



SAUK COUNTY
PARKS + RECREATION

REQUEST FOR PROPOSAL (RFP)

November 6, 2019

Sauk County

Land Resources & Environment

Department

RFP TITLE

Engineering for Repairs to Hemlock Dam

RFP DEADLINE

November 26, 2019

2:00 p.m. (CST)

Late proposals, faxed proposals, electronic mail proposals or unsigned proposals will be rejected.

SUBMIT PROPOSAL TO THIS ADDRESS

SAUK COUNTY
LAND RESOURCES & ENVIRONMENT DEPARTMENT
S7995 WHITE MOUND DRIVE
HILLPOINT, WI 53937

DIRECT ALL INQUIRES TO

NAME Matt Stieve

TITLE Parks and Recreation Manager

PHONE # 608-355-4800

EMAIL matt.stieve@saukcountywi.gov

WEB SITE www.co.sauk.wi.us

DATE ISSUED: November 6, 2019

PROPOSAL SUBMISSION CHECKLIST

of Proposals

- (1) original
- (5) copies

Proposal Delivery

- Sealed envelope/package containing proposals and labeled with:
 - Your firm's name
 - The title: Engineering for Repairs to Hemlock Dam

PROPOSALS MUST BE RECEIVED AND DATE/TIME STAMPED BY A SAUK COUNTY LAND RESOURCES & ENVIRONMENT STAFF MEMBER PRIOR TO THE RFP DEADLINE ABOVE

SCHEDULE

Request for Proposals Issued.....	November 6, 2019
Deadline to Express Interest.....	November 11, 2019
Deadline to Submit Clarifying Questions	November 15, 2019, 4:00 PM, Central Time
Written Response to Clarifying Questions.....	November 19, 2019
Request for Proposals Closing Date and Time.....	November 26, 2019 2:00 PM, Central Time
Anticipated Contract Start Date... ..	December 18, 2019

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SECTION 1 NOTICE OF REQUEST FOR PROPOSALS

Notice is hereby given that Sauk County will receive sealed Proposals per specifications until **2:00 PM, November 26, 2019** (“Closing”), to provide Engineering for Repairs to the Hemlock Dam. No Proposals will be received or considered after that time.

Sealed Proposals are to be sent to:

Matt Stieve, Parks and Recreation Manager
Land and Environmental Resources Department
S7995 White Mound Drive, Hillpoint, WI 53937
matt.stieve@saukcountywi.gov

Contact Information

Clarifying Questions (by email only): Matt Stieve, matt.stieve@saukcountywi.gov
All clarifying questions received and responses provided will be emailed to interested consultants by the end of the work day November 19th, 2019.

Interested consultants must identify interest by email only by Monday, November 11, 2019.

Sauk County reserves the right to reject any and all Proposals not in compliance with all prescribed public RFP procedures and requirements, and may reject for good cause any and all Proposals upon the finding that it is in the public interest to do so and to waive any and all informalities in the public interest. In the award of the contract, Sauk County will consider the element of time, will accept the Proposal or Proposals which in their estimation will best serve the interests of County and will reserve the right to award the contract to the contractor whose Proposal shall be best for the public good.

Sauk County encourage bids from Minority, Women, and Small Business Enterprises.

SECTION 2 GENERAL PROPOSAL PROCESS

Sauk County reserves the right to reject any and all Proposals received as a result of this RFP.

2.1 Modification or Withdrawal of Proposal. Any Proposal may be modified or withdrawn at any time prior to the Closing deadline, provided a written request is received by the Land Resources and Environment Department, prior to the Closing. The withdrawal of a Proposal will not prejudice the right of a Proposer to submit a new Proposal.

2.2 Requests for Clarification and Requests for Change. Proposers may submit questions regarding the specifications of the RFP. Questions must be received **in writing** on or before 4:00 p.m. (Central Time), November 15, 2019, at the contact information as listed in Section 1 of this RFP. Requests for changes must include the reason for the change and any proposed changes to the requirements. The purpose of this requirement is to permit the County to correct, prior to the opening of Proposals, RFP terms or technical requirements that may be unlawful, improvident or which unjustifiably restrict competition. The County will consider all requested changes and, if appropriate, amend the RFP. The County will provide reasonable notice of its decision to all Proposers that have provided an address to the Land Resources and Environment Department for this procurement. No oral or written instructions or information concerning this RFP from County managers, employees or agents to prospective Proposers shall bind County unless included in an Addendum to the RFP.

2.3 Addenda. If any part of this RFP is changed, an addendum will be provided to Proposers that have provided an address to the Land Resources and Environment Department for this procurement. It shall be the proposer's responsibility to regularly check the Bids and Contract Information page at www.co.sauk.wi.us/rfps for any published Addenda or response to clarifying questions.

2.4 Submission of Proposals. Proposals must be submitted in accordance with this RFP. All Proposals shall be legibly written in ink or typed and comply in all regards with the requirements of this RFP. All Proposals must include a cover letter with a signature that affirms the Proposer's intent to be bound by the Proposal. If a Proposal is submitted by a firm or partnership, the name and address of the firm or partnership shall be shown, together with the names and addresses of the members. If the Proposal is submitted by a corporation, it shall be signed in the name of such corporation by an official who is authorized to bind the contractor.

No late Proposals will be accepted. Proposals submitted after the Closing will be considered late and will be returned unopened. Proposals may not be submitted by email or fax.

2.5 Evaluation Criteria

<u>Category</u>	<u>Points available:</u>
Consultant Team Qualifications	0-20
Project Understanding and Approach	0-40
Key Individuals	0-15
Supportive Information	0-15
<u>Total Project Cost</u>	<u>0-10</u>
	100 Total

2.6 Post-Selection Review. The County will name the apparent successful Proposer in a "Notice of Intent to Award" letter. Identification of the apparent successful Proposer is procedural only and creates no right of the named Proposer to award of the contract.

2.7 Investigation of References. The County reserves the right to investigate all references in addition to those supplied references and investigate past performance of any Proposer with respect to its successful performance of similar services, its compliance with specifications and contractual obligations, its completion or delivery of a project on schedule, its lawful payment of subcontractors and workers, and any other factor relevant to this RFP. The County may postpone the award or the execution of the contract after the announcement of the apparent successful Proposer in order to complete its investigation.

2.8 RFP Proposal Preparation Costs and Other Costs. Proposer costs of developing the Proposal, cost of attendance at an interview, or any other costs are entirely the responsibility of the Proposer, and will not be reimbursed in any manner by the County.

2.9 Clarification and Clarity. The County reserve the right to seek clarification of each Proposal, or to make an award without further discussion of Proposals received. Therefore, it is important that each Proposal be submitted initially in the most complete, clear, and favorable manner possible.

2.10 Right to Reject Proposals. The County reserves the right to reject any or all Proposals or to withdraw any item from the award, if such rejection or withdrawal would be in the public interest, as determined by the County.

2.11 Cancellation. The County reserves the right to cancel or postpone this RFP at any time or to award no contract.

2.12 Proposal Terms. All Proposals, including any price quotations, will be valid and firm through a period of

two hundred forty (240) calendar days following the Closing date. The Counties may require an extension of this firm offer period. Proposers will be required to agree to the longer timeframe in order to be further considered in the procurement process.

2.13 Oral Presentations. At the County's sole option, Proposers may be required to give an oral presentation of their Proposals, a process which would provide an opportunity for the Proposer to clarify or elaborate on the Proposal but will in no material way change Proposer's original Proposal. If the County requests presentations, the Land Resources and Environment Department will schedule the time and location for said presentation. Any costs of participating in such presentations will be borne solely by Proposer and will not be reimbursed by the County.

2.14 Usage. It is the intention of County to utilize the services of the successful Proposer(s) to provide services as outlined in the below Scope of Work.

2.15 Review for Responsiveness. Upon receipt of all Proposals, the Land Resources and Environment Department or designee will determine the responsiveness of all Proposals. If a Proposal is incomplete or non-responsive in significant part or in whole, it will be rejected. The County reserves the right to determine if an inadvertent error is solely clerical or is a minor informality which may be waived, and then to determine if an error is grounds for disqualifying a Proposal. The Proposer's contact person identified on the Proposal will be notified, identifying the reason(s) the Proposal is non-responsive. One copy of the Proposal will be archived and all others discarded.

2.16 RFP Incorporated into Contract. This RFP will become part of the Contract between the County and the selected contractor(s). The contractor(s) will be bound to perform according to the terms of this RFP, their Proposal(s), and the terms of a contract.

2.17 Communication Blackout Period. Except as called for in this RFP, Proposers may not communicate with members of the Sauk County Board, or other County employees or representatives about the RFP during the procurement process until the apparent successful Proposer is selected. Communication in violation of this restriction may result in rejection of a Proposer.

2.18 Prohibition on Commissions and Subcontractors. The County will contract directly with persons/entities capable of performing the requirements of this RFP. Contractors must be represented directly. Participation by brokers or commissioned agents will not be allowed during the Proposal process.

2.19 Ownership of Proposals. All Proposals in response to this RFP are the sole property of the County, and subject to the provisions of public records.

2.20 Clerical Errors in Awards. The County reserves the right to correct inaccurate awards resulting from its clerical errors.

2.21 Rejection of Qualified Proposals. Proposals may be rejected in whole or in part if they attempt to limit or modify any of the terms, conditions, or specifications of the RFP.

2.22 Collusion. By responding, the Proposer states that the Proposal is not made in connection with any competing Proposer submitting a separate response to the RFP, and is in all aspects fair and without collusion or fraud. Proposer also certifies that no officer, agent, elected official, or employee of County has a pecuniary interest in this Proposal.

2.23 Proposal Evaluation. Proposals will be evaluated by the County and potentially external representatives.

2.24 Commencement of Work. The contractor shall commence no work until all insurance requirements have been met, the Protest of Awards deadline has been passed, any protest have been decided, a contract has been fully

executed, and a Notice to Proceed has been issued by County.

2.25 Best and Final Offer. The County may request best and final offers from those Proposers determined by the County to be reasonably viable for contract award. However, the County reserve the right to award a contract on the basis of initial Proposal received. Therefore, each Proposal should contain the Proposer's best terms from a price and technical standpoint. Following evaluation of the best and final offers, the County may select for final contract negotiations/execution the offers that are most advantageous to County, considering cost and the evaluation criteria in this RFP.

2.26 Nondiscrimination. The successful Proposer agrees that, in performing the work called for by this RFP and in securing and supplying materials, contractor will not discriminate against any person on the basis of race, color, religious creed, political ideas, sex, age, marital status, sexual orientation, gender identity, veteran status, physical or mental handicap, national origin or ancestry, or any other class protected by applicable law.

SECTION 3 SCOPE OF WORK

3.1 Background and Project Overview.

The Hemlock Dam is located on the south side of the Hemlock Slough on the 400 State Trail. The dam consists of a horseshoe shaped earth embankment with a corrugated metal pipe whistle tube structure. The dam is located to the north of the 400 State Trail which separates the impoundment from the Baraboo River. A bridge spans the dam's outlet channel on the State Trail.

A dam failure analysis was completed in 2015 for Sauk County for the Hemlock Dam by Montgomery Associates Resource Solutions LLC (MARS). This analysis determined that the dam is classified as a low hazard dam and spillway capacity needs to meet NR333 standards of passing the 100-year return frequency storm. The analysis by MARS concluded that the dam as currently configured does have capacity to pass the 100-year storm. A topographical survey map is included in Appendix A.

In 2018, a flood on the Baraboo River overtopped the Hemlock dam from the downstream side. This flood caused erosion and damage to the upstream embankment. As a result, the County removed the stop logs from the whistle tube spillway and the lake is currently in a state of drawdown.

A feasibility study was conducted by Ayres Associates in June 2019, and is included as Appendix B in this proposal.

The Wisconsin Department of Natural Resources (WDNR) is directing Sauk County to make necessary repairs to Hemlock Dam (Field File #56.32, Key Seq #956, Sauk County). The Sauk County Land Resources and Environment Committee of the Sauk County Board of Supervisors is seeking to obtain the services of a licensed engineer to develop complete engineering plans necessary to repair Hemlock Dam with a drop inlet structure to meet all applicable WDNR requirements and approval. Refer to Appendix C – Wis. Stat ch. 31 Regulation of Dams and Bridges Affecting Navigable Waters and Appendix D – Wis. Admin Code ch. NR 333 Dam Design and Construction.

3.2 Introduction. The County is seeking Proposals from Proposers in the form of a Project Plan for repairs to the Hemlock Dam.

The Project Plan shall include the following components and presented in the following order:

- **Part I Design Specifications and Engineering Plans**
- **Part II Municipal Dam Grant Management**
- **Part III Bidding**
- **Part IV Construction Project Management**

SPECIAL NOTICE: A COMPLETE MUNICIPAL DAM GRANT MANAGEMENT APPLICATION INCLUDING DESIGN SPECIFICATIONS AND ENGINEERING PLANS IS DUE TO THE WDNR BY THE CLOSE OF BUSINESS ON FEBRUARY 28, 2020. THE PROJECT PLAN MUST INCLUDE DETAILS REGARDING HOW THIS DEADLINE WILL BE MET IN ACCORDANCE WITH WDNR REQUIREMENTS. THE MUNICIPAL DAM GRANT MANAGEMENT WEBSITE IS: <https://dnr.wi.gov/Aid/DamMunicipal.html>

3.3 Project Plan Specifications. The project plan at a minimum, shall address the following in the following order:

Part 1 Design Specifications and Engineering Plans

- Calculate the expected flow for the proposed structure.
- Design a new principal spillway to replace the existing whistle tube spillway. Spillway capacity needs to meet the NR333 requirements for a low hazard dam.
- Propose options for construction dewatering and cofferdam options, whether sheet pile, sand bags or pond drawdown.
- Obtain a utility locate and list those utilities on the construction plans.
- Prepare preliminary detailed design at approximately 95% detail for County approval.
- Prepare final plans and construction specifications for the project.
- Conduct all required environmental assessments and analyses required by the State and federal agencies. If a wetland delineation is needed, it would be conducted during the 2020 growing season.
- Prepare preliminary and final construction cost estimates for the chosen new structure and related improvements.
- Submit plans to the WDNR for approval and submit permit applications to the Corps of Engineers, and any other required supervising agency necessary to secure any and all permits required to construct the proposed structure.

Part II Municipal Dam Grant Management

- Apply for and administer the Municipal Dam Grant according to the program requirements.

Part III Bidding

- Prepare construction plans and project specifications manual for the project, sealed by a professional engineer licensed in the State of Wisconsin.
- Prepare an opinion of probable cost for the project included in the construction plans and manual.
- Obtain approval of the construction plans and manual from the County prior to bidding.
- Assist the County in preparing request for bids, qualifying contractor bids and assist the county in awarding the selected contractor.

Part IV Construction Project Management

- Attend two progress meetings with the County, at approximately 65% progress and 95% progress.
- Make routine job site visits through the construction phase.
- Provide construction administration services during the construction of the project.
- Provide as record drawings to the County in hard copy and digital formats.

SECTION 4 PROPOSAL CONTENTS

Submittals should be limited to 8.5 x 11 sheet size and should be bound by one staple in the top left corner. No three-ring notebooks, spiral bindings, plastic covers. Prospective Consultants shall submit one (1) original and five (5) copies of the submittal. A sheet printed on both sides will count as two pages. Each submittal should follow the requested format and be organized with tabs according to the following major categories. Addenda to submittals will not be considered.

Proposers must provide the following information in the proposal, which appears below:

4.1 Cover Letter. The cover letter should identify the proposing entity, the contact for the procurement and contract negotiation process, and be signed by an authorized representative or official.

4.2 Consultant Team Qualifications.

Qualifications will be determined based on the documented previous experience of team members in the areas of project management, planning and design of dam structures, project presentation and interaction with the public and elected officials, and demonstrated former project accomplishments of all phases described in Section 3 Scope of Work.

4.3 Project Understanding and Approach.

Proposers should provide the following to enable the County to evaluate the consultant team understanding of the project and proposed approach:

- A description, no more than one page in length, of the consultant team understanding of the process and products dam engineer and repairs to existing dams.
- A strategy, no more than one page in length, for identifying possible options to the tree removal along the dam and the issues the 400 State Trail could pose to the existing dam.
- A description, no more than one page in length of the process proposed for preparing engineering repair concepts.
- A strategy, no more than one page in length, for outlining the consultant's role at successfully relating to the public and elected officials to achieve desired results.
- Suggestions, no more than one page in length, for improving the process, products or approach described in this RFP that will bring about a better result.

4.4 Firm Information and Project Team. Briefly provide firm information including a description of the project team, listing key individuals and the role they will perform (principal-in-charge, project manager, engineer, etc.). Indicate how the work in the RFP will fit into the total workload of the firm and provide hourly rates for all team members. List any sub-consultants intended to be used and the qualifications, expertise, licensing and/or certification (no page limit).

4.5 Supporting Information.

Proposals should include the following:

- A Gantt chart depicting the proposed project schedule including all Parts assuming Notification to Proceed in December 2019 with the following:
Part I and Part II (as required/completed by February 28, 2020 to qualify for the Municipal Dam Grant)
Part I and II (ongoing through project completion)

Part II (completed by April 2020)

Part IV (completed by Fall 2020)

- Time allocation (in hours) for each member of the consultant team based on the proposed project schedule.
- A detail of project costs related to each Part.

SECTION 5 STANDARD TERMS AND CONDITIONS (These terms represent a contractual minimum, and the Proposer hereby acknowledges and agrees to such terms by submitting a proposal)

5.1 Applicability. These standard terms and conditions apply to Requests for Written Quotes (RFWQ), Bids (RFB), Proposals (RFP), contracts and all other applicable transactions whereby the County acquires goods or services, or both. Special provisions for a contract may also apply.

5.2 Specifications. The listed specifications are the minimum acceptable. When specific manufacturer and model numbers are used, they are to establish a design, type of construction, quality, functional capability or performance level, or any combination thereof, desired. When alternates are bid/proposed, they must be identified by manufacturer, stock number, and such other information necessary to establish equivalency. Sauk County shall be the sole judge of equivalency. Bidders/proposers are cautioned to avoid proposing alternates to the specifications that may result in rejection of their bid/proposal.

5.3 Deviations and Exceptions. Deviations and exceptions from terms, conditions, or specifications shall be described fully, on the vendor's letterhead, signed, and attached to the bid/proposal. In the absence of such statement, the bid/proposal shall be accepted as in strict compliance with all terms, conditions, and specifications and the vendor shall be bound to the provisions.

5.4 Quality. Unless otherwise indicated in the request, all material shall be first quality. Items which are used, pre-owned, demonstrators, obsolete, seconds, defective, or which have been discontinued are unacceptable without prior written approval by Sauk County.

5.5 Quantities. The quantities shown on this request are based on estimated needs. The County reserves the right to increase or decrease quantities to meet actual needs.

5.6 Delivery. Deliveries shall be FOB to the destination listed on the purchase order or contract. Title and risk of loss of goods shall not pass to the County of Sauk until receipt and acceptance takes place at the FOB point. Contractor will be responsible to deliver to the destination shown on the purchase order, with inside delivery required at no additional charge to Sauk County. County will reject shipments sent C.O.D. or freight collect.

5.7 Pricing and Content. Sauk County qualifies for governmental discounts; unit prices shall reflect these discounts.

Unit prices shown on the Bid or contract shall be the price per unit of sale as stated on the request or contract. For any given item, the quantity multiplied by the unit price shall establish the extended price; the unit price shall govern in the bid evaluation, permits, inspections, and all other contract administration.

Prices established in continuing agreements and term contracts may be lowered due to general market conditions, but prices shall not be subject to increase for term specified in the award. Vendor shall submit proposed increases to the contracting department thirty (30) calendar days before the proposed effective date of the price increase. Proposed

increases shall be limited to fully documented cost increases to the vendor that are demonstrated to be industry wide. Price increases may not be granted unless they are expressed in bid documents and contracts or agreements.

Submission of a bid constitutes bidder's certification that no financial or personal relationship exists between the bidder and any County official or employee except as specially set forth in writing attached to and made part of the bid. The successful bidder shall disclose any such relationship which develops during the term of the contract. See Sauk County Code of Ordinances Chapter 36, Code of Ethics.

5.8 Acceptance-Rejection. Sauk County reserves the right to accept or reject any or all bids/proposals, to waive any technicality in any bid/proposal submitted, and to accept any part of a bid/proposal as deemed to be in the best interests of Sauk County. Submission of a proposal or a bid constitutes the making of an offer to contract and gives the County an option valid for 90 days after the date of submission to the County. The County reserves the right to perform background and reference checks on vendors providing goods and/or services to the County.

Bids/proposals MUST be date and time stamped by Sauk County on or before the date and time that the bid is due. Bids dated and time stamped after the deadline will be rejected. Actual receipt by the County is necessary. Receipt of a bid by the mail system does not constitute receipt of a bid by the County. **THERE WILL BE NO EXCEPTIONS TO THIS POLICY.**

Bids shall be submitted on company letterhead and signed by an officer of the company. Mark sealed envelope with title of project for which vendor is submitting bid.

5.9 Method of Award. Award shall be made to the lowest responsible, responsive vendor conforming to the specifications, terms, and conditions, or to the most advantageous bid/proposal submitted to the County, price and other factors considered. Sauk County reserves the right to award based upon the evaluation of the bids/proposals which the County deems to be in its best interest.

5.10 Ordering/Acceptance. Written notice of award to a vendor in the form of a purchase order or other document, mailed or delivered to the address shown on the bid will be considered sufficient notice of acceptance of bid. A formal contract signed by both parties shall be used.

5.11 Payment Terms and Invoicing. Unless otherwise agreed, Sauk County will pay properly submitted vendor invoices within forty-five (45) days of receipt of goods and services. Payment will not be made until goods and/or services are delivered, installed (if required), and accepted as specified. Invoices presented for payment must be submitted in accordance with the contract. A good-faith dispute creates an exception to prompt payment.

5.12 No Waiver of Default. In no event shall the making of any payment or acceptance of any service or product constitute or be construed as a waiver by the County of any breach of the covenants of a contract, or a waiver of any default of the successful vendor. The making of any such payment or acceptance of any such service or product by the County while any such default or breach shall exist shall in no way impair or prejudice the right of the County with respect to recovery of damages or other remedy as a result of such breach or default.

5.13 Taxes. Sauk County and its departments are exempt from payment of all federal tax and Wisconsin state and local taxes on its purchases except Wisconsin excise taxes as described below. Sauk County, including all its departments, is required to pay the Wisconsin excise or occupation tax on its purchase of beer, liquor, wine, cigarettes, tobacco products, motor vehicle fuel and general aviation fuel. The County is exempt from payment of Wisconsin sales or use tax on its purchases. Sauk County may be subject to other states' taxes on its purchases in that state depending on the laws of that state. Vendors performing construction activities are required to pay state use tax on the cost of materials.

5.14 Entire Agreement. These Standard Terms and Conditions shall apply to any contract or order awarded as a result of this request. Special requirements of a resulting contract may also apply. The written contract and/or order with referenced parts and attachments shall constitute the entire agreement, and no other terms and conditions in any document, acceptance, or acknowledgment shall be effective or binding unless expressly agreed to in writing by the County.

5.15 Guaranteed Delivery. Failure of the vendor to adhere to delivery schedules as specified or to promptly replace rejected materials shall render the vendor liable for all costs in excess of the contract price when alternate procurement is necessary. Excess costs shall include administrative costs to retain such replacement.

5.16 Applicable Law. This contract shall be governed by the laws of the State of Wisconsin, and venue for any legal action between the parties shall be in the Sauk County Circuit Court. The vendor shall at all times comply with and observe all federal and state laws, local laws, ordinances, and regulations which are in effect during the period of this contract and which in any manner affect the work or its conduct. Sauk County also reserves the right to cancel this contract if the County learns the contractor is debarred from a local governmental entity, the State of Wisconsin or federally debarred contractor or a contractor that is presently identified on the list of parties excluded from local or federal procurement and non-procurement contracts.

5.17 Antitrust Compliance. Those parties contracting with the County, or submitting bids under this Request for Bid, certify that with respect to all aspects of this bid and any subsequent agreement they have complied and will comply with all Federal and State Anti-Trust and Restraint of Trade laws and regulations. FURTHERMORE, said party agrees to defend and hold harmless the County of Sauk against any claims to the contrary.

5.18 Assignment. No right or duty in whole or in part of the vendor under a contract may be assigned or delegated without the prior written consent of Sauk County.

5.19 Subcontracting. If sub-contractors are to be used, this must be clearly explained in the Bid. Awarded vendor(s) will not be permitted to sublet, sell, transfer, assign or otherwise dispose of the contract or any portion therein, or its right, title, or interest in the contract to any person, vendor(s) or other organization without prior written consent of the County. No subcontract shall, under any circumstances, relieve the contractor of liability and obligation under this contract. The awarded contractor shall be fully responsible for the acts, errors, and omission of subcontractor(s).

5.20 Nondiscrimination/Affirmative Action. The vendor agrees, in accordance with Sec. 111.321, Wis. Stats. not to discriminate against any person, whether an applicant or recipient of services, an employee, or applicant for employment, on the basis of age, race, ethnicity, religion, color, gender, disability, marital status, sexual orientation, national origin, cultural differences, ancestry, physical appearance, arrest record or conviction record, military participation or membership in the national guard, state defense force or any other reserve component of the military forces of the United States, or political beliefs. The vendor shall provide a harassment-free work environment. These provisions shall include, but not be limited to, the following: employment, upgrading, demotion, transfer, recruitment, advertising, layoff, termination, training, including apprenticeships, rates of pay or other forms of compensation. Failure to comply with these Terms and Conditions may result in the vendor being debarred, termination of the contract and/or withholding of payment.

5.21 Safety Requirements. All employer practices, employee practices, materials, equipment, and supplies provided to Sauk County must comply fully with all safety requirements as set forth by the Wisconsin Administrative Code and all applicable OSHA Standards. The vendor shall comply with the County's worksite rules. Vendor shall comply, train, and accept exclusive responsibility for its employees while on County property.

5.22 Material Safety Data Sheet. If any item(s) on an order(s) resulting from this award(s) is a hazardous chemical, as defined under 29CFR 1910.1200, the vendor must provide one (1) copy of Material Safety Data Sheet for each item with the shipped container(s) and one (1) copy with the invoice(s).

5.23 Warranty. Unless specifically expressed otherwise in writing, goods and equipment purchased as a result of this request or contract shall be warranted against defects by the vendor for one (1) year from date of receipt. An equipment manufacturer’s standard warranty shall apply as a minimum and must be honored by the vendor.

5.24 Indemnification and Insurance. The vendor shall bear the full and complete responsibility for all risk of damage of premises, equipment, procedure or money resulting from any cause whatsoever and shall not penalize the County for any losses incurred.

Vendor shall indemnify, hold harmless, and defend Sauk County, its officers, boards, commissions, agents and employees from any and all liability, claims, demands, losses (including, but not limited to, property damage, bodily injury and loss of life), costs, expenses or damages which Sauk County, its officers, employees, agents, boards, or commissions may sustain, incur or be required to pay by reason of vendor furnishing goods or services required to be provided pursuant to this contract where such liability is founded upon or grows out of acts or omissions of any agents or employees of the vendor. Nothing contained herein shall require vendor to defend or indemnify the County for losses, damages, injuries or death arising out of the negligence of the County, its agents or employees. The obligations of vendor under this paragraph shall survive the expiration or termination of the contract or agreement.

In order to secure vendor’s obligation to hold harmless and indemnify the County, vendor shall procure and maintain the following insurance:

Worker’s Compensation Insurance as prescribed by the laws of the State of Wisconsin;

<u>General Liability:</u>	
General Aggregate	\$1,000,000.00
Products-Comp/Op Agg	\$1,000,000.00
Personal & Adv. Injury	\$1,000,000.00
Each Occurrence	\$1,000,000.00
<u>Automobile:</u> (Combined single limit)	\$1,000,000.00
<u>Excess Liability:</u> (Umbrella)	\$5,000,000.00. (Each occurrence and aggregate.)

The vendor shall add Sauk County, its officers, agents and employees as shall be named as an additional named insured.

Provide policy, countersigned by an insurer licensed to do business in the State of Wisconsin, covering the period of the agreement/contract indicating that Sauk County is an additional named insured on public liability, professional liability and property damage insurance required above.

Provide insurance certificates indicating required coverage, countersigned by an insurer licensed to do business in Wisconsin, covering the period of the agreement/contract. The insurance certificate is required to be presented prior to the issuance of the purchase order or before commencement of the contract.

5.25 Termination for Default. Failure of the awardee to perform any of the provisions of this contract shall constitute a breach of contract, in which case, the county may require corrective action within ten days (10) from date of receipt of written notice citing the exact nature of such breach. Failure to take corrective action or failure to provide a written reply within the prescribed 10 days shall constitute a default of the contract. If defaulted, the contractor shall be liable for liquidated damages, if any. Sauk County reserves the right to enforce the performance of this contract in any manner prescribed by law in the event of breach of default of this contract, and may contract with another party with or without solicitation of proposals or further negotiations. As a minimum, contractor shall be required to pay any difference in the cost of securing the products or services covered by this contract, or compensate for any loss to county should it become necessary to contract with another source because of this default, plus reasonable administrative costs, reasonable attorney’s fees, court cost and expenses.

5.26 Termination for Convenience. Upon seven (7) calendar days written notice delivered by first class post paid United States Mail, to the address indicated in the proposal/bid, to the successful bidder/proposer, Sauk County may without cause and without prejudice to any other right to remedy, terminate the agreement for Sauk County's convenience whenever Sauk County determines that such termination is in the best interest of the county. Where the agreement is terminated for convenience of Sauk County the notice of termination must state that the contract is being terminated to the convenience of Sauk County under the termination clause and the extent of the termination. Upon receipt of such notice, the contractor shall promptly discontinue all work at the time and to the extent indicated on the notice of termination. The contractor shall also terminate all outstanding sub-contractors and purchase orders to the extent that they relate to the terminated portion of the contract and refrain from placing further orders and subcontracts except, as they may be necessary and complete any continued portions of the work.

5.27 Non-Appropriation of Funds. Sauk County states that it is our intent to make all payments required to be made under any Agreement resulting from this RFB/RFP. However, in the event Sauk County's legislative body, the Sauk County Board of Supervisors, does not appropriate funds for the continuation of the Agreement for any fiscal year after the first fiscal year, said agreement will be terminated without damages or cost for such termination.

5.28 Recordkeeping and Record Retention – Public Works Contracts. The contractor on a public works contract shall establish and maintain adequate payroll records for all labor utilized as well as records for all expenditures incurred under the contract. All records must be kept in accordance with generally accepted accounting procedures. All procedures must be kept in accordance with generally accepted accounting procedures. Sauk County shall have the right to audit, review, examine, copy, and transcribe any such records or documents relating to any contract resulting from this bid/proposal held by the contractor. The vendor will retain all documents applicable to a contract for a period of not less than five (5) years after final payment is made.

5.29 Independent Vendor Status. None of the officers, employees, or agents of the contractor are employees of Sauk County for any purpose, including but not limited to compensation, fringe benefits, or insurance coverage. The contractor agrees to take such steps as may be necessary to ensure that each subcontractor of the contractor will be deemed to be an independent contractor and will not be considered or permitted to be an agent, servant, joint venturer, or partner of the county.

5.30 Public Works Access. It is the intention of the county to maintain an open and public process in the solicitation, submission, review, and approval of procurement activities. Bid/proposal openings are public unless otherwise specified. Records are not be available for public inspection prior to issuance of the notice of intent to award or the award of the contract. If awarded this contract, Vendor shall assist Sauk County in complying with any public records request made under Wisconsin Law or Federal Freedom of Information Act.

The Parties acknowledge that Sauk County is a municipal corporation legally bound to comply with the Wisconsin Public Records Law and Open Meetings Law (see sections 19.32-19.39 & 19.81-19.98, Wis. Statutes) and that, unless otherwise clearly allowed by law to be an exception to the Public Record Law and confidential, all aspects of this agreement are subject to open disclosure and are a matter of public record. It is further agreed to that neither party will take any action to obstruct the operation of these laws. To comply with any request under said Public Record Law, the provider/contractor herein shall produce copies of all materials gathered or produced or modified pursuant to this contract to Sauk County, in their original (i.e., electronic or digital, etc.) format at actual cost of reproduction, without profit. According to Wisconsin case law, even if records are created or maintained by, or in the custody of, the provider as an independent contractor, they, along with the raw data used to create the record, are nevertheless public records that must be made available to the public within a reasonable time and without delay upon request by any person, and in the format in which they were created. Provider/contractor agrees to hold Sauk County, its agents, officials and employees harmless and to indemnify them and Sauk County for all costs, fees, including all reasonable attorney fees and expense of all kinds, and any judgments, orders, injunctions, writs of mandamus, and damages or expense of whatever kind for which Sauk County or it agents , officials or employees may expend or be held liable due to the

Provider/contractor 's failure to comply with the Wisconsin Public Records and Open Meetings laws, or with this agreement.

Any Public Record Law request received directly by a contractor related to this contract with Sauk County shall immediately be reported to the Administrative Coordinator for the County.

5.31 Proprietary Information. Any restrictions on the use of data contained within a request must be clearly stated in the bid/proposal or contract itself. Proprietary information submitted in response to a request will be handled in accordance with applicable the Wisconsin public records law. If the vendor asserts in the bid/proposal that any of its books and records of its business practices and other matters collectively constitute a trade secret as that term is defined in s. 134.90(1)(c), Wis. Stats., County will not release such records to the public without first notifying the vendor of the request for the records and affording the vendor an opportunity to challenge in a court of competent jurisdiction the requester's right to access such records. The entire burden of maintaining and defending the trade secret designation shall be upon the vendor. The vendor acknowledges and agrees that if the vendor shall fail, in a timely manner, to initiate legal action to defend the trade secret designation or be unsuccessful in its defense of that designation, County shall be obligated to and will release the records.

Data contained in a bid / proposal, all documentation provided therein, and innovations developed as a result of the contracted commodities or services cannot be copyrighted or patented. All data obtained and all documentation, and innovations developed as a result of the bid / proposal process and or contract shall become the property of Sauk County.

Any material submitted by the vendor in response to this request that the vendor considers confidential and proprietary information and which qualifies as a trade secret, as provided in Wis. Stat. § 19.36(5), or material which can be kept confidential under the Wisconsin public records law, must be identified on a Confidential and Proprietary Information Form. Bid prices cannot be held confidential after award of a contract.

Data contained in a Bid, all documentation provided therein, and innovations developed as a result of the contracted commodities or services cannot be copyrighted or patented. All data, documentation, and innovations become the property of the Sauk County.

5.32 Recycled Material. Sauk County desires to purchase products incorporating recycled materials whenever technically and economically feasible. Vendors/bidders are encouraged to bid/propose products with recycled content which meet specifications.

5.33 Patent, Copyright and Trademark Infringement. The contractor guarantees goods sold to the County were manufactured or produced in accordance with applicable federal labor laws, and that the sale or use of the articles described herein do not infringe any patent, copyright, software or trademark. The contractor covenants that it will, at its own expense, defend every suit which shall be brought against Sauk County (provided that such contractor is promptly notified of such suit, and all papers therein are delivered to it) for any alleged infringement of any patent, copyright, software or trademark by reason of the sale or use of such articles, and agrees that it will pay all costs, damages, and profits, reasonable expenses, reasonable attorney fees in defense of such actions, recoverable in any such suit.

5.34 Licensure, Certification, and Statutory Requirements. Contractor is responsible to comply with all statutory rules and regulations. All federal, state, and local laws, rules, and regulations governing the goods or service described in the specification will apply and will be deemed incorporated into the contract. These requirements shall be at contractor's expense. When required any and all permits and inspections shall be included in the bid price and shall not be an additional cost to the County.

5.35 Promotional Releases. Contractor agrees not to refer to award of this contract in commercial advertising in such a manner as to state or imply that the services provided are endorsed or preferred by Sauk County. The contractor shall not have the right to include the County's name in its published list of customers without prior written approval of Sauk County. The contractor further agrees not to publish, publicize, verbalize, print, tape, film, email, internet communication or any other electronic communication or cite in any form, any comments or quotes from County staff.

5.36 Force Majeure. Neither party shall be in default by reason of any failure in performance of this Agreement in accordance with reasonable control and without fault or negligence on their part. Such causes may include, but are not restricted to, acts of nature or the public enemy, acts of the United States government in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes and unusually severe weather, but in every case the failure to perform such must be beyond the reasonable control and without the fault or negligence of the party.