

## ACCESS AGREEMENT

THIS AGREEMENT is entered into effective as of the last date of signature below by and between the North Lake Management District, a lake management district ("NLMD") and Halquist Stone Company, Inc. ("Halquist").

WHEREAS, a request has been made to Halquist, N51 W23563 Lisbon Road, Sussex, WI 53089, on behalf of the NLMD, W326 N7050 North Lake Drive, Hartland, WI 53029, to temporarily encroach upon property which Halquist owns located immediately north of Petersen Road and west of State Road 83 consisting of approximately 36.99 acres and identified as Tax Key MRTT0350961 in the unincorporated area of North Lake, Town of Merton (the "Property"). This request is for a temporary access and use for placement of a dredge pipeline and booster pumps consistent with the approximate locations outlined in the encroachment map attached hereto as Exhibit A. The Access Agreement shall be for a limited term to implement dredge activities on North Lake; and

WHEREAS, the NLMD is a public inland lake protection district which is a "nonprofit conservation organization" whose purpose is undertaking a program of lake protection and rehabilitation for conservation purposes and that is described in section 501 (c) (3) of the internal revenue code and is exempt from federal income tax under section 501 (a) of the internal revenue code; and

WHEREAS, the NLMD is developing a project which is defined as dredging the North Bay of North Lake which consists of the work to excavate accumulated silt which has entered North Lake and has been deposited from the Oconomowoc River. This dredging will protect and enhance the opportunities for public enjoyment of the lake; and

WHEREAS, the dredged materials will be temporarily stored and dewatered on land in accordance with certain applicable regulations and a permit to be issued by the Wisconsin Department of Natural Resources ("WDNR"); and

WHEREAS, Halquist has granted to NLMD a temporary access for the aforesaid encroachment subject to the execution of this Access Agreement.

NOW, THEREFORE, in consideration of the mutual covenants contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby mutually acknowledged, and of granting of this Access Agreement, Halquist hereby covenants unto NLMD as follows:

1. Recitals. The parties hereto acknowledge and agree that the recitals set forth above are true and correct in all respects and are fully incorporated into this Access Agreement.
2. Permits. NLMD shall secure and pay for all permits required by any governing body or agency before commencing the dredge activities on North Lake. All construction, maintenance, and repairs within the above-described Property shall be completed at no expense to Halquist and be in compliance with all applicable laws.

3. Restoration. NLMD shall be solely responsible for any restoration and/or maintenance required on the Property and shall keep it at all times in good repair. At the termination of this Agreement, NLMD shall surrender possession of the Property to Halquist in as good a condition as when received. NLMD shall be solely responsible for restoring the Property.

4. Liability and Hold Harmless. NLMD shall be solely liable for any and all damages to persons or property by reason of the granting of this privilege and the maintaining of said encroachment and shall hold Halquist, its officers and employees harmless from any and all causes of action, damages and judgments, all of whatsoever kind, arising out of the granting of this privilege and the maintaining of said encroachment via the access easement.

5. Limited Use. NLMD shall not place, construct or install any encroachment other than the one described in this Access Agreement within the above-described Property.

6. Review and Resubmittal for Future Changes. NLMD shall include a review, resubmittal, and approval of the encroachment of any future change of occupancy, access, or use.

7. Notices. It is hereby agreed that for all purposes hereunder, notices to the parties shall be given to the parties in writing at the following address:

If to Halquist:                      Tom Halquist  
   Halquist Stone Company, Inc.  
   N51 W23563 Lisbon Rd.  
   Sussex, WI 53089

If to NLMD:                              Jerry Heine  
   North Lake Management District  
   W326 N7050 North Lake Drive  
   Hartland, WI 53029

8. Halquist's Use of the Property. Halquist reserves to itself, its successors and assigns the right to make use of the above- described land.

9. Covenants Run with the Land. The covenants of this Access Agreement shall run with the Property hereinbefore described and shall be binding on all parties claiming the benefit of said limitation upon all present and future property owners of said premises.

10. Compliance with Laws and Regulations. NLMD shall operate access to the Property in compliance with all applicable laws and regulations. The parties agree to work cooperatively to comply with the WDNR issued dredge permit, and any regulations on NLMD's material storage, dewatering and sale of the dredged material operations including any zoning code issues, conditional use requirements or variances required at the Town of Merton and/or Waukesha County local level.

11. **Insurance.** Upon execution of this Agreement, and prior to the NLMD's commencing any work on the Property, NLMD's general contractor shall provide commercial general liability insurance on ISO form CG 00 01 10 01 (or a substitute form providing equivalent coverage) and NLMD's general contractor shall provide Halquist with a Certificate of Insurance and Additional Insured Endorsement on ISO form CG 20 10 11 85 (or a substitute form providing equivalent coverage) or on the combination of ISO forms CG 20 10 10 01 and CG 20 37 10 01 (or substitute forms providing equivalent coverage) naming NLMD and Halquist as Additional Insureds thereunder. Additional insured coverage shall apply as primary insurance with respect to any other insurance afforded to NLMD and Halquist. The coverage available to NLMD and Halquist, as Additional Insureds, shall not be less than \$1 million Each Occurrence, \$2 million General Aggregate (subject to a per project general aggregate provision applicable to the project), \$2 million Products/Completed Operations Aggregate and \$1 million Personal and Advertising Injury limits. Such insurance shall cover liability arising from the Property, operations, independent contractors, products-completed operations, personal and advertising injury, and liability assumed under an insured contract (including the tort liability of another assumed in a business contract). There shall be no endorsement or modification of the Commercial General Liability form arising from pollution, explosion, collapse, underground property damage or work performed by NLMD's general contractor and its subcontractors. There shall be a separate Contractor's Pollution Liability Insurance as detailed below. All coverage shall be placed with an insurance company duly admitted in the State of Wisconsin or authorized to provide such coverage in Wisconsin and shall be reasonably acceptable to NLMD and Halquist. All insurance carriers must maintain an AM Best rating of "A-" or better. Coverage shall be afforded to the Additional Insureds whether or not a claim is in litigation.

The insurance coverage required above shall be of sufficient type, scope, and duration to ensure coverage for NLMD and Halquist for liability related to any manifestation date within the applicable statutes of limitation and/or repose which pertain to any work performed by or on behalf of NLMD and Halquist in relation to the activities performed on the Property. NLMD agrees to maintain the above insurance for the benefit of Halquist until one year after termination of this Agreement. Each Certificate of Insurance shall provide that the insurer must give NLMD and Halquist at least 30 days' prior written notice of cancellation and termination of the coverage thereunder. Not less than two weeks prior to the expiration, cancellation or termination of any such policy, the NLMD shall supply Halquist with a new and replacement Certificate of Insurance and Additional Insured endorsement as proof of renewal of said original policy. Said new and replacement endorsements shall be similarly endorsed in favor of Halquist as set forth above.

Prior to commencement of the on-site activities, NLMD's general contractor shall provide Halquist with a Certificate of Insurance showing liability insurance coverage for the general contractor with additional insureds NLMD and Halquist and any employees, agents, or subcontractors or sub-subcontractors for any Workers' Compensation, Employer's Liability, and Automobile Liability. In the event any of these policies are terminated, Certificates of Insurance showing replacement coverage shall be provided to Halquist. Coverage shall be no less than the following:

Workers' Compensation and Employers' Liability Insurance: As required by law and affording thirty (30) days written notice to Halquist prior to cancellation or non-renewal, providing coverage of not less than \$1,000,000 for bodily injury caused by accident and \$1,000,000 for bodily injury by disease.

Business Auto Liability Insurance: Written in the amount of not less than \$1,000,000 each accident with an aggregate limit of \$2,000,000.

Waiver of Subrogation: NLMD's general contractor shall obtain from each of its insurers a waiver of subrogation on Commercial General Liability in favor of NLMD and Halquist with respect to Losses arising out of or in connection with the Work and performance of the project activities.

Contractor's Pollution Liability Insurance: Written in an amount not less than \$1,000,000 for each incident with an aggregate limit of \$2,000,000.

12. Term. The term of this Agreement and lease shall commence on the date that all three conditions are met: the WDNR dredge permit is effective, approval by the membership of NLMD property owners and a commitment of NLMD financing; and shall terminate two years from the commencement date or sooner when NLMD gives notice that the Agreement is ended and all conditions of restoration are satisfied.

13. Construction and Venue. It is agreed that this Agreement shall be governed by, construed and enforced in accordance with the laws of the State of Wisconsin.

14. Waiver. A waiver by either party of any breach of any covenant or duty of the other party under this Agreement is not a waiver of a breach or any other covenant or duty of the other party or any subsequent breach of the same covenant or duty.

15. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument. The Parties' exchange of executed signature pages may be accomplished by the electronic transmittal of such pages, and electronic copies of such documents shall be treated as original documents in all respects.

16. Signatures. Signature pages may be transmitted by facsimile or by email with the signature pages attached as a PDF document. Upon delivery via either of these methods, a signature shall be deemed an original and shall be admissible in evidence.

17. Validity. The invalidity of any provision of this Agreement will not and shall not be deemed to affect the validity of any of the other provisions. In the event that any provision of this Agreement is held to be invalid, the parties agree that the remaining provisions shall be deemed to be in full force and effect as if they had been executed by both parties subsequent to the expungement of the invalid provision.

18. Entire Agreement. This Agreement shall constitute the entire agreement between the parties hereto. Any prior understanding or representation of any kind preceding the date of this Agreement shall be not binding upon either party, except to the extent incorporated in this Agreement.

19. Modification. Any modification of this Agreement shall only be accomplished by a writing to that effect, executed by both parties hereto.

20. Assignment and Subletting. Neither party shall assign this Agreement, nor shall NLMD sublet any portion of the Property, without the prior written consent of other party.

21. Indemnification. Each party agrees to hold the other harmless and keep the other free, during the term of this Agreement and all extensions or renewal thereof, from any and all liability and claims of damages arising out of injury to any person or persons or property whomsoever and whatsoever, arising out of or in any way related to the acts or omissions of the indemnifying party under this Agreement.

22. Binding Effect. The terms, covenants and conditions of this Agreement shall be binding upon the successors and assigns of the parties hereto.

23. Dispute Resolution. Any unresolved controversy or claim arising out of or relating to this Agreement, except as (i) otherwise provided in this Agreement, or (ii) any such controversies or claims arising out of party's equitable relief is sought, shall be submitted first to mediation and, if not resolved by such mediation, to arbitration by one arbitrator mutually agreed upon by the parties, and if no agreement can be reached within thirty (30) days after names of potential arbitrators have been proposed by the American Arbitration Association (the "AAA"), then by one arbitrator having reasonable experience in business transactions of the type provided for in this Agreement and who is chosen by the AAA. The arbitration shall take place in Waukesha, Wisconsin in accordance with the AAA rules then in effect, and judgment upon any award rendered in such arbitration will be binding and may be entered in the Waukesha County Circuit Court of Wisconsin and each of the parties to this Agreement consents to personal jurisdiction in the Waukesha County Circuit court of the State of Wisconsin. There shall be limited discovery prior to the arbitration hearing as follows: (a) exchange of witness lists and copies of documentary evidence and documents relating to or arising out of the issues to be arbitrated, (b) depositions of all party witnesses and (c) such other depositions as may be allowed by the arbitrators upon a showing of good cause. Depositions shall be conducted in accordance with the Wisconsin Code of Civil Procedure, the arbitrator shall be required to provide in writing to the parties the basis for the award or order of such arbitrator, and a court reporter shall record all hearings, with such record constituting the official transcript of such proceedings.

24. Force Majeure. If any default or delay occurs which prevents or materially impairs a party's performance and is due to a cause beyond the party's reasonable control, including but not limited to any act of any god, weather, flood, fire, explosion, earthquake, casualty, accident, war, revolution, civil commotion, blockade or embargo, labor dispute, supply interruption, injunction, law, proclamation, order, regulation or governmental demand, the affected party shall promptly notify the other party in writing of such cause and shall exercise diligent efforts to resume performance under this Agreement as soon as possible. Neither party shall be liable to the other party for any loss or damage due to such cause. Neither party may terminate this Agreement because of such default or delay.

25. Costs and Expenses/Attorney's Fees. If either party materially defaults in any of the covenants or agreements herein contained, the defaulting party will pay all costs and expenses, including reasonable attorney's fees incurred by the other party if it prevails in enforcing its rights arising under this Agreement, whether incurred through legal action or otherwise.

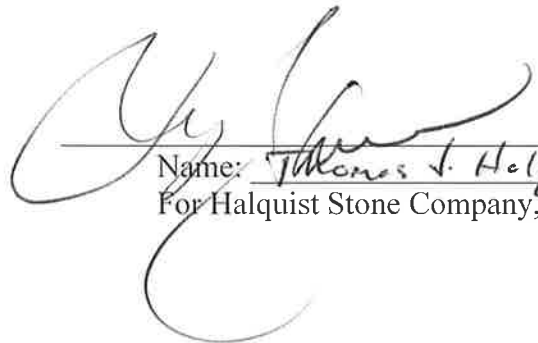
IN WITNESS WHEREOF, the undersigned, NLMD, hereby executes this Access Agreement with Halquist.

\_\_\_\_\_  
Jerry Heine, Commissioner  
For North Lake Management District

STATE OF WISCONSIN     )  
  )  
COUNTY OF \_\_\_\_\_)


Personally came before me this \_\_\_\_ day of \_\_\_\_\_, 2021  
the above-named, \_\_\_\_\_, known to me  
to be the person who executed the foregoing instrument.

\_\_\_\_\_  
Notary Public, State of Wisconsin  
My Commission: \_\_\_\_\_

  
\_\_\_\_\_  
Name: Thomas J. Halquist  
For Halquist Stone Company, Inc.

STATE OF WISCONSIN     )  
  )  
COUNTY OF WAUKESHA )

Personally came before me this 08 day of MARCH, 2021  
the above-named, THOMAS J HALQUIST, known to me  
to be the person who executed the foregoing instrument.

  
\_\_\_\_\_  
Notary Public, State of Wisconsin  
My Commission: 05.25.2024

This instrument was drafted by:  
Donald P. Gallo, SBN 1001278  
Axley Brynson, LLP  
N20 W22961 Watertown Rd.  
Waukesha, WI 53186  
Tel: 262-409-2283

