



LAKE COUNTY FOREST PRESERVES
www.LCFPD.org

Preservation, Restoration, Education and Recreation

DATE: June 3, 2019

MEMO TO: John Wasik, Chair
Planning Committee

FROM: James L. Anderson
Director of Natural Resources

RECOMMENDATION: Recommend approval of a Resolution Approving a Property Access Agreement (PAA) with the North Shore Water Reclamation District (NSWRD) to allow the Lake County Forest Preserve District to access NSWRD property for Ecological Management of the Waukegan Dunes Area, Illinois Natural Area Inventory Site, as part of the Chiwaukee Prairie Illinois Beach Lake Plain (Lake Plain) restoration.

STRATEGIC DIRECTIONS SUPPORTED: Conservation; Leadership

FINANCIAL DATA: This work would be funded by the USEPA Sustain Our Grant Lakes Program, private donations, and other Lake Plain funds. District staff would oversee contractual work as part of its on-going Lake Plain partnership efforts.

BACKGROUND: The Chiwaukee Prairie – Illinois Beach Lake Plain Partnership was formally established in 2010 as a concerted effort to protect and manage the unique and high quality natural features of the Lake Plain. The partnership has since developed to become an effective and widely recognized collaboration of diverse membership that crosses state lines. NSWRD could be a new partner in the Lake Plain Partnership.

Ecological management of the Lake Plain must be undertaken in a coordinated effort where shared resources and information improves understanding and efficacy of management practices. By working collaboratively, the stakeholders can more effectively and efficiently pursue funding opportunities and implement common management objectives.

The PAA that would be approved by the attached resolution would provide the District with access to a portion of the Waukegan Dunes Illinois Natural Area Inventory site owned by NSWRD. The site includes high quality pannes, sedge meadows, sand prairie and dunes. The PPA would authorize the District to control highly invasive common reed (*Phragmites communis*), cattail (*Typha* spp.), reed canary grass (*Phalaris australis*), invasive brush, and other exotic plants within the site.

The Lake Plain, located from the Kenosha Dunes in Wisconsin south to Waukegan Harbor in Illinois, makes a significant contribution to the notable biodiversity of the Lake Michigan watershed and our Great Lakes ecosystem. The majority of this unique Lake Plain is under the protective ownership of public and private non-profit organizations. Recognized for its biological, geological and ecological significance, the 4,300 acres of publicly-protected Lake Plain connect 14 different natural community types and provide habitat for over 500 plant and 300 animal species, including 63 state-threatened or endangered species and two federally

endangered and two federally threatened species. Equally important, the Lake Plain ecosystem provides critical stop-over habitat for 160 migratory bird species and serves as important breeding habitat for many wetland-dependent bird species. The Lake Plain also provides one of the few areas in northeastern Illinois with significant public access to Lake Michigan via trails, camping, boating, and beach access.

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

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

**A RESOLUTION APPROVING A PROPERTY ACCESS AGREEMENT FOR
ECOLOGICAL MANAGEMENT OF NORTH SHORE WATER RECLAMATION
DISTRICT PROPERTY WITHIN THE WAUKEGAN DUNES ILLINOIS NATURAL
AREA INVENTORY SITE, AS PART OF THE CHIWAUKEE PRAIRIE ILLINOIS
BEACH LAKE PLAIN PARTNERSHIP**

WHEREAS, the Lake County Forest Preserve District (the “District”) owns certain property commonly known as Spring Bluff Forest Preserve and the North Shore Water Reclamation District (the “NSWRD”) owns certain property within the Illinois Natural Area Inventory Waukegan Dunes Area (depicted on Exhibit A as the “Project Area”), and both properties are located within the Lake Michigan watershed in a region commonly referred to as the Chiwaukee Prairie Illinois Beach Lake Plain (the “Lake Plain”); and

WHEREAS, the District and other owners of property within the Lake Plain desire to preserve, protect, and maintain the natural features and ecological values of the Lake Plain and, in furtherance of these objectives, to undertake programs and activities such as biological and physical inventory, scientific research, habitat and wildlife management; and

WHEREAS, the Lake Plain is faced with a common set of conservation threats including, but not limited to: alteration of pre-settlement hydrologic regimes, increased inputs of stormwater (surface water) flows carrying sediment and pollutants, decreased groundwater inputs, establishment and spread of invasive species, altered fire regimes, physical barriers to migration and movement of fish and wildlife, and increases in abundance of meso-predators; and

WHEREAS, the District has been participating in a project known as the “Lake Plain Invasive Species Strike Team Project”, which is intended to control a suite of 18 priority invasive plant species within the Lake Plain, including high quality coastal natural areas in Kenosha County, Wisconsin and Lake County, Illinois (the “Project”); and

WHEREAS, the District desires to expand the Project to the Project Area and, in furtherance thereof, the District and NSWRD have negotiated a Property Access Agreement (the “Property Access Agreement”) (attached as Exhibit B) that would allow the District and its contractors to access the Project Area for such purposes; and

WHEREAS, the District and the NSWRD are authorized to enter into the Property Access Agreement pursuant to Article VII, Section 10 of the Illinois Constitution, the Illinois Intergovernmental Cooperation Act, 5 ILCS 220/1 et. seq., and other applicable authority; and

WHEREAS, it is in the District’s best interests to enter into the Property Access Agreement with the NSWRD;

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. Approval of Property Access Agreement. The Property Access Agreement is hereby approved in substantially the form attached hereto. The President of the District is authorized and directed to execute the Property Access Agreement, in substantially the form attached hereto.

Section 3. 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 _____, 2019

AYES:

NAYS:

APPROVED this _____ day of _____, 2019

Angelo D. Kyle, President
Lake County Forest Preserve District

ATTEST:

Julie Gragnani, Secretary
Lake County Forest Preserve District




Exhibit No. _____

EXHIBIT A

DEPICTION OF PROJECT AREA

Exhibit A

Legend

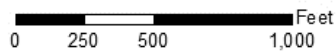
-  North Shore Water Reclamation District
-  Project Area
-  Waukegan Dunes INAI Site



Lake County Forest Preserve District
Land Preservation and Special Projects
1899 W Winchester Rd
Libertyville, Illinois 60048
847-968-3351

Courtesy Copy Only.
Property boundaries indicated are provided
for general location purposes. Wetland
and flood limits shown are approximate and
should not be used to determine setbacks for
structure or as a basis for purchasing property.

Prepared using information from:
Lake County Department of Information
& Technology: GIS/Mapping Division
18 North County Street
Waukegan, Illinois 60085-4357
847-377-2373



2018 Aerial Photo

Map Prepared 26 April 2019

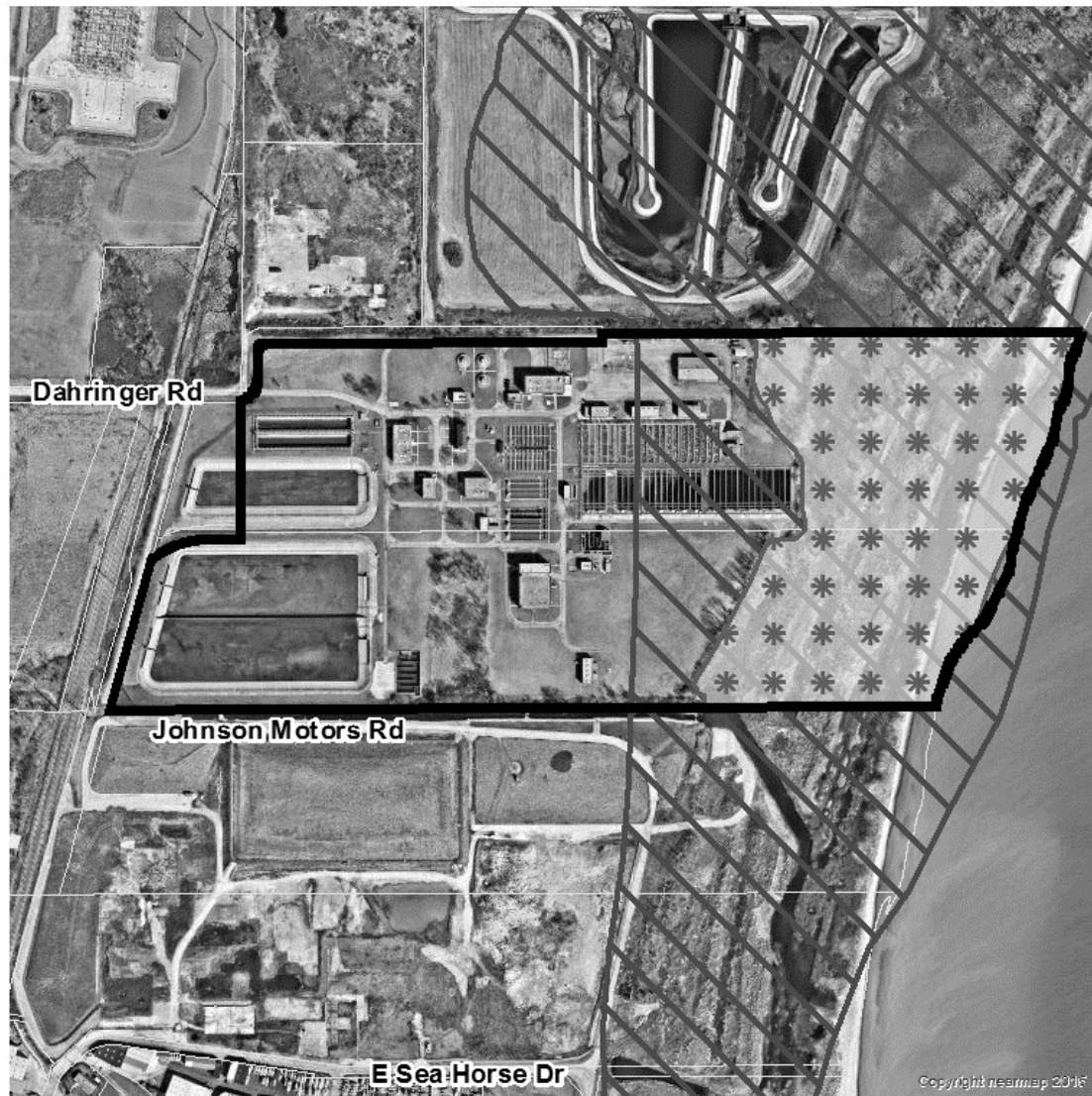


EXHIBIT B

PROPERTY ACCESS AGREEMENT

This Property Access Agreement, hereinafter referred to as “Agreement”, is entered into this ____ day of _____, 2019, by and between the North Shore Water Reclamation District, an Illinois unit of local government, hereinafter referred to as "DISTRICT", and the Lake County Forest Preserve District, an Illinois unit of local government, hereinafter referred to as "LCFPD", collectively referred to as “Party” or “Parties” relative to the DISTRICT's property located at 325 East Dahringer Road, Waukegan, IL 60085, hereinafter referred to as "PROPERTY" and shown in Exhibit A as the “Project Area”. LCFPD requests permission to enter the PROPERTY for the exclusive purposes of controlling phragmites and other invasive plant species.

1. DISTRICT, subject to the terms and conditions contained in this Agreement, grants permission to LCFPD, or to LCFPD's agents or assigns, including, but not limited to, LCFPD's employees, authorized consultants and/or contractors, or other designees authorized by LCFPD (collectively, "Authorized Parties") to enter upon the PROPERTY to perform invasive plant management activities (herein after referred as “Work”) within the limits of the PROPERTY depicted in Exhibit A. This permission shall become effective upon execution of the Agreement by both Parties and upon LCFPD satisfying the insurance requirements contained in this Agreement. No Authorized Parties shall be granted permission to enter upon the PROPERTY until such time as the Authorized Parties have satisfied the insurance requirements of this Agreement. Authorized Parties shall be deemed contractors and/or subcontractors of the LCFPD.
2. The permission granted by DISTRICT under this Agreement is contemplated to be used for the following Work:
 - a. This project seeks to control highly invasive common reed (*Phragmites communis*), cattail (*Typha* spp.), and reed canary grass (*Phalaris australis*) throughout the designated areas of high quality pannes and sedge meadows of Waukegan Dunes INAI preserve and Illinois Beach Nature Preserve and to treat invasive brush and exotic plants in corresponding sand prairie and oak savannas of those high quality natural areas. Chemical control within the project areas of the following species, includes, but is not limited to: lyme grass (*Leymus arenarius*), Japanese knotweed (*Polygonum cuspidatum*), spotted knapweed (*Centaurea maculosa*), winged burning bush (*Euonymus alatus*), barberry (*Berberis thunbergii*), oriental bittersweet (*Celastrus orbiculatus*), common reed (*Phragmites australis*), common buckthorn (*Rhamnus cathartica*), cottonwood (*Populus deltoides*), sandbar willow (*Salix interior*), Cattail (*Typha angustifolia* and *Typha x. glauca*), cemetery spurge (*Euphorbia cyperinus*), dames rocket (*Hesperis matronalis*), sweet clovers (*Melilotus* sp.), crown vetch (*Coronilla varia*), purple loosestrife (*Lythrum salicaria*), reed canary grass (*Phalaris arundinacea*), and common teasel (*Dipsacus laciniatus*).
 - b. Authorized Parties shall perform the Work as provided in a Work Plan that is approved in writing by both LCFPD’s Executive Director and the DISTRICT’S Executive Director (or their designees). No changes may be made to the approved Work Plan without the prior written agreement of the DISTRICT.

3. Upon completion of the Work, LCFPD shall cause the property to be restored to the same condition (except for non-native species removed as provided above) prior to the commencement of the Work.
4. The granting of this permission by the DISTRICT is not intended, nor should it be construed, as an admission of liability on the part of the DISTRICT or the DISTRICT's successors and assigns for any issues discovered on the PROPERTY and it is understood that such permission has been granted solely in the spirit of intergovernmental cooperation. The LCFPD and the DISTRICT mutually agree that the subject matter of the Work is not deemed to be defective or a nuisance for which the DISTRICT is or would be directly or indirectly liable or for which any action by the DISTRICT is required or mandated by any law, regulation or common law duty. This Agreement shall not constitute or be used as evidence of any admission of law, fact or liability or a waiver of any right or defense by DISTRICT.
5. LCFPD's Responsibilities. All Work will be performed in a good and workmanlike manner and so as to not unreasonably interfere with the DISTRICT's operation, use and enjoyment of the Property. LCFPD shall take all reasonable measures to minimize physical impacts on the Property. LCFPD will accommodate reasonable requests by DISTRICT regarding business interruption issues, including, but not limited to, requests to perform portions of the Work during non-business hours and provide protection, including but not limited to barricades or temporary fencing, to the extent necessary to protect DISTRICT's employees and/or property. In the event that there is a disagreement between the Parties concerning any request by the DISTRICT concerning accommodations, that include but are not limited to business interruption, LCFPD shall immediately cease such disputed operations and, if directed by DISTRICT, withdraw from the Property until such time the disagreement is resolved. LCFPD shall not proceed with such disputed Work. LCFPD, or any Authorized Party, shall not have the right or authority to bring any legal or equitable action to contest or overturn any determination or decision by the DISTRICT that the Work unreasonably interferes with the DISTRICT's operation, use or enjoyment of the Property and the DISTRICT's order to cease such disputed Work. LCFPD shall have no responsibility pursuant to this Agreement to investigate any conditions on the Property other than those to be addressed in connection with the Work.
6. Authorized Parties may enter the PROPERTY between the hours of 7:00 am and 3:00 pm, Monday through Friday, excluding holidays which are recognized by the DISTRICT. The Authorized Parties shall notify the Plant Superintendent of the DISTRICT plant located adjacent to the PROPERTY prior to entry upon the PROPERTY and shall notify the Plant Superintendent when the Authorized Parties exit the PROPERTY. LCFPD may also make special arrangements to enter the PROPERTY at other times after written agreement from the DISTRICT, through the DISTRICT's Executive Director.
7. LCFPD shall indemnify, defend and hold DISTRICT harmless from and against any and all claims, damages, liabilities, costs and expenses (including without limitation reasonable attorney fees) arising out of LCFPD's or its employees' negligence or willful misconduct, except to the extent that any injury is caused due to the negligent or willful and wanton acts of DISTRICT, or any employee or officer of DISTRICT. LCFPD shall cause the LCFPD's contractors performing the Work to indemnify, defend and hold DISTRICT harmless from and against any and all claims, damages, liabilities, costs and

expenses (including without limitation reasonable attorney fees) arising out of such parties' negligence or willful misconduct, except to the extent that any injury is caused due to the negligent or willful and wanton acts of DISTRICT, or any employee or officer of DISTRICT.

8. Insurance. LCFPD shall maintain the insurance coverages set forth in Exhibit B attached hereto. LCFPD shall cause Authorized Parties (who are not also LCFPD employees) performing the Work to maintain the insurance coverages set forth in Exhibit C attached hereto. Such coverages shall be maintained at all times during the performance of the Work on the Property. For "claims made" coverage, a tail period that extends two (2) years after the termination of this Agreement. LCFPD shall provide the DISTRICT with certificates of insurance evidencing the foregoing insurance coverages with DISTRICT as named insured. DISTRICT shall be named as an additional insured on these policies, and the policies shall contain a waiver of the insurer's right to subrogation against DISTRICT. Thirty (30) days' notice shall be given to DISTRICT prior to cancellation of any such insurance. LCFPD may meet these coverage requirements for itself through self-insurance. LCFPD shall have the duty and obligation to review and determine that Authorized Parties have and maintain the insurance coverages required under this Agreement as set forth in Exhibit C.
9. LCFPD shall be responsible for obtaining any necessary state or federal permits, including any from US Army Corps of Engineers, Illinois Environmental Protection Agency, Illinois Department of Natural Resources, and any others. LCFPD shall provide copies of approved permits to DISTRICT, or, if none are required, shall provide documentation of such.
10. Information will be held in confidence unless the LCFPD requests in writing and is granted permission by the DISTRICT to release information to third parties.
11. In exercising its access privileges, the LCFPD or Authorized Parties shall not interfere with the DISTRICT's operations on the PROPERTY.
12. LCFPD or Authorized Parties will give notice to the DISTRICT at least one (1) week in advance of the start of field activities on the PROPERTY.
13. DISTRICT will make such reasonable effort to give Authorized Parties access to the PROPERTY for the purposes set forth in this Agreement unless such access will interfere with or hinder operations, construction or other activities of the District.
14. Any Party to this Agreement may terminate this Agreement by giving two (2) weeks' advanced written notice.
15. The provisions of the Indemnification and Insurance clauses contained herein shall survive termination of this Agreement.
16. This Agreement shall be in effect on the date executed by both Parties and shall terminate on November 1, 2019.

17. All notices and other communications which are required to be, or which may be, given under this Agreement shall be in writing, and shall be delivered at the addresses set out herein below. Notice may be given by personal delivery, recognized overnight courier or by United States mail in the manner set forth below. Notice shall be deemed to have been duly given (a) if by personal delivery, on the first to occur of the date of actual receipt or refusal of delivery by any person at the intended address, (b) if by overnight courier, on the first (1st) Business Day after being delivered to a nationally-recognized overnight courier, or (c) if by mail, on the second (2nd) Business Day after being deposited in the United States mail, certified or registered mail, return receipt requested, postage prepaid, addressed as follows:

If to DISTRICT: Brian Dorn, Executive Director
North Shore Water Reclamation District
14770 W. Wm Koepsel Dr.
Gurnee, Illinois 60031
brdorn@northshorewrd.org

With a copy to: Gregory T. Jackson
Law Office of Gregory T. Jackson
204 N West St.
Waukegan, Illinois 60085
GTJlaw@Gmail.com

If to LCFPD: Wildlife Ecologist
Lake County Forest Preserve
1899 West Winchester
Libertyville, Illinois 60048
gglowacki@lcfpd.org

18. In the event that any action, suit, or other proceeding by the LCFPD or an Authorized Party against the DISTRICT, or by the DISTRICT against LCFPD or an Authorized Party, is instituted to remedy, prevent, or obtain relief from a breach of this Agreement, or arising out of a breach of this Agreement, and the DISTRICT is the prevailing party in such action, suit, or proceeding, then LCFPD shall reimburse the DISTRICT, or cause the Authorized Party to reimburse the DISTRICT, for the fees of the DISTRICT'S attorneys in such action or proceeding, including costs of appeal, if any, in such amount as the court may adjudge reasonable as attorneys' fees.
19. No provision of this Agreement is intended, nor will be interpreted, to provide or create any third party beneficiary rights or other rights of any kind to Authorized Parties or a third party hereto or any other person or entity and all provisions hereof shall be personal and solely between the DISTRICT and LCFPD.
20. Any failure or delay by either Party to enforce the provisions of this Agreement shall in no way constitute a waiver by such Party of any contractual right hereunder, unless such waiver is in writing and signed by the waiving Party.
21. Notwithstanding this Agreement, the DISTRICT shall retain all defenses and immunities provided and granted by Local Governmental and Governmental Employees Tort Immunity Act ("Act"). This Agreement shall not be construed as a contract under

Section 2-101 of the Act that would abrogate the defenses and immunities granted under the Act.

22. Each and every separate division (section, paragraph, clause, item, term, condition, covenant, or agreement) herein contained shall have independent and severable status from each other separate division or combination thereof, for the determination of legality, so that if any separate division herein is determined to be unconstitutional, illegal, violative of trade or commerce, in contravention of public policy, void, voidable, invalid or unenforceable for any reason, that separate division shall have no effect upon the validity or enforceability of each and every other separate division herein contained, or any other combination thereof.
23. This Agreement shall be construed in accordance with the laws of the State of Illinois and venue shall at all times rest in Nineteenth Judicial Circuit Court of Lake County Illinois. All terms and provisions of this Agreement are subject to the covenant of good faith and fair dealing implied in all Illinois contracts.

Executed the first date above written.

North Shore Water Reclamation District
by: Daniel M. Pierce
Its: President

Lake County Forest Preserve District
by: Angelo D. Kyle
Its: President

Date




Date

EXHIBIT A

GENERAL DEPICTION OF PROPERTY

Exhibit A

Legend

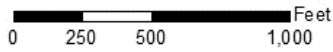
-  North Shore Water Reclamation District
-  Project Area
-  Waukegan Dunes INAI Site



Lake County Forest Preserve District
Land Preservation and Special Projects
1899 W Winchester Rd
Libertyville, Illinois 60048
847-968-3351

Courtesy Copy Only.
Property boundaries indicated are provided
for general location purposes. Wetland
and flood limits shown are approximate and
should not be used to determine setbacks for
structure or as a basis for purchasing property.

Prepared using information from:
Lake County Department of Information
& Technology: GIS/Mapping Division
18 North County Street
Waukegan, Illinois 60085-4357
847-377-2373



2018 Aerial Photo

Map Prepared 26 April 2019



Copyright nestmap 2016

**EXHIBIT B
PDRMA CERTIFICATE**

CERTIFICATE OF COVERAGE

Name and Address of Agency

Park District Risk Management Agency
2033 Burlington Avenue
Lisle, Illinois 60532-1646
630-769-0332

Name and Address of Member

Lake County Forest Preserve District
1899 W. Winchester Road
Libertyville, IL 60048

SCOPE OF COVERAGE

The Park District Risk Management Agency (PDRMA) is an intergovernmental self-insurance and risk management pool established under the constitution and the statutes of the State of Illinois to provide coverage for its members against certain claims and losses. Each member of PDRMA is entitled to the scope and amounts of coverage set forth below. In addition, PDRMA may extend the same scope of coverage to non-members. However, any coverage extended to a non-member is subject to all of the terms, conditions, exclusions, and amendments that are applicable to the members.

The above named entity is a member in good standing of the Park District Risk Management Agency. The scope of coverage provided by the agency may, however, be revised at any time by the actions of PDRMA's governing body. As of the date this certificate is issued, the information set out below accurately reflects the scope of coverage established for the current coverage year. **This document may not be used to extend Additional Insured status to the certificate holder or any other individual/organization/entity.**

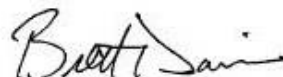
Scope of Coverage	Coverage Document	Coverage Dates	Limits Each Occurrence	In millions (000,000)
General Liability * Commercial general liability * Occurrence * Liquor liability	L010119	1/1/2019-12/31/2019	Bodily Injury and Property Damage combined	3
			Personal Injury	3
Automobile Liability * any auto	L010119	1/1/2019-12/31/2019	Bodily Injury and Property Damage combined	3
Workers' Compensation	WC010119	1/1/2019-12/31/2019		Statutory
Employer's Liability	WC010119	1/1/2019-12/31/2019		3

DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/SPECIAL ITEMS

Sample certificate for contract negotiations.

Certificate Holder

N/a



Authorized Representative

Date Issued: 4/12/2019

EXHIBIT C
VENDOR INSURANCE REQUIREMENTS

North Shore Water Reclamation District
Vendor Insurance Requirements

General Requirements

During the life of the Purchase Order, the VENDOR shall effect and maintain, with companies satisfactory to North Shore Water Reclamation District (NSWRD), the types and amounts of insurance required by the following paragraphs. The VENDOR shall not allow any subcontractor to commence work on his subcontract until all similar insurance required of the subcontractor has been so obtained and approved.

Comprehensive General Liability Insurance

Comprehensive General Liability Insurance covering claims for damages for bodily injury, and property damage which may arise out of all premises-operations, subcontracted operations, and products-completed operations whether such operations be by himself or by any subcontractor or anyone directly or indirectly employed by either of them.

- A. Bodily injury liability: \$1 million each occurrence, \$1 million annual aggregate
- B. Property damage liability: \$1 million each occurrence, \$1 million annual aggregate

or \$1 million bodily injury/property damage combined single limit.

Worker's Compensation and Employer's Liability Insurance

Worker's Compensation and Employer's Liability Insurance for all VENDOR's employees engaged in the work at NSWRD, in accordance with the laws of the State of Illinois. All owners, partners, and corporate officers of the VENDOR and each subcontractor shall also be protected by Worker's Compensation and Employer's Liability Insurance. If any class of employees engaged on work under the Purchase Order is not protected under the Worker's Compensation statute, the VENDOR shall provide similar protection of these employees in amounts not less than the legal requirements. The amount of Employer's Liability Insurance for the VENDOR shall not be less than the following:

- A. Worker's Compensation: statutory minimum
- B. Employer's Liability: bodily injury \$100,000 each employee

Automobile Liability Insurance

Automobile Liability Insurance, including employees' nonownership liability and hired automobile insurance in the minimum amounts specified below:

- A. Bodily injury liability: \$250,000 each person, \$500,000 each occurrence
- B. Property damage liability: \$100,000 each occurrence

or a combined single limit of \$500,000.

Insurance Submittal Requirements

NSWRD will be given 30 days notice of cancellation or non-renewal per the standard provisions contained in record insurance certificates. Further, NSWRD will be endorsed as an Additional Insured on all VENDOR Coverage.