- E. Assist Consultant by placing at its disposal all available wildlife and habitat management data and information possessed by Owner including reports, records, drawings, maps or other pertinent information which may be useful to Consultant in the preparation of the Work
- F. Pay any and all permit and approval fees that may be required.
- G. Meet with Consultant on a timely basis to advise and review work progress.
- H. Provide prompt feedback to questions and concerns raised by Consultant, to help ensure the timely performance of Services and completion of the Project hereunder by Consultant.

**ATTACHMENT C - KEY PERSONNEL**

1. Key Project Personnel – Owner

NAMES	TELEPHONE NUMBERS
Gary Glowacki, Wildlife Biologist	847-968-3264
Debbie Maurer, Natural Resource Manager	847-968-3285
Jim Anderson, Director of Natural Resources	847-968-3282

2. Key Project Personnel – Consultant

NAMES	TELEPHONE NUMBERS
Dr. Richard B. King	815-753-7833
Dr. Holly Jones	815-753-7527
Dr. Nick Barber	815-753-7811