

Dane County Contract Cover Sheet

Revised 01/2023

Res 375
significant

Dept./Division	LWRD / Watersheds & Ecosystems		
Vendor Name	Burns & McDonnell Engineering Co Inc	MUNIS #	34494
Brief Contract Title/Description	Sediment study of phosphorus in the Yahara chain of lakes.		
Contract Term	Through December 31, 2024		
Contract Amount	\$300,000		

Contract # Admin will assign	15381
Type of Contract	
<input type="checkbox"/>	Dane County Contract
<input type="checkbox"/>	Intergovernmental
<input type="checkbox"/>	County Lessee
<input type="checkbox"/>	County Lessor
<input type="checkbox"/>	Purchase of Property
<input type="checkbox"/>	Property Sale
<input type="checkbox"/>	Grant
<input type="checkbox"/>	Other

Department Contact Information		Vendor Contact Information	
Name	Kyle Minks	Name	Wes Trestler
Phone #	608-669-1864	Phone #	630-864-8991
Email	minks.kyle@countyofdane.com	Email	wtrestler@burnsmcd.com
Purchasing Officer			

Purchasing Authority	<input type="checkbox"/> \$12,000 or under – Best Judgment (1 quote required)	
	<input type="checkbox"/> Between \$12,000 – \$43,000 (\$0 – \$25,000 Public Works) (3 quotes required)	
	<input checked="" type="checkbox"/> Over \$43,000 (\$25,000 Public Works) (Formal RFB/RFP required)	RFB/RFP # 090-PR
	<input type="checkbox"/> Bid Waiver – \$43,000 or under (\$25,000 or under Public Works)	
	<input type="checkbox"/> Bid Waiver – Over \$43,000 (N/A to Public Works)	
	<input type="checkbox"/> N/A – Grants, Leases, Intergovernmental, Property Purchase/Sale, Other	



MUNIS Req.	Req # 1349	Org: LWLEGACY	Obj: 51478	Proj:	
	Year 2024	Org:	Obj:	Proj:	
		Org:	Obj:	Proj:	

Budget Amendment	
<input type="checkbox"/>	A Budget Amendment has been requested via a Funds Transfer or Resolution. Upon addendum approval and budget amendment completion, the department shall update the requisition in MUNIS accordingly.

Resolution Required if contract exceeds \$100,000 (\$40,000 PW)	<input type="checkbox"/> Contract does not exceed \$100,000 (\$40,000 Public Works)	
	<input checked="" type="checkbox"/> Contract exceeds \$100,000 (\$40,000 Public Works) – resolution required.	Res # 375
	<input checked="" type="checkbox"/> A copy of the Resolution is attached to the contract cover sheet.	Year 2023

CONTRACT MODIFICATIONS – Standard Terms and Conditions		
<input type="checkbox"/> No modifications.	<input checked="" type="checkbox"/> Modifications and reviewed by: Carlos Pabellon	<input type="checkbox"/> Non-standard Contract

APPROVAL	
Dept. Head / Authorized Designee	
Hicklin, Laura	Digitally signed by Hicklin, Laura Date: 2024.03.05 11:02:01 -06'00'

APPROVAL – Contracts Exceeding \$100,000	
Director of Administration	Corporation Counsel
	

APPROVAL – Internal Contract Review – Routed Electronically – Approvals Will Be Attached			
DOA:	Date In: 3/5/24	Date Out: _____	<input checked="" type="checkbox"/> Controller, Purchasing, Corp Counsel, Risk Management

Goldade, Michelle

From: Goldade, Michelle
Sent: Thursday, March 14, 2024 12:05 PM
To: Hicklin, Charles; Patten (Purchasing), Peter; Gault, David
Cc: Stavn, Stephanie; Oby, Joe
Subject: Contract #15381
Attachments: 15381.pdf

Tracking:	Recipient	Read	Response
	Hicklin, Charles	Read: 3/14/2024 1:42 PM	Approve: 3/14/2024 1:42 PM
	Patten (Purchasing), Peter		Approve: 3/14/2024 2:56 PM
	Gault, David	Read: 3/14/2024 1:15 PM	Approve: 3/14/2024 1:16 PM
	Stavn, Stephanie		
	Oby, Joe		

Please review the contract and indicate using the vote button above if you approve or disapprove of this contract.

Contract #15381
Department: Land & Water Resources
Vendor: Burns & McDonnell Engineering
Contract Description: Sediment study of phosphorus in the Yahara Chain of Lakes (Res 375)
Contract Term: 3/1/24 – 12/31/24
Contract Amount: \$300,000.00

Michelle Goldade

Administrative Manager
Dane County Department of Administration
Room 425, City-County Building
210 Martin Luther King, Jr. Boulevard
Madison, WI 53703
PH: 608/266-4941
Fax: 608/266-4425
TDD: Call WI Relay 711

Please Note: I currently have a modified work schedule...I am in the office Mondays and Wednesdays and working remotely Tuesdays, Thursdays and Fridays.

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2023 RES-375

**AUTHORIZING A CONTRACT WITH BURNS & MCDONNELL ENGINEERING COMPANY
INC. TO COMPLETE A COMMUNITY MANURE TREATMENT FEASIBILITY STUDY**

Phosphorus is one of the main nutrients contributing to water quality issues such as eutrophication and negative impacts to recreation and wildlife. The Yahara chain of lakes (including Lakes Mendota, Monona, Waubesa and Kegonsa) and watersheds are currently being targeted through a variety of initiatives such as the Rock River Total Maximum Daily Load (TMDL), Yahara Watershed Improvement Network (WINS) - Adaptive Management Project, and the Yahara Capital Lakes Environmental Assessment and Needs (CLEAN) initiatives to address reductions to phosphorus and sediment runoff.

Manure is one source containing phosphorus that impacts water quality. The 2023 Dane County Budget included funding for a Manure Treatment Feasibility Study. A Request for Proposals (RFP) was issued in August of 2023 to evaluate several items including; 1) developing recommendations on a manure processing facility location(s) and components, 2) completing a manure by-product market analysis, 3) evaluating different business structures, and 4) conducting an economic cost analysis. A final report of the manure feasibility study will be delivered to the County.

All submitted proposals were reviewed and scored with Burns and McDonnell selected as the winning proposal.

NOW, THEREFORE, BE IT RESOLVED, that the Dane County Board of Supervisors approves a contract with Burns & McDonnell Engineering Company Inc. to complete a Community Manure Treatment Feasibility Study for \$300,000.

BE IT FINALLY RESOLVED, that the County Executive and the County Clerk are hereby authorized to execute the Community Manure Treatment Feasibility Study contract.

DANE COUNTY CONTRACT # 15381

Revised 06/2021



Department: Land & Water Resources
Burns & McDonnell

Provider: Engineering Company,
Inc.

Expiration Date: December 31, 2024

Maximum Cost: \$300,000.00

Registered Agent (if applicable): InCorp Services, Inc.
100 Wilburn Rd, Ste 100,

Registered Agent Address: Sun Prairie, Wisconsin
53590-1478

THIS AGREEMENT, made and entered into, by and between the County of Dane (hereafter referred to as "COUNTY") and Burns & McDonnell Engineering Company, Inc. (hereafter, "PROVIDER"),

WITNESSETH:

WHEREAS COUNTY, whose address is 5201 Fen Oak Drive, Room 208, Madison, WI 53718, desires to purchase services from PROVIDER for the purpose of a Community Manure Treatment Feasibility Study; and

WHEREAS PROVIDER, whose address is 9400 Ward Parkway, Kansas City, MO 64114, is able and willing to provide such services;

NOW, THEREFORE, in consideration of the above premises and the mutual covenants of the parties hereinafter set forth, the receipt and sufficiency of which is acknowledged by each party for itself, COUNTY and PROVIDER do agree as follows:

I. TERM:

The term of this Agreement shall commence as of the date by which all parties have executed this Agreement and shall end as of the EXPIRATION DATE set forth on page 1 hereof, unless sooner agreed to in writing by the parties. PROVIDER shall complete its obligations under this Agreement not later than the EXPIRATION DATE. COUNTY shall not be liable for any services performed by PROVIDER other than during the term of this Agreement. COUNTY shall never pay more than the Maximum Cost as stated above for all services. Upon failure of PROVIDER to complete its obligation set forth herein by the EXPIRATION DATE, COUNTY may invoke the penalties, if any, set forth in this document and its attachments.

II. SERVICES:

A. PROVIDER agrees to provide the services detailed in the PROVIDER's response to the request for proposals (RFP) and attached Schedule A, which is fully incorporated herein by reference. In the event of a conflict between or among the bid specifications, the RFP or responses thereto, or the terms of Schedule A or any of them, it is agreed that the terms of Schedule A, to the extent of any conflict, are controlling.

B. PROVIDER shall commence, carry on and complete its obligations under this Agreement using reasonable skill, care, and diligence in accordance with this Agreement and all

applicable laws. In providing services under this Agreement, PROVIDER agrees to cooperate with the various departments, agencies, employees and officers of COUNTY. If Provider fails to meet the foregoing standard, Provider will perform at its own cost, the professional services necessary to correct errors and omissions reported to Provider in writing within ninety (90) days from the completion of the services. No warranty, express or implied, is included in this Agreement or regarding any report or other work product or instrument of service. The obligations and remedies stated herein are the sole and exclusive obligations of Provider and remedies of County regarding the quality of the services.

- C. PROVIDER agrees to secure at PROVIDER's own expense all personnel necessary to carry out PROVIDER's obligations under this Agreement. Such personnel shall not be deemed to be employees of COUNTY nor shall they or any of them have or be deemed to have any direct contractual relationship with COUNTY.
- D. No portion of funds under this Agreement may be used to support or advance religious activities.
- E. PROVIDER warrants that it has complied with all necessary requirements to do business in the State of Wisconsin and has met all state and federal service standards, certifications and assurances as expressed by State and Federal statutes, rules, and regulations applicable to the services covered by this Agreement.
- F. PROVIDER will follow applicable public health guidelines to provide safe services and a safe workplace. In addition, by signing this Agreement, PROVIDER acknowledges the contagious nature of COVID-19 and voluntarily assumes the risk that PROVIDER and its staff may be exposed to or infected by COVID-19 by providing services under this Agreement and that such exposure or infection may result in personal injury, illness, permanent disability, and death.
- G. PROVIDER further acknowledges that PROVIDER is assuming all of the foregoing risks and accept sole responsibility for any injury to itself and staff, including, but not limited to, personal injury, disability, death, or illness, that PROVIDER or its staff may experience or incur in connection with providing services. PROVIDER hereby releases, covenants not to sue, and discharges the COUNTY, its employees, agents, and representatives, of and from any and all of such injury claims, including all liabilities, claims, actions, damages, costs or expenses of any kind arising out of or relating thereto. Provider understands and agrees that this release includes any claims based on the actions, omissions, or negligence of COUNTY, its employees, agents and representatives, whether a COVID-19 infection occurs before, during, or after the provision of services under this Agreement.

III. ASSIGNMENT/TRANSFER:

PROVIDER shall not assign, subcontract or transfer any interest or obligation in this Agreement, without the prior written consent of COUNTY, including the hiring of independent contract service providers unless otherwise provided herein. Claims for money due or to become due PROVIDER from COUNTY under this Agreement may be assigned to a bank, trust company or other financial institution without such approval if and only if the instrument of assignment contains a provision substantially to the effect that it is agreed that the right of the assignee in and to any moneys due or to become due to PROVIDER shall be subject to prior claims of all persons, firms and corporations for services rendered or materials supplied for the performance of the work called for in this Agreement. PROVIDER shall promptly provide notice of any such assignment or transfer to COUNTY.

IV. TERMINATION:

- A. Failure of PROVIDER to fulfill any of its material obligations under this Agreement in a timely manner, or violation by PROVIDER of any of the covenants or stipulations of this Agreement, shall constitute grounds for COUNTY to terminate this Agreement after PROVIDER's failure to remedy its performance or cure the violation within thirty (30) days after receiving written notice.

- B. The following shall constitute grounds for immediate termination:
1. violation by PROVIDER of any State, Federal or local law, or failure by PROVIDER to comply with any applicable States and Federal service standards, as expressed by applicable statutes, rules and regulations.
 2. failure by PROVIDER to carry applicable licenses or certifications as required by law.
 3. failure of PROVIDER to comply with reporting requirements contained herein.
 4. inability of PROVIDER to perform the work provided for herein.
- C. Failure of the Dane County Board of Supervisors or the State or Federal Governments to appropriate sufficient funds to carry out COUNTY's obligations hereunder, shall result in automatic termination of this Agreement as of the date funds are no longer available, with notice to Provider. Upon such termination, COUNTY will pay Provider for all services performed prior to such notice.
- D. In the event COUNTY terminates this Agreement as provided herein, all finished deliverables as set forth in Schedule A shall at the option of COUNTY become the property of COUNTY, and PROVIDER shall be entitled to receive compensation in accordance with this Agreement. Notwithstanding the above, PROVIDER shall not be relieved of liability to COUNTY for damages sustained by COUNTY by virtue of any breach of this Agreement by PROVIDER, and COUNTY may withhold any payments to PROVIDER for the purpose of offset.

V. PAYMENT:

COUNTY agrees to make such payments for services rendered under this Agreement as and in the manner specified herein and in the attached Schedule B, which is fully incorporated herein by reference. PROVIDER may suspend performance of the services if County fails to make undisputed payments when due. Notwithstanding any language to the contrary in this Agreement or its attachments, COUNTY shall never be required to pay more than the sum set forth on page 1 of this Agreement under the heading MAXIMUM COST, for all services rendered by PROVIDER under this Agreement.

VI. REPORTS:

PROVIDER agrees to make such reports as are required in the attached Schedules, which are fully incorporated herein by reference. Estimates of costs are PROVIDER's opinions based on PROVIDER's experience and judgement as an engineer. PROVIDER has no control over conditions affecting construction cost or related and changing market conditions, and as such does not warrant or guarantee such estimates, as actual bids or final costs may vary significantly from PROVIDER's estimates.

VII. DELIVERY OF NOTICE:

Notices, bills, invoices and reports required by this Agreement shall be deemed delivered as of the date of postmark if deposited in a United States mailbox, first class postage attached, addressed to a party's address as set forth above. It shall be the duty of a party changing its address to notify the other party in writing within a reasonable time.

VIII. INDEMNIFICATION:

PROVIDER shall indemnify hold harmless and defend COUNTY, its boards, commissions, agencies, officers, employees and representatives against any and all liability, loss (including, but not limited to, property damage, bodily injury and loss of life), damages, costs or expenses which COUNTY, its officers, employees, agencies, boards, commissions and representatives may sustain, incur or be required to pay by reason of PROVIDER's furnishing the services or goods required to be provided under this Agreement, provided, however, that the provisions of this paragraph shall not apply to liabilities, losses, charges, costs, or expenses caused by or resulting from the acts or omissions of COUNTY, its agencies, boards, commissions, officers, employees or representatives. Any failure on the part of the PROVIDER to comply with reporting or other

provisions of its insurance policies shall not affect this PROVIDER's obligations under this paragraph. COUNTY reserves the right, but not the obligation, to participate in defense without relieving PROVIDER of any obligation under this paragraph. The obligations of PROVIDER under this paragraph shall survive the expiration or termination of this Agreement.

IX. INSURANCE:

A. In order to protect itself and COUNTY, its officers, boards, commissions, agencies, agents, volunteers, employees, PROVIDER shall, at PROVIDER's own expense, obtain and at all times during the term of this Agreement keep in full force and effect the insurance coverages, limits, and endorsements listed below. When obtaining required insurance under this Agreement and otherwise, PROVIDER agrees to preserve COUNTY's subrogation rights in all such matters that may arise that are covered by PROVIDER's insurance. Neither these requirements nor the COUNTY's review or acceptance of PROVIDER's certificates of insurance is intended to limit or qualify the liabilities or obligations assumed by the PROVIDER under this Agreement.

1. Commercial General Liability.

PROVIDER agrees to maintain Commercial General Liability insurance at a limit of \$1,000,000 per occurrence and \$2,000,000 in the general aggregate. Coverage shall include, but not be limited to, Bodily Injury and Property Damage to Third Parties, Contractual Liability, Personal Injury and Advertising Injury Liability, Premises-Operations, Independent PROVIDERs and Subcontractors, and Fire Legal Liability. The policy shall not exclude Explosion, Collapse, and Underground Property Damage Liability Coverage. The policy shall cover bodily injury and property damage liability, owned and non-owned equipment, blanket contractual liability, completed operations. PROVIDER agrees to list DANE COUNTY as an "Additional Insured" on its Commercial General Liability policy.

2. Professional Liability Insurance.

If PROVIDER renders professional services (such as medical, architectural or engineering services) under this Agreement, then PROVIDER shall provide and maintain two million dollars (\$2,000,000.00) per claim and in the aggregate of professional liability insurance. If such policy is a "claims made" policy, all renewals during the life of the Agreement shall include "prior acts coverage" covering at all times all claims made with respect to PROVIDER's work performed under the Agreement. This Professional Liability coverage must be kept in force for a period of three (3) years after the services have been accepted by COUNTY.

3. Commercial/Business Automobile Liability Insurance.

If applicable to the services covered by this Agreement, PROVIDER shall provide and maintain automobile liability insurance at a limit of \$1,000,000 per accident. Coverage for automobile liability insurance shall, at a minimum, be as broad as Insurance Services Office ("ISO") and ISO Business Auto Coverage (Form CA 0001), covering Symbol 1 (any vehicle).

4. Workers' Compensation.

PROVIDER agrees to maintain Workers Compensation insurance at Wisconsin statutory limits.

5. Umbrella or Excess Liability.

PROVIDER may satisfy the liability limits required above for Commercial General Liability and Business Auto Liability under an Umbrella or Excess Liability policy. PROVIDER shall also provide Umbrella Liability limits of one million (\$1,000,000) per occurrence and in the aggregate to sit excess of the General Liability and Auto Liability. PROVIDER agrees to list DANE COUNTY as an "Additional Insured" on its Umbrella or Excess Liability policy.

B. Required provisions.

1. Insurer's Requirement.

All of the insurance shall be provided on policy forms and through companies reasonably satisfactory to COUNTY and shall have an AM Best's rating of A- VIII or better.

2. **Additional Insured.**
COUNTY, its elected and appointed officials, officers, employees or authorized representatives or volunteers are to be given additional insured status (via ISO endorsement CG 2010 0413, CG 2033, or insurer's equivalent for general liability coverage) as respects: liability arising out of activities performed by or on behalf of PROVIDER; products and completed operations of PROVIDER; premises occupied or used by PROVIDER; and vehicles owned, leased, hired or borrowed by PROVIDER. The coverage shall contain no special limitations on the scope of protection afforded to COUNTY, its elected and appointed officials, officers, employees or authorized representatives or volunteers. Except for the workers compensation policy and Professional Liability, each insurance policy shall contain a waiver of subrogation endorsement in favor of COUNTY.
3. **Provider's Insurance Shall be Primary.**
For any claims related to this Agreement, PROVIDER's insurance shall be primary insurance with respect to COUNTY, its elected and appointed officials, officers, employees or authorized representatives or volunteers. Any insurance, self-insurance, or other coverage maintained by COUNTY, its elected and appointed officers, officials, employees or authorized representatives or volunteers shall not contribute to the primary insurance. PROVIDER's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.
4. **Cancelation Notice.**
Each insurance policy required by this Agreement shall state, or be endorsed so as to the state, that coverage shall not be canceled by the insurance carrier or the PROVIDER, except after sixty (60) days (ten (10) days for non-payment of premium) prior written notice by U.S. mail has been given to COUNTY.
5. **Evidences of Insurance.**
Prior to execution of the Agreement, PROVIDER shall file with COUNTY a certificate of insurance (Accord Form 25-S or equivalent) signed by the insurer's representative evidencing the coverage required by this Agreement. Such evidence shall include an additional insured endorsement signed by the insurer's representative.
6. **Sub-Contractors.**
In the event that PROVIDER employs sub-contractors as part of this Agreement, it shall be the PROVIDER's responsibility to require and confirm that each sub-contractor meets the insurance requirements specified above.

- C. The parties do hereby expressly agree that COUNTY, acting at its sole option and through its Risk Manager, may waive any and all requirements contained in this Agreement, such waiver to be in writing only. Such waiver may include or be limited to a reduction in the amount of coverage required above. The extent of waiver shall be determined solely by COUNTY's Risk Manager taking into account the nature of the work and other factors relevant to COUNTY's exposure, if any, under this Agreement.

X. NO WAIVER BY PAYMENT OR ACCEPTANCE:

In no event shall the making of any payment or acceptance of any service or product required by this Agreement constitute or be construed as a waiver by COUNTY of any breach of the covenants of this Agreement or a waiver of any default of PROVIDER and the making of any such payment or acceptance of any such service or product by COUNTY while any such default or breach shall exist shall in no way impair or prejudice the right of COUNTY with respect to recovery of damages or other remedy as a result of such breach or default.

XI. NON-DISCRIMINATION:

During the term of this Agreement, PROVIDER agrees not to discriminate 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 against any person, whether a recipient of services (actual or potential) or an employee or applicant for employment. Such equal opportunity shall include but not be limited to the following: employment, upgrading, demotion, transfer, recruitment, advertising, layoff, termination, training, rates of pay, and any other form of compensation or level of service(s). PROVIDER agrees to post in conspicuous places, available to all employees, service recipients and applicants for employment and services, notices setting forth the provisions of this paragraph. The listing of prohibited bases for discrimination shall not be construed to amend in any fashion state or federal law setting forth additional bases, and exceptions shall be permitted only to the extent allowable in state or federal law.

XII. CIVIL RIGHTS COMPLIANCE:

- A. If PROVIDER has 20 or more employees and receives \$20,000 in annual contracts with COUNTY, the PROVIDER shall submit to COUNTY a current Civil Rights Compliance Plan (CRC) for Meeting Equal Opportunity Requirements under Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, Title VI and XVI of the Public Service Health Act, the Age Discrimination Act of 1975, the Omnibus Budget Reconciliation Act of 1981 and Americans with Disabilities Act (ADA) of 1990. PROVIDER shall also file an Affirmative Action (AA) Plan with COUNTY in accordance with the requirements of chapter 19 of the Dane County Code of Ordinances. PROVIDER shall submit a copy of its discrimination complaint form with its CRC/AA Plan. The CRC/AA Plan must be submitted prior to the effective date of this Agreement and failure to do so by said date shall constitute grounds for immediate termination of this Agreement by COUNTY. If an approved plan has been received during the previous CALENDAR year, a plan update is acceptable. The plan may cover a two-year period. PROVIDERs who have less than twenty employees, but who receive more than \$20,000 from the COUNTY in annual contracts, may be required to submit a CRC Action Plan to correct any problems discovered as the result of a complaint investigation or other Civil Rights Compliance monitoring efforts set forth herein below. If PROVIDER submits a CRC/AA Plan to a Department of Workforce Development Division or to a Department of Health and Family Services Division that covers the services purchased by COUNTY, a verification of acceptance by the State of PROVIDER's Plan is sufficient.
- B. PROVIDER agrees to comply with the COUNTY's civil rights compliance policies and procedures. PROVIDER agrees to comply with civil rights monitoring reviews performed by the COUNTY, including the examination of records and relevant files maintained by the PROVIDER. PROVIDER agrees to furnish all information and reports required by the COUNTY as they relate to affirmative action and non-discrimination. PROVIDER further agrees to cooperate with COUNTY in developing, implementing, and monitoring corrective action plans that result from any reviews.
- C. PROVIDER shall post the Equal Opportunity Policy, the name of PROVIDER's designated Equal Opportunity Coordinator and the discrimination complaint process in conspicuous places available to applicants and clients of services, applicants for employment and employees. The complaint process will be according to COUNTY's policies and procedures and made available in languages and formats understandable to applicants, clients and employees. PROVIDER shall supply to COUNTY's Contract Compliance Officer upon request a summary document of all client complaints related to perceived discrimination in service delivery. To the extent the information is not confidential, the summary document shall include names of the involved persons, nature of the complaints, and a description of any attempts made to achieve complaint resolution.
- D. PROVIDER shall provide copies of all announcements of new employment opportunities to COUNTY's Contract Compliance Officer when such announcements are issued.

- E. If PROVIDER is a government entity having its own compliance plan, PROVIDER'S plan shall govern PROVIDER's activities.

XIII. COMPLIANCE WITH FAIR LABOR STANDARDS:

A. Reporting of Adverse Findings

During the term of this Agreement, PROVIDER shall report to the County Contract Compliance Officer, within ten (10) days, any allegations to, or findings by the National Labor Relations Board (NLRB) or Wisconsin Employment Relations Commission (WERC) that PROVIDER has violated a statute or regulation regarding labor standards or relations. If an investigation by the Contract Compliance Officer results in a final determination that the matter adversely affects PROVIDER'S responsibilities under this Agreement, and which recommends termination, suspension or cancellation of this agreement, the County may take such action.

B. Appeal Process

PROVIDER may appeal any adverse finding by the Contract Compliance Officer as set forth in Dane County Ordinances Sec. 25.08(20)(c) through (e).

C. Notice Requirement

PROVIDER shall post the following statement in a prominent place visible to employees: "As a condition of receiving and maintaining a contract with Dane County, this employer shall comply with federal, state and all other applicable laws prohibiting retaliation for union organizing."

XIV. CONTROLLING LAW AND VENUE:

It is expressly understood and agreed to by the parties hereto that in the event of any disagreement or controversy between the parties, Wisconsin law shall be controlling. Venue for any legal proceedings shall be in a state or federal court in Dane County.

XV. FINANCIAL INTEREST PROHIBITED:

Under s. 946.13, Wis. Stats. COUNTY employees and officials are prohibited from holding a private pecuniary interest, direct or indirect, in any public contract. By executing this Agreement, each party represents that it has no knowledge of a COUNTY employee or official involved in the making or performance of the Agreement that has a private pecuniary interest therein. It is expressly understood and agreed that any subsequent finding of a violation of s. 946.13, Wis. Stat. may result in this Agreement being voided at the discretion of the COUNTY.

XVI. LIMITATION OF AGREEMENT:

This Agreement is intended to be an agreement solely between the parties hereto and for their benefit only. No part of this Agreement shall be construed to add to, supplement, amend, abridge or repeal existing duties, rights, benefits or privileges of any third party or parties, including but not limited to employees of either of the parties.

XVII. ENTIRE AGREEMENT:

The entire agreement of the parties is contained herein and this Agreement supersedes any and all oral agreements and negotiations between the parties relating to the subject matter hereof. The parties expressly agree that this Agreement shall not be amended in any fashion except in writing, executed by both parties.

XVIII. COUNTERPARTS:

The parties may evidence their agreement to the foregoing upon one or several counterparts of this instrument, which together shall constitute a single instrument.

XIX. CONSTRUCTION:

This Agreement shall not be construed against the drafter.

XX. COPIES VALID:

This Agreement, and any amendment or addendum relating to it, may be executed and transmitted to any other party by legible facsimile reproduction or by scanned legible electronic PDF copy, and utilized in all respects as, an original, wet-inked manually executed document. Further, this Agreement and any amendment or addendum thereto, may be stored and reproduced by each party electronically, photographically, by photocopy or other similar process, and each party may at its option destroy any original document so reproduced. All parties hereto stipulate that any such legible reproduction shall be admissible in evidence as the original itself in any judicial, arbitration or administrative proceeding whether or not the original is in existence and whether or not such reproduction was made by each party in the regular course of business. This term does not apply to the service of notices under this Agreement.

XXI. REGISTERED AGENT:

PROVIDER warrants that it has complied with all necessary requirements to do business in the State of Wisconsin, that the persons executing this Agreement on its behalf are authorized to do so, and, if a corporation, that the name and address of PROVIDER's registered agent is as set forth opposite the heading REGISTERED AGENT on page 1 of this Agreement. PROVIDER shall notify COUNTY immediately, in writing, of any change in its registered agent, his or her address, and PROVIDER's legal status. For a partnership, the term 'registered agent' shall mean a general partner.

XXII. DEBARMENT:

By signing this Contract, PROVIDER attests that it is not debarred from participating in federal procurements. COUNTY reserves the right to cancel this Contract if PROVIDER is presently, or is in the future, on the list of parties excluded from federal procurements.

XXIII. EXECUTION:

- A. The parties agree that execution of this document may be made by electronic signatures. The parties may make electronic signatures by typing the name of the authorized signature followed by the words, "electronically signed" or by any other electronic means representing an authorized signature by PROVIDER. PROVIDER shall ensure that only authorized persons may affix electronic signatures to this Agreement and COUNTY may rely that the electronic signature provided by PROVIDER is authentic.
- B. This Agreement has no effect until signed by both parties. The submission of this Agreement to PROVIDER for examination does not constitute an offer. PROVIDER warrants that the persons executing this Agreement on its behalf are authorized to do so.
- C. Except as provided in this Section XXIII.C, PROVIDER shall not be liable to COUNTY for any special, indirect, or consequential damages arising out of this Agreement. PROVIDER's aggregate liability to COUNTY for all damages connected with its services for the project not excluded by the preceding sentence will not exceed the amount of compensation received for the services. Notwithstanding the foregoing, the liability exclusions and limitations herein do not apply to PROVIDER's indemnification liability for any and all third party claims.

IN WITNESS WHEREOF, COUNTY and PROVIDER, by their respective authorized agents, have caused this Agreement and its Schedules to be executed, effective as of the date by which all parties hereto have affixed their respective signatures, as indicated below.

FOR PROVIDER:



Feb. 26, 2024

Scott A. Martin
Associate Project Manager

Date

* * *

FOR COUNTY:

Joseph T. Parisi
Dane County Executive

Date

Scott McDonell
Dane County Clerk

Date

* [print name and title, below signature line of any person signing this document]

SCHEDULE A

Scope of Services

Background:

Phosphorus is one of the main nutrients contributing to water quality issues such as eutrophication and negative impacts to recreation and wildlife. Phosphorus reduction is the focus of current water quality initiatives in the Yahara River Watershed. The Yahara chain of lakes (including Lakes Mendota, Monona, Waubesa and Kegonsa) and watersheds are currently being targeted through a variety of initiatives such as the Rock River Total Maximum Daily Load (TMDL), Yahara Watershed Improvement Network (WINS) Adaptive Management Project, and the Yahara Capital Lakes Environmental Assessment and Needs (CLEAN) initiatives to address nutrient and sediment loading to waterbodies.

Manure is one source containing phosphorus that impacts water quality. Several concerns including; volume of manure generated, timing and methods of land application, and levels of phosphorus in the soil have been raised regarding water quality in the Yahara chain of lakes. This feasibility study is aimed to identify a location for siting an additional community manure processing facility (i.e. digester, composting, etc.) in Dane County for achieving three goals:

- First, collect, reduce, and redistribute phosphorus within and outside the watershed.
- Second, maximize the renewable energy benefits of anaerobic digesters with biogas collection.
- Lastly, identify agriculturally beneficial drivers for farmer participation (i.e. revenue streams, cost savings, volume reductions, etc.)

Dane County has upgraded its landfill located at 7102 US Hwy 12 in Madison, WI for collection and injection of biogas from landfill waste. In addition, an injection pipeline has been installed for offsite deposit of biogas from facilities such as digesters. Dane County has developed a cost and fee structure for offsite users using the Renewable Identification Numbers (RINs) market and California Low Carbon Fuel Standard credits. The cost and fee structure will be provided to the vendor after award.

There have been several past studies on digesters and manure generation in Dane County. In 2008, the first Community Manure Management Feasibility Study was completed. In 2009, a study was completed to examine community manure management alternatives and facilities (Community Manure Management Facilities Plan). Specifically, the study identified clusters of siting potential digesters. As a result, Dane County worked with agricultural producers and private industry to implement two anaerobic digesters targeting management of phosphorus within manure.

Furthermore, Dane County has initiated the implementation of a nutrient concentration system at one of the digester sites to reduce volume of manure and transportation costs. In 2016, Dane County worked with UW-Madison to evaluate manure storage within the Mendota sub watershed of the Yahara River Watershed.

Scope of Services:

Dane County has identified the scope area to be within the Lake Mendota watershed for siting a community manure processing facility.

PROVIDER will develop and deliver a written summary report addressing each of the identified tasks below. Each summary will be presented to the county either virtually or in person. Upon receipt and presentation of each report; the COUNTY shall issue payment according to SCHEDULE B. The COUNTY may request that minor clarifying content from each summary report and presentation be added to the final written report document. The final written report and presentation addressing, at a minimum, all four tasks below shall be submitted to the COUNTY prior to the EXPIRATION DATE of this agreement.

TASK #1 - RECOMMENDATIONS ON MANURE PROCESSING FACILITY LOCATION(S) AND FACILITY COMPONENTS

- a. Provide recommendation(s) for the location of a new community manure processing facility. The manure processing facility is aimed to achieve collection of manure from up to 30,000 animal units with the potential to accept solids from existing digesters located in the Mendota Watershed.
 - i. Development of criteria that may be used in evaluating and selecting a facility location. Criteria will be established with input from the COUNTY.
- b. *Anaerobic Digester and System Components*: Provide an overall description of the system, including basic design and process flow line. Provide potential siting location(s) and land area needed. Include descriptions of the following elements:
 - i. The proposed technology and examples of its use in other manure management projects or the status of its development if it is not yet on the market.
 - ii. Information on the type and how the substrates (i.e. liquid and solid manure) will be homogenized for optimal treatment in the digester. Include information on the impacts, benefits, and challenges of proposed substrates.
 - iii. Delivery methods of substrates to the digester facility including transportation needs (i.e. trucking, transfer stations, piping, etc.)
 - iv. Treated effluent storage requirements.
- c. *Biogas System*: The facility shall be designed for extracting and delivering biogas to the Dane County Landfill. Provide a description of a biogas conditioning system. The system should be equipped with a gas chromatograph for measuring quality and a gas meter to measure the quantity of biogas produced. Provide a description of transportation requirements and routes for delivering biogas. Provide an estimate of the daily, monthly, and annual quantities of biogas to be delivered to the Dane County biogas injection location. Provide an expected amount of biogas revenue required to operate and fund a community manure facility.
- d. *Dewatering System*: The processing facility shall be designed for reducing manure volumes. Please provide possible system technologies and make a recommendation. Some examples of technologies to evaluate are:
 - i. Solids separation and recovery,
 - ii. Combustion (i.e. pyrolysis or gasification),
 - iii. Ultrafiltration,
 - iv. Reverse Osmosis,
 - v. Composting.

From the various technologies that require discharge to surface water, provide at minimum the estimates of the following:

- i. Temperature of effluent,
 - ii. Levels of pathogens in effluent,
 - iii. Concentration of nutrients in effluent,
 - iv. Percentage (%) of water removal from effluent.
- e. *Backend Product*: The manure processing facility shall be outfitted to make and distribute a marketable product of solids and/or liquids that will serve farmer needs in and out of the watershed while providing a benefit to water quality. Provide possible technologies and a final recommendation. Some examples of products are:
 - i. Compost for fertilizer,
 - ii. Pelletized products for fertilizer,

- iii. Livestock bedding,
 - iv. Additive in plastic lumber, particle board, mats, bricks, or other products,
 - v. Other potential products (as mutually agreed upon).
- f. *Environmental Consideration*: Provide a description of the environmental emissions from the proposed system and the permits required for compliance with existing federal, state and local requirements.
- g. *Surface Water*: Conduct a surface water quality analysis on the impacts any proposed system will have on the environment. Examples of analyses may include a watershed mass balance or Snap Plus nutrient management plan analysis. Be sure to consider how the current *Phosphorus Management Plan* of existing digesters within the county may be utilized and or improved upon in the analysis.

TASK #2 BY-PRODUCT MARKET ANALYSIS

- a. Provide an analysis of potential by-products and their quantity, nutrient characteristics, and potential use in existing, emerging, or future markets.
- b. Provide a list of technologies and their benefits and advantages (i.e. pelletization, pyrolysis, composting, etc.).
- c. For all potential technologies provide an analysis of the fate of major nutrients (nitrogen, phosphorus, and potassium).
- d. Develop a decision matrix based on nutrient removal and the associated market costs and revenues.
- e. Lastly, provide a recommendation of the by-products to be created and their associated technologies that should be implemented in the community manure processing facility

TASK #3 BUSINESS STRUCTURE

- a. The report shall provide an assessment of advantages and disadvantages of potential business structures. Parties to consider within the business structure include the county, farm participants, and third party owners and operators. The potential business structures to assess include the following:
 - i. Public owner and public operator,
 - ii. Public owner and private operator,
 - iii. Private owner and private operator,
 - iv. Cooperative agreement,
 - v. Other models not identified above.

TASK #4 ECONOMIC COST ANALYSIS

- a. *Community Manure Processing Facility Economic Costs*:
 - i. Provide a description of the capital costs of all individual system components and a pro forma five (5) year-by-year estimate of operating costs and potential revenues, including a sensitivity analysis of the impact of major costs and revenues (those of more than 20% of total costs or revenues).
 - ii. Operation costs shall include any monitoring of material inflow and output and environmental testing. Provide a description of the transportation requirements and costs

for delivering the manure to the community facility along with the disposition of the processed material from the facility.

- iii. Provide a pro forma calculation of the cost of transporting manure to the community facility from other farms represented by variable haul distances (e.g. 10 mile and 20 mile haul).
- iv. Include maintenance costs in the economic analysis such as equipment rebuilds and replacement. Include and account for current growth trends in farm size and manure generation.

b. *Farmer Economic Costs:*

- i. Provide a separate analysis of current manure handling costs for the following farm scenarios:
 - a. Small farm (<299 animal units) with and without on-site storage options for both solid and liquid manures.
 - b. Medium farm (300 – 999 animal units) with and without on-site storage options for both solid and liquid manures.
 - c. Large farm (>1,000 animal units) with on-site storage for both solid and liquid manures.

These costs shall include:

- a. Handling of manure on the farm,
 - b. Pumping to/from storage,
 - c. Storage requirements for both raw manure and digestate,
 - d. Loading of land application equipment,
 - e. Transportation to field (use average distances),
 - f. Land application,
 - g. Equipment and staff costs.
- ii. Provide an analysis of new or additional costs participating farms would incur under a manure processing facility framework and any offsets due to by-products or potential financial incentives.

TASK #5 FINAL REPORT

The final written report and presentation addressing, at a minimum, all four tasks above shall be submitted to the COUNTY prior to the EXPIRATION DATE of this agreement.

PROVIDER may request and hold additional in person or virtual meetings with the COUNTY or the COUNTY'S Agricultural Working Group. COUNTY requests that PROVIDER give two weeks' notice before scheduling a date and time. PROVIDER may also send COUNTY a proposed meeting schedule for the term of the project.

SCHEDULE B

Pricing Structure and Payment

Invoices/Payment:

PROVIDER shall issue an invoice upon completion of services and/or delivery of a summary/report outlined in SCHEDULE A. Invoices must reference the Dane County purchase order number issued for the services/deliverables described herein. Email delivery of invoices is encouraged and preferred – see the Bill To section of the purchase order. Payment shall be made within 30 days of COUNTY’s receipt of accepted invoice unless otherwise noted in Schedule B.

Payment Schedule

The total of the overall project shall not exceed \$300,000. Payment shall be made upon completion and acceptance of each task below:

TASK	COST
Task #1 - Recommendations on Manure Processing Facility Location(s) and Facility Components	\$100,000
Task #2 - By-Product Market Analysis	\$50,000
Task #3 - Business Structure	\$50,000
Task #4 - Economic Cost Analysis	\$50,000
Task #5 - Final Report	\$50,000
Total Project Cost	\$300,000