

Request for Statements of Qualification (RFQ)
Portage Canal – Remedial Investigation and Feasibility Study
BRRTS# 02-11-543021
Wisconsin DNR – Bureau for Remediation and Redevelopment
& Office of Great Lakes (March 27, 2015)

INTRODUCTION –

The Bureau for Remediation and Redevelopment (RR) and the Office of Great Lakes at the Wisconsin Department of Natural Resources (WDNR) are seeking Statements of Qualifications (SOQ's) from qualified consultants interested in developing a Remedial Investigation and a Feasibility Study for the Portage Canal.

The Portage Canal Site is located in the City of Portage, Columbia County, Wisconsin. The 17-acre site is approximately 2-miles long and runs through and out of the City, passing through commercial, industrial, residential, historical, and rural settings. The conceptual site model is that the Canal has received urban stormwater runoff and industrial discharges that, over time, have resulted in elevated levels of mercury (Hg) and lead (Pb) in the sediment. Nearly all of the anthropogenic sediment from Dewitt Street to the former Fort Winnebago Lock contains Hg and Pb in excess of Department guideline values. There is an estimated volume of 70,000 in-place cubic yards of contaminated sediment with a mass of 400 pounds of Hg and 35,000 pounds of Pb within a 2-mile section of the 2.5-mile Canal.

The contaminated sediment has accompanying considerations that could affect potential remediation. The canal is listed on the National Register of Historic Places and the City of Portage has plans to develop a portion of the canal with a Department of Transportation grant. Additional environmental considerations include wetlands, invasive species, water quality, habitat, and aesthetics.

The purpose of this work is to assess the nature and extent of contamination present in the Canal, through information already gathered, and to develop and evaluate remedial alternatives to facilitate remediation planning and implementation, and assist the WDNR is acquiring funding for such actions.

SCOPE OF SERVICES-

Remedial Investigation

1. Document the site characterization (by others);
2. Document the degree and extent of contamination (by others);
3. Document the human health risks by the Department of Health (DHS, 2014);
4. Document the environmental risks associated with the contaminated sediment;

Feasibility Study

5. Identify and screen remedial technologies;
6. Develop a least-cost alternative that would address the human health and environmental risks associated with the contaminated sediment;
7. Develop a range of alternatives to address the human health and environmental risks associated with the canal sediment in a manner that would be compatible with existing uses, future development plans, and would increase natural resource value;
8. Estimate costs to design and implement remediation options;
9. Comparatively evaluate the developed alternatives;
10. Develop a summary of the RI/FS for public outreach, including artist rendering(s) of the recommended option;

CONTRACT REQUIREMENTS-

Each selected consultant will be provided with a copy of DNR's standard Professional Services Contract (Attachment 1). If the firm cannot agree with DNR's contract provisions, DNR may choose to select another consultant. DNR will not negotiate contract language.

Eligible Program Costs

The consultants that submit their qualifications to the DNR under this RFQ do so recognizing the following specific contract requirements.

Administrative Costs

Eligible programmatic costs include costs for contractual support if those costs are **reasonable and allocable** to tasks specified in an approved scope of work for carrying out the activities. A contractor's indirect costs that are otherwise reasonable (i.e., 10% or less based on the DNR's preference) and normally charged to cost reimbursement contracts are allowable under this funding source.

Copyrighted Material

No documents or information that is developed and paid for under this initiative for the DNR may be copyrighted by any consultant. The copyrighted materials conditions in Attachment 1 also apply.

Utilization of Small, Minority and Women's Business Enterprises

The Bidder shall make every effort to award a minimum of 5% of the work to minority business enterprises. The Bidder will be required to submit a report to the Department which will identify the minority business enterprises to whom the work was awarded and the value of said work. A current list of minority business enterprises may be obtained from:

The State of Wisconsin Department of Administration Minority (MBE) and Disabled Veteran Owned Business (DVB) Certification Program

Minority Business Certification Program

101 E Wilson St, 6th Floor

PO Box 7970

Madison, WI 53707

Tel: (608) 267-9550

Fax: (608) 267-0600

or at the following web link:

<http://www.doa.state.wi.us/Divisions/Enterprise-Operations/Supplier-Diversity-Program>

Minority Business Enterprise (MBE) means: "a sole proprietorship, partnership, joint venture, or corporation which is certified by the Wisconsin Department of Development to be 51% owned, controlled and actively managed by a Black, Hispanic, American Indian, Eskimo, Aleut, Native Hawaiian, Asian Indian, or a person of Asian-Pacific origin. The business must also be currently performing a useful business function."

CONTRACTOR SELECTION PROCESS

WDNR is seeking (SOQ)s from firms to evaluate their ability to perform the services outlined above. The SOQ's must be relevant to the individuals that will be performing the work of this contract. Once the SOQs are received and evaluated, the top rated firms will be invited to submit a formal proposal for services. A separate Request for Proposals will be issued to selected firms.

STATEMENT OF QUALIFICATIONS SUBMITTAL FORMAT-

In order to simplify the DNR's review process and to obtain the maximum degree of comparability, SOQ should be submitted in the following sequence/format. The submittal should be in 11 point, Arial font. Failure to comply with these requirements may be cause for the SOQ to be considered nonresponsive and not receive further consideration.

1. LETTER OF TRANSMITTAL (maximum of 2 pages)

This letter should be signed by the proposed Project Manager and one Principal, and should state concisely, in less than two pages, the proposer's understanding of the work to be performed, and the unique abilities of the firm to perform the work most effectively for the DNR.

2. TITLE PAGE (1 page)

The title page should state that it pertains to:

Request for Statements of Qualification (RFQ)
Portage Canal – Remedial Investigation and Feasibility Study
BRRTS# 02-11-543021
Wisconsin DNR – Bureau for Remediation and Redevelopment
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It must include the name of the proposing firm, address, telephone number, name and email address of the proposed Project Manager, and the submittal date.

3. TABLE OF CONTENTS

The table of contents should identify the material by section, the beginning and ending page numbers of each section, and all appendices.

4. APPENDICES

4.1 FIRM PROFILE (maximum of 2 pages)

In this section, proposers shall describe, in less than 2 pages, the firm and the range of services that the firm provides directly related to this RFQ. Emphasis should be on experience with sediment remediation, work done on other sites with complex environmental problems, and experience with heavy metal-contaminated media.

4.2A PROJECT MANAGER QUALIFICATIONS AND RELATED EXPERIENCE (maximum of 3 pages)

In less than 3 pages, proposers shall describe the pertinent qualifications of the

proposed project manager (PM). Emphasis should be made on the ability to maintain project schedule, deadlines, and budget. One of the three pages shall be the PM's resume.

4.2B PROJECT TEAM QUALIFICATIONS AND RELATED EXPERIENCE (maximum of 10 pages)

The proposers shall also describe the proposed project team and their expertise and potential roles and responsibilities, any proposed subcontractors, and any ch. NR 149-certified analytical laboratories to be used on the project, if necessary. This section may include resumes or summaries of qualifications and experiences of project team members, and should be specific to the members of this team rather than the firm in general, and descriptions of projects completed since January 1, 2004 only, for (in order of importance):

1. Experience with contaminated sediment remediation (general);
2. Experience with contaminated sediment remedial investigations and feasibility studies;
3. Experience with heavy metal fate and transport and bioaccumulation, especially mercury;
4. Experience with hydrodynamic systems;
5. Experience with storm water, erosion control, and bank stabilization;
6. Experience with wetlands, aquatic and terrestrial ecological restoration, and aquatic invasive species;
7. Experience partnering and working with local, State, and Federal, and Historical Preservation agencies;
8. Experience with geotechnical and structural analysis of sheet and soldier pile walls, particularly in situations with low factors of safety as a result of construction related activities;
9. General Environmental Regulatory Services including the firm's experience and relationships working with state and federal regulatory agencies
10. Experience and success in working with the State of Wisconsin's ch. NR 700 rule series;
11. A minimum of three (3) non-DNR, client contact, professional references and the name and telephone number of a person to contact for each. References should be related to remedial action work conducted for those entities.

4.3 GEOGRAPHIC PRESENCE AND CAPACITY (maximum of 1 pages)

Discuss available capacity and staff related to site reconnaissance, investigation, and public meetings.

4.4 Other Affiliations (maximum of 1 pages)

Applicants are required to disclose any past or current work with respect to the Portage Canal.

SOQ SUBMITTAL REQUIREMENTS-

Proposers must submit their SOQs in accordance with the following requirements:

1. Two (2) binder-bound, double-sided copies, one clearly marked original, and the other clearly marked copy, and a third copy on disk must be submitted.
2. Respondents may submit their SOQS any time prior to the closing date and

time. **Proposals must be received no later than 2:00 P.M. (Central Standard Time) on (March 27, 2015), by Scott Inman at Department of Natural Resources Building, 101 S. Webster St., Madison WI 53703.**

3. The proposer's name and address, as well as a distinct reference to the RFQ Title, must be clearly marked on all copies of the SOQ. All SOQs will be time-stamped upon receipt and kept unopened, until the Closing Date. The DNR, or any official or employee thereof, will not be responsible for the pre-opening of, post-opening of, or the failure to open a proposal not properly addressed and identified. Proposals delivered by electronic means such as facsimile and e-mail, are not allowed and proposals so delivered will not be considered. Proposals received and time-stamped after the closing date and time will not be considered. Regardless of the method used for delivery, proposers shall be wholly responsible for the timely delivery of the submitted SOQ to the correct address detailed above.

AWARD CRITERIA-

SOQs will be reviewed and rated by the DNR based on the objectives as laid out in this WDNR RFQ document.

OTHER-

1. Site documents will be available at the time of a request for proposal as the focus of this review is solely on the firms qualifications to perform the work.
2. Proposers are specifically directed not to contact any DNR staff for questions, meetings, conferences or technical discussions that are related to this RFQ. Unauthorized contact with any DNR personnel will be cause for rejection of the SOQ.
3. RFQ Questions: The deadline for submitting written questions regarding this RFQ is no later than (March 13, 2015). Questions are to be submitted to Scott Inman via e-mail at Scott.Inman@wisconsin.gov. Questions submitted by telephone will not be accepted. Answers to the written questions submitted will be posted on <http://dnr.wi.gov/topic/Brownfields/documents/news/PortageFS.pdf> in the form of an addendum to this RFQ by (March 20, 2015). **Questions submitted after the (March 13, 2015) deadline will not be considered (No exceptions).** It is the responsibility of the Proposer, prior to submitting a response to the RFQ, to periodically check <http://dnr.wi.gov/topic/Brownfields/documents/news/PortageFS.pdf> to insure that all addenda for this RFQ have been downloaded, and that all of the information requested has been included in the SOQ response.
4. **Incurred Costs:** Those vendors submitting SOQs do so entirely at their own expense. There is no expressed or implied obligation by the DNR to reimburse any individual or firm for any costs incurred in preparing or submitting responses, for providing additional information when requested by the DNR, or for attending and/or participating in any follow-up interviews and negotiation sessions.
5. **Confidential Matters: Vendor Data:** If any information submitted in the SOQ is considered confidential or proprietary, the proposer must identify this information by completing and including the Designation of Confidential and Proprietary Information with their proposal, in accordance with statutory requirements.
6. **Assignment:** The proposer may not reassign any portion of the work that is

awarded as a result of this RFQ, without prior written consent from the DNR.

PROCUREMENT SCHEDULE AND PROCEDURES-

Key Proposed Dates of Selection Procedure Include:

- (March 1, 2015). – RFQ available date
- (March 13, 2015). – Deadline for submitting written questions
- (March 20, 2015). – Date for DNR to post answers to questions
- (March 27, 2015). – **RFQ Closing Date-SOQ due date**

Following the selection of qualified firms, the dates for the next steps listed below are approximate:

- Week of (April 3, 2015). – Selection of qualifying firms to submit SOW proposals
- Request for proposals issued by (April 3, 2015).
- Mandatory Site visit (April 8, 2015).
- Proposals due (April 22, 2015).
- Week of (May 1, 2015). – Proposer follow-up interviews
- (May 6, 2015). – Selection of preferred consultant
- Weeks of (May 25, 2015). – Completion of Contract and SOW
- (June 3, 2015). – Contract award
- (July 1, 2015) – Workplan Submitted
 - ALL dates are subject to change except (March 13). for question submittal, and (March 27). for the RFQ due date.

Follow-up Interviews: The DNR estimates that three (3) to eight (8) of the top ranked firms will be invited to follow-up phone or in person interviews and site visits. The purpose of the interviews is to gather additional information to evaluate proposers on their abilities to provide the environmental consulting services requested by this RFQ. Proposers must be available, in person, for these follow-up interviews at DNR facilities in Madison on specific dates and times. Please hold May 28 and May 30 (2hr slots) for interviews. **The consultant's PM and up to two additional representatives must be present at this interview.**

Negotiations: After interviews and final evaluations are completed, the DNR may at its sole option open work scope and cost negotiations with two or more of the top-ranked proposers prior to award. The DNR also reserves the right to open negotiations with one or more alternate proposers if negotiations with one or more of the previously selected proposers are not successful. The DNR will not negotiate contract terms and conditions.

Rejection: The DNR reserves the right to reject any and all proposals, to waive any informality in the proposals that are received, to accept or reject any or all items in the proposal, and to award a contract to an environmental consulting firm in whole or in part. Moreover, the DNR reserves the right to make no selection if the proposals are deemed to be outside the fiscal constraint or not in the best interests of the DNR.

Award: The DNR will select the respondents whose proposals best meet the DNR's needs as defined in this RFQ. Contractual commitments are contingent upon the availability of funds, and the requirements of the site. All contracts are subject to the

approval of the DNR's legal counsel, and the DNR Secretary's office prior to execution. Once awarded, the contract will be the final expression of the agreement between the parties and may not be altered, changed or amended except by mutual agreement, in writing.

ATTACHMENT 1

**State of Wisconsin
DEPARTMENT OF NATURAL RESOURCES
Madison, Wisconsin**

THIS AGREEMENT is made and entered into by and between the State of Wisconsin, hereinafter called the "State", by its Department of Natural Resources, hereinafter called the "Department", executing this Agreement, and **INSERT NAME OF CONSULTANT HERE**, hereinafter called the "Consultant", for the work included in the Consultant's Proposal based on the Department's Scope of Work, both specified in Section 34 of the General Terms and Conditions below. Costs for the work shall be reimbursed in accordance with the attached proposal up to a maximum agreed amount NOT TO EXCEED \$**INSERT DOLLAR AMOUNT IN NUMBERS HERE** (**INSERT DOLLAR AMOUNT IN WORDS HERE** Dollars).

For administrative purposes a contingency fund of \$**INSERT CONTINGENCY AMOUNT IN NUMBERS HERE** (**INSERT CONTINGENCY AMOUNT IN WORDS HERE** Dollars) is approved for use on this project. The contingency fund may be used only with the prior approval of the Department and at the sole discretion of the Department. This contingency fund is not a part of the maximum NOT TO EXCEED amount agreed upon for the services in the proposal.

WITNESSETH

WHEREAS, the Department proposes development of a project, hereinafter named the "Project", which is described as follows: **INSERT DESCRIPTION OF PROJECT HERE.**

WHEREAS, the Department deems it advisable to engage the services of a Consultant to furnish professional services in connection with the Project.

WHEREAS, the Department has authority as provided in Section 23.41 of the Wisconsin Statutes to engage such services.

WHEREAS, the Consultant has signified its willingness to furnish services for the Department.

NOW THEREFORE, in consideration of these premises and their mutual and dependent agreements, the parties hereto agree as set forth in the following pages which are annexed hereto and made a part hereof. (Pages 1 to **INSERT LAST PAGE OF CONDITIONS HERE--USUALLY IT'S 7**, inclusive.)

IN WITNESS WHEREOF, the Department and the Consultant have executed this AGREEMENT.

INSERT NAME OF CONSULTANT HERE

**STATE OF WISCONSIN
DEPARTMENT OF NATURAL RESOURCES**

By _____

By _____
Cathy Stepp, Secretary

Title _____

Date _____

Date _____

Approved:

By _____
Scott Walker, Governor

Date _____

GENERAL SERVICES AGREEMENT
GENERAL TERMS AND CONDITIONS

- | | |
|---|--|
| 1. Affirmative Action. | 23. Ownership of Documents. |
| 2. Antitrust Assignment. | 24. Ownership of Wastes. |
| 3. Applicable Law. | 25. Payments. |
| 4. Approvals or Inspections. | 26. Payment Terms and Invoicing. |
| 5. Assignment. | 27. Period of Agreement. |
| 6. Cancellation; Termination | 28. Project Management. |
| 7. Change Orders. | 29. Records, Access. |
| 8. Deduction for Uncorrected Work. | 30. Rejection of Defective Materials. |
| 9. Deliverables. | 31. Release of Information. |
| 10. Disclosure. | 32. Request for Payment; Progress Reports. |
| 11. Dispute Resolution. | 33. Safety. |
| 12. Entire Agreement; Amendments. | 34. Scope of Services to be Provided. |
| 13. Extra Work and Special Cases. | 35. Site Access |
| 14. Force Majeure. | 36. Data |
| 15. Guaranteed Delivery. | 37. Standard of Performance. |
| 16. Indemnification; Liability. | 38. Survival. |
| 17. Independent Contractor. | 39. Successors and Assigns. |
| 18. Insurance. | 40. Tax Delinquency. |
| 19. Inventions, Patents, Trademarks and Copyrights. | 41. Taxes. |
| 20. Late Penalties. | 42. Testimony. |
| 21. No Waiver of Conditions. | 43. Titles. |
| 22. Nondiscrimination. | 44. Warranty. |

THE CONSULTANT shall provide professional services for the Project in accordance with the terms and conditions of this Agreement.

1. AFFIRMATIVE ACTION. If the amount of this Agreement is \$25,000 or more, the Consultant agrees to submit a written affirmative action plan to the Department within 15 business days after the Agreement commences if an acceptable plan is not already on file with the State of Wisconsin. (Consultants with an annual work force of fewer than 25 employees are exempted from this requirement.) Failure to comply with the conditions of this clause may result in the Consultant being declared an “ineligible” contractor, termination of the Agreement, or withholding of payment

2. ANTITRUST ASSIGNMENT. The Consultant and the Department recognize that in actual economic practice, overcharges resulting from antitrust violations are in fact usually borne by the Department. Therefore, the Consultant hereby assigns to the Department any and all claims for such overcharges as to goods, materials or services purchased in connection with this Agreement.

3. APPLICABLE LAW. This Agreement shall be governed by the laws of the State of Wisconsin. The Consultant shall at all times comply with all federal, state and local laws, ordinances and regulations in effect during the period of this Agreement.

4. APPROVALS OR INSPECTIONS. None of the approvals or inspections performed by the Department shall be construed or implied to relieve the Consultant from any duty or responsibility it has for its professional performance, unless the Department formally assumes such responsibility through a letter from the Department expressly stating that the responsibility has been assumed.

5. ASSIGNMENT. Neither this Agreement nor any right or duty in whole or in part by the Consultant under this Agreement may be assigned, delegated or subcontracted without the written consent of the Department.

6. CANCELLATION; TERMINATION. A. The Department reserves the right to cancel this Agreement in whole or in part, without penalty, due to non-appropriation of funds or for the failure of the Consultant to comply with terms, conditions, or specifications of this Agreement.

B. The Department may terminate this Agreement for any reason at any time upon not less than 10 days' written notice to the Consultant.

C. In the event of termination the Department shall pay the Consultant for that portion of the work satisfactorily performed prior to the date of termination.

D. If this Agreement is canceled or terminated by the Department for reasons other than the failure of the Consultant to comply with terms, conditions or specifications of this Agreement, the Consultant shall also be entitled to reasonable cancellation or termination costs relating to costs incurred by the Consultant for commitments which had become firm prior to the cancellation or termination.

E. Upon cancellation or termination under PARAGRAPH A. or B., above, the Consultant shall promptly discontinue all affected work (unless the notice of termination directs otherwise), and deliver or otherwise make available to the Department all data, drawings, specifications, reports, estimates, summaries and such other information and materials as may have been accumulated by the Consultant in performing this Agreement, whether completed or in progress.

7. CHANGE ORDERS. A. A change order is a written order to the Consultant signed by the Department, issued after the execution of this Agreement, authorizing a change in the work or an adjustment in the Contract Sum or the Contract Time. Change Orders may be initiated by either party at any time.

B. Changes in work shall be within the general scope of the Agreement, consisting of additions, deletions or other revisions; the Contract Sum and the Contract Time being adjusted accordingly. Complete documentation of additional work, cost changes, and contract time shall be provided to the Department by the Consultant.

C. No adjustments to the Contract Sum or the Contract Time may be made for any changes performed by the Consultant that have not been ordered by the Department.

8. DEDUCTION FOR UNCORRECTED WORK. If the Department deems it expedient to accept defective work or work not performed in accordance with the Agreement, the difference in value, together with a fair allowance for the damages, may be deducted from the payments that are owed to the Consultant under this Agreement.

9. DELIVERABLES. Deliverables are defined as those items included in the Agreement's time schedule.

10. DISCLOSURE. If a state public official (as defined under Section 19.42, Wisconsin Statutes), a member of a state public official's immediate family, or any organization in which a state public official or a member of the official's immediate family owns or controls a 10% interest, is a party to this Agreement, and if this Agreement involves payment of more than \$3,000 within a 12 month period, this Agreement is voidable by the State unless appropriate disclosure is made according to Section 19.45(6), Wisconsin Statutes, before signing the Agreement. Disclosures shall be made to the State of Wisconsin Ethics Board, 44 E. Mifflin Street, Suite 601, Madison, Wisconsin 53703 (Telephone 608 266-8123).

11. DISPUTE RESOLUTION. In the event that a dispute arises between the Department's project manager and the Consultant's project manager, either party may request a conference between the Department's Director of the Bureau for Remediation and Redevelopment and the Consultant's project manager's supervisor (or designee) to resolve the dispute.

12. ENTIRE AGREEMENT; AMENDMENTS. This Agreement, together with the specifications in the proposal and referenced parts and attachments, shall constitute the entire agreement and previous communications or agreements pertaining to the subject matter of this Agreement are hereby superseded. Any contractual revisions including cost adjustments and time extensions may be made only by a written amendment to this Agreement, signed by both parties prior to the ending date of this Agreement.

13. EXTRA WORK AND SPECIAL CASES. If the Department desires to have the Consultant perform work or render services in connection with the project, other than provided for by the expressed intent of this Agreement, this will be considered as Extra Work, subject to a change order, or extension to this

Agreement, setting forth the nature and scope thereof and the compensation therefore as determined by mutual agreement between the parties. Work under a change order or extension may not proceed unless and until it is authorized by the Department.

14. FORCE MAJEURE. A. The Consultant shall cause all of its work to be performed within the time limits set forth in this Agreement unless performance is delayed by events that constitute a force majeure. For purposes of this Agreement, a “force majeure” is an event which is not foreseeable, is beyond the control of the Consultant and delays performance of any obligations required by this Agreement, including, but not limited to, delays caused by the Department, delays in obtaining property access or delays in obtaining any necessary permit or license after a complete application is made.

B. The Consultant shall notify the Department in writing no later than 5 calendar days after the discovery of any event which the Consultant contends is a force majeure. Such notification shall describe the anticipated length of the delay, the cause or causes of the delay, the measures taken and to be taken by the Consultant to minimize the delay, and the timetable by which these measures will be implemented. The Consultant shall have the burden of demonstrating that the event is a force majeure. The Department shall promptly provide the Consultant with a written decision as to whether and why the event does or does not constitute a force majeure after receiving notification from the Consultant. If the Consultant does not agree with the findings of the Department project management staff, then a conference with the Department’s Director of the Bureau for Remediation and Redevelopment will be arranged with the Consultant to resolve the force majeure issue.

C. If the Department agrees that a delay is attributable to a force majeure, the time period for a performance under this Agreement shall be extended for a reasonable time period attributable to the event constituting a force majeure.

15. GUARANTEED DELIVERY. Failure of the Consultant to adhere to delivery schedules as specified or to promptly replace rejected materials shall render the Consultant liable for all costs in excess of the Agreement price when alternate procurement is necessary. Excess costs shall include the Department’s administrative costs.

16. INDEMNIFICATION; LIABILITY. A. The Consultant agrees to save, keep harmless, defend and indemnify the State, the Department and all their officers, employees and agents, against any and all liability, claims and costs for injury to or death of any person or persons, and for loss or damage to any property (state or other) caused by or arising out of any willful misconduct, negligent act, error or omission by the Consultant or any of its agents, representatives, subcontractors or employees occurring in connection with or in any way incident to or arising out of performance of this Agreement. This PARAGRAPH does not apply to liability, claims and costs to the extent that they result from the willful misconduct, negligent act, error or omission of the State, the Department or their officers, employees or agents.

B. The Department recognizes and agrees that its employees are subject to liability as provided by Sections 893.82 and 895.46, Wisconsin Statutes. Therefore, its employee will be liable for their acts under these provisions and will not be acting on behalf of or as agents of the Consultant.

C. The Consultant guarantees that the use of equipment incorporated into the Project will not infringe any United States patent, and likewise that the use of any method in conjunction with the Project will not infringe any United States patent. The Consultant agrees that it will at its own expense defend every law suit which shall be brought against the State of Wisconsin for any alleged infringement of any patent and agrees that it will pay all costs, damages, and profits recoverable in any such suit. The Department agrees to promptly notify the Consultant of any such suit and deliver all papers relating to such suit to the Consultant.

17. INDEPENDENT CONTRACTOR. The Department agrees that the Consultant shall have sole control of the method, hours worked, and time and manner of any performance under this Agreement other than as specifically provided herein. The Department reserves the right only to inspect the job site or premises for the purpose of insuring that the performance is progressing or has been completed in compliance with the Agreement. The Department takes no responsibility for supervision or direction of the performance of the Agreement to be performed by the Consultant or the Consultant’s employees or agents. The Department further agrees that it will exercise no control over the selection and dismissal of the Consultant’s employees or agents.

18. INSURANCE. The Consultant performing services for the State of Wisconsin shall:

A. Maintain worker's compensation insurance for all employees engaged in the work.

B. Maintain commercial liability and property damage insurance against any claim(s) which might occur in carrying out this Agreement. Minimum coverage shall be \$2,000,000 liability for bodily injury and property damage including products liability and completed operations.

C. Provide motor vehicle insurance for all owned, non-owned, and hired vehicles that are used in carrying out the Agreement. Minimum coverage shall be \$2,000,000 per occurrence combined single limit for automobile liability and property damage.

D. Provide an insurance certificate indicating this coverage, counter-signed by an insurer licensed to do business in Wisconsin, covering the period of the Agreement. The insurance certificate is required to be presented prior to commencement of the Agreement.

E. The State reserves the right to require higher or lower limits where warranted.

19. INVENTIONS, PATENTS, TRADE-MARKS AND COPYRIGHTS. **A.** The Consultant hereby assigns to the Department the entire right, title and interest for the entire world in and to all work performed, writings, formulas, designs, models, drawings, photographs, design inventions and other inventions made, conceived or reduced to practice or authored by the Consultant or the Consultant's employees, either solely or jointly with others, while performing this Agreement or with use of information, materials or facilities of the Department received or used by the Consultant during the period in which the Consultant is retained by the Department or its successors under this Agreement or any extensions or renewals of this Agreement.

B. The Consultant shall promptly disclose to the Department all works, writings, formulas, designs, models, drawings, photographs, design inventions and other inventions made, conceived or reduced to practice or authored by the Consultant or the Consultant's employees in the course of the performance of this Agreement.

C. The Consultant shall sign, execute and acknowledge or cause to be signed, executed and acknowledged without cost, but at the expense of the Department, any and all documents and to perform such acts as may be necessary, useful or convenient for the purpose of securing to the Department or its nominees, patent, trademark or copyright protection throughout the world upon all such works, writings, formulas, designs, models, drawings, photographs, design inventions and other inventions, title to which the Department may acquire in accordance with the provisions of this SECTION.

D. The Consultant has acquired or shall acquire from each of its employees the necessary rights to all such works, writings, formulas, designs, models, drawings, photographs, design inventions and other inventions made by such employees within the scope of their employment by the Consultant in performing services under this Agreement. The Consultant shall obtain the cooperation of each such employee to secure to the Department or its nominees the rights to such works, writings, formulas, designs, models, drawings, photographs, design inventions and other inventions as the Department may acquire in accordance with the provisions of this SECTION.

20. LATE PENALTIES. **A.** The Consultant shall be liable for the payment of penalties to the Department of the sums set forth below for each week that the Consultant fails to submit a report or document required under this Agreement's time schedule unless the Department determines that such delay is attributable to a force majeure as defined in SECTION 14., above, or a different schedule is agreed to by the parties, in writing, before the date the report or document is due. Penalties, if applicable, shall be due and payable by the Consultant within 15 calendar days of receipt of notification from the Department assessing the penalties. These penalties shall accrue in the amount of \$500 for the first week and \$1,000 for each week thereafter, for each report or document which is overdue. The Department may subtract penalties which accrue under this SECTION from payments that are owed to the Consultant under this Agreement.

B. Assessment of penalties under this SECTION does not preclude the Department from pursuing any other remedies or sanctions because of the Consultant's failure to comply with any of the terms of this Agreement, including a suit to enforce the terms of this Agreement.

C. With respect to any individual failure to submit a report or document required under this Agreement's time schedule, the Department may at its sole discretion, in whole or in part, waive its right to penalties otherwise due under this SECTION.

21. NO WAIVER OF CONDITIONS. The failure of either party to insist on strict performance of this Agreement does not constitute a waiver of any of the provisions of this Agreement or a waiver of any default of the other party.

22. NONDISCRIMINATION. In connection with the performance of work under this Agreement, the Consultant agrees not to discriminate against any employee or applicant for employment because of age, race, religion, color, handicap, sex, physical condition, developmental disability as defined in Section 51.01(5), Wisconsin Statutes, sexual orientation or national origin. This provision shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. Except with respect to sexual orientation, the Consultant further agrees to take affirmative action to ensure equal employment opportunities. The Consultant agrees to post in conspicuous places, available for employees and applicants for employment, notices to be provided by the Department setting forth the provisions of this nondiscrimination clause. Failure to comply with the conditions of this clause may result in the Consultant being declared an “ineligible” contractor, termination of the Agreement, or withholding of payment.

23. OWNERSHIP OF DOCUMENTS. Upon completion of the services provided for in this Agreement, or upon payment for services as provided for in SECTION 7., all specifications, charts, sketches, drawings and other documents, whether finished or not, shall become the property of the Department.

24. OWNERSHIP OF WASTES. The Department acknowledges that the Consultant is not, by virtue of this Agreement, the owner of any waste materials generated as a result of the services performed by the Consultant under this Agreement.

25. PAYMENTS. A. The Consultant shall be paid by the Department for the completed work or services rendered under this Agreement at the price set forth elsewhere in the Agreement, and for “Extra Work” , if any, at the compensation set forth in the approved orders covering the Extra Work.

B. Such payment shall be full compensation for work performed or services rendered and for all labor, material, supplies, equipment and incidentals necessary to complete the work.

26. PAYMENT TERMS AND INVOICING. Payment shall be considered timely if the payment is mailed, delivered, or transferred by the later of the following:

A. The date specified on a properly completed invoice for the amount specified in the order or Agreement, or

B. Within 30 days after receipt of a properly completed invoice or receipt and acceptance of the property or service under the order or Agreement or within 30 days after receipt of an improperly completed invoice or receipt and acceptance of the property or service under the order of Agreement, whichever is later if the Department does not notify the sender of receipt of an improperly completed invoice within 10 working days after it receives the invoice of the reason it is improperly completed.

27. PERIOD OF AGREEMENT. This Agreement shall commence upon its signing by both parties (including approval by the Governor of the State if required) and shall follow the schedule developed in the proposal, during which period all performance as described in this Agreement shall be fully completed to the satisfaction of the Department.

28. PROJECT MANAGEMENT. The Department’s project manager for this project is Phil Richard, located in the Department’s Northern Regional Office in Park Falls. The Consultant has identified **INSERT NAME OF CONSULTANT'S PROJECT MANAGER HERE** as its project manager. If either the Consultant or the Department changes its project manager for this project, notification of this change shall be sent to the other party within 10 days of such a change with the name of the new project manager included.

29. RECORDS, ACCESS. The Consultant shall, for a period of **3** years after completion and acceptance by the Department, maintain books, records, documents and other evidence directly pertinent to

performance on work under this Agreement in accordance with generally accepted accounting principles and practices. The Consultant shall also maintain the financial information and data used in the preparation or support of the cost submission in effect on the date of execution of this Agreement and a copy of the cost summary submitted to the Department. The Department, its agents and duly-authorized representatives shall have access to such books, records, documents, and other evidence for the purpose of inspection, audit and copying. The Consultant shall provide proper facilities for such access, inspection and copying. In addition, those records which relate to any dispute, appeal or litigation, or the settlement of claims arising out of such performance, or costs or items to which an audit exception has been taken, shall be maintained and made available until 3 years after the date of resolution of such dispute, appeal, litigation, claim or exception. The Consultant shall notify the Department prior to destroying any records.

30. REJECTION OF DEFECTIVE MATERIALS. The Department may reject materials and workmanship which are defective or it may require their correction. Rejected workmanship shall be satisfactorily corrected, and rejected materials shall be removed from the Project site without charge to the Department. If the Consultant does not correct such condemned work and remove rejected materials within a reasonable time, fixed by written notice, the Department may remove them and charge the expense to the Consultant.

31. RELEASE OF INFORMATION. The Consultant may not issue press releases or provide information to any third party regarding the Project without the prior written approval of the Department.

32. REQUEST FOR PAYMENT; PROGRESS REPORTS. The Consultant shall submit invoices to the Department on a monthly basis during the progress of the work for partial payment on account, for the work completed and accepted to date. Pay request formats shall match as closely as possible to the cost proposal format. Each category from the cost proposal shall detail, by task, the hours and costs of each staff level. All invoices detailing the Consultant's work and subcontracted work shall be attached. Copies of all staff time sheets or summary time data used to invoice pay requests should be attached to the invoice. Unless the Department directs otherwise, all receipts for equipment, materials and other expenses shall be attached to the pay request. The pay request along with a monthly progress report shall be sent directly to the Department's project manager.

33. SAFETY. The Consultant shall initiate, maintain and provide coordination of safety precautions and programs in connection with its services. However, the Consultant is not responsible for the elimination or abatement of safety hazards created or otherwise resulting from work at the Project site carried on by other persons or firms directly employed by the Department as separate consultants or contractors. The Department agrees to require any such separate consultants or contractors comply with federal, state and local safety laws and regulations and to comply with all reasonable requests and directions of the Consultant for the elimination or abatement of any safety hazards at the Project site.

34. SCOPE OF SERVICES TO BE PROVIDED. Subject to the terms and conditions set forth in this Agreement, the Department engages the Consultant to furnish the services specifically described in the Consultant's Proposal entitled: **INSERT TITLE OF THE PROPOSAL HERE** dated **INSERT DATE OF PROPOSAL HERE**, based on the Department's Scope of work, entitled: **INSERT TITLE OF SCOPE OF WORK HERE** dated **INSERT DATE OF SCOPE OF WORK HERE**, and for such other tasks as may be mutually agreed upon in writing between the Consultant and the Department. The Consultant's Proposal and the Department's Scope of Work are incorporated into this Agreement by reference and are made a part of this Agreement.

35. SITE ACCESS. Unless the Scope of Work included in Exhibit "A" provides otherwise, the Department shall obtain or provide reasonable access for the Consultant to the Project site when necessary and at any reasonable time requested.

36. DATA. The Department shall attempt to provide the Consultant with all relevant data and information in its possession regarding the Project site. However, in providing such data and information, the Department assumes no responsibility for its accuracy, reliability or completeness.

37. STANDARD OF PERFORMANCE. The Consultant's services shall be performed with the usual thoroughness, skill and competence of the consulting profession, in accordance with the standard for professional services prevailing at the time those services are rendered.

38. SURVIVAL. These General Terms and Conditions shall survive the completion of the services under this Agreement and the termination of this Agreement for any cause.

39. SUCCESSORS AND ASSIGNS. The Department and the Consultant each bind themselves, their partners, successors, assigns and legal representatives to the other party to this Agreement and to the partners, successors, assigns and legal representatives of the other party with respect to all covenants of this Agreement.

40. TAX DELINQUENCY. Consultants which have a delinquent Wisconsin tax liability may have their payments offset by the State.

41. TAXES. The Department 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. However, it is exempt from payment of all federal tax and Wisconsin sales or use tax on its purchases. The State of Wisconsin has issued tax exempt number ES 40690 to the Department. The Department may be subject to other states' taxes on its purchases in that state depending on the laws of that state. Consultants performing construction activities are required to pay state use tax on the cost of materials.

42. TESTIMONY. The Consultant shall make its employees available to testify at administrative hearings and in court on behalf of the Department regarding the work conducted under this Agreement. Any costs associated with such testimony shall be billed to the Department on an itemized invoice. The hourly rates charged for testifying and for travel to and from the hearing or court proceeding may not exceed the rates listed on the Consultant's Classification Rate Schedule in effect at the time that the testimony is given.

43. TITLES. The headings or titles of SECTIONS of this Agreement are used for convenience and ease of reference and are not intended to limit the scope or intent of the SECTIONS.

44. WARRANTY. With respect to any construction work or construction activities performed under this Agreement, except where a longer warranty period is provided by the manufacturer or supplier of any equipment or materials, the Consultant warrants that for one year the work will be free from defects in material or workmanship and that all construction services and material furnished shall be in accordance with the Department's specifications or the proposal. This warranty shall survive acceptance and payment and shall not be exclusive. Manufacturers' warranties received by the Consultant which are applicable to any items furnished by the Consultant shall survive acceptance and payment, and shall run to the Department, its successors and assigns, and may not be exclusive. The Consultant shall obtain any warranties which vendors, contractors and subcontractors would give in normal commercial practice. At the Department's option, the Consultant shall either promptly repair or replace defective items and work after receipt of the Department's written notice of a defect.

- END -

Response to Questions
Portage Canal – Remedial Investigation and Feasibility Study
BRRTS# 02-11-543021
Wisconsin DNR – Bureau for Remediation and
Redevelopment and Office of Great Lakes (March 20, 2015)

1. *Question: Please define the selection criteria and scoring.*

Answer: The Department is following the procedures outlined in NR 734 (Selecting and Contracting Environmental Consulting Services). Project-specific qualifications were established within the RFQ that was posted to the DNR website. Statements of qualifications (SOQs) will be reviewed and scored based on the information provided in the Request for Qualifications (RFQ). Information that is provided, but not required by the RFQ, will not be scored. Numeric scoring is limited to Sections 1, and 4.1 through 4.3, with greater importance given to the qualifications and experience of the specific team and project manager versus that of the firm. The bulleted list in 4.2 is in general order of importance with a weighting multiple relative to 1. For example, the first bullet is weighted as a 2 (twice as much weight) whereas bullet 10 is 0.5 (half as much as standard). Bullet 11 (references) is weighted as 1. Recall that this scoring is only to initially narrow the field to 3 to 8 firms to request a proposal.

2. *Question: What scoring criteria will the WDNR use to evaluate the SOQ's?*

Answer: See response to 1.

3. *Question: Who will be participating in the selection process?*

Answer: A Selection Committee of five DNR representatives will be participating in the selection process. The representatives are from three DNR programs including the Office of Great Lakes, Remediation and Redevelopment, and Facilitates and Lands. The Selection Committee will select a winning firm. However, all contracts are subject to the approval of the DNR's legal counsel, and the DNR Secretary's office prior to execution.

4. *Question: Is a Wisconsin office a requirement for bidding?*

Answer: No.

5. *Question: Do Wisconsin-based firms receive preferential scoring?*

Answer: No. However, geographic proximity will be considered with the context of the ability to perform the work. As indicated in the RFQ, a maximum of 1-page of the RFQ will be evaluated for the firm's geographic presence (Section 4.3), the same consideration as NR 734.17(4).

6. *Question: Will the firm selected for the RI/FS be excluded from working/bidding on the RD/RA activities?*

Answer: No.

7. *Question: Will the firm selected for the RI/FS be the firm who conducts the RD/RA activities?*

Answer: The firm that may potentially perform future work is not predetermined.

8. *Question: Can the contract be amended to add RD/RA activities to the scope?*

Answer: Programmatically, yes, a professional services contract could be amended to add work. That is, however, unlikely in this instance. Assume that the contract will not be amended to add design or implementation.

9. *Question: Has any funding been secured to date for the activities? If so, what are the those funding sources?*

Answer: The RI/FS work will be funded with WDNR funds. Funding for design and implementation has not been secured and is a primary reason for performing the FS. Note that the DNR reserves the right to reject any and all proposals, to waive any informality in the proposals that are received, to accept or reject any or all items in the proposal, and to award a contract to an environmental consulting firm in whole or in part. Moreover, the DNR reserves the right to make no selection if the proposals are deemed to be outside the fiscal constraint or not in the best interests of the DNR.

10. *Question: Is the RI/FS portion of the project funded?*

Answer: Yes. See response above.

11. *Question: Is there a funding limit or budget for the remaining RI/FS scope of work?*

Answer: Yes, however, the DNR does not intend to disclose the funding amount prior to reviewing proposals to avoid influencing the received proposal costs.

12. *Question: Can you provide a list of firms who have previously worked on the project?*

Answer: Natural Resource Technology, Mead and Hunt, Mateco Drilling, and the United States Geological Survey have all worked on the Portage Canal for the DNR.

13. *Question: Is there a timeframe for completing the remaining work (i.e., after Work Plan is submitted)?*

Answer: The goal is to finalize the reports prior to a potential 2017-2019 fiscal year budget request, which would be needed in December of 2016. The Department would prefer the reports completed sooner, but not at additional cost. See the following excerpt from the scope of work (SOW): "Work by the consultant shall proceed continuously and expeditiously through the completion of each phase, but not such that additional fees are charged to the WDNR (e.g. overtime)".

14. *Question: Is there an estimated timeframe to complete the RI and FS?*

Answer: See answer to question 13.

15. *Question: Does the WDNR consider the data collected (by others) sufficient to complete the RI?*

Answer: This will be more apparent when the SOW is distributed. The SOW will be shared to those that are formally requested for proposal and if the question remains after review, further clarification will be provided. As to the extent that data collection influences your project team and qualifications, assume that data collection will be limited, if necessary.

16. *Question: Or has the WDNR identified any data gaps that would need to be completed?*

Answer: See answer in question 15.

17. *Question: Similarly, is the collection of samples or other field data necessary to complete the RI or FS?*

Answer: See answer in question 15.

18. *Question:* Although not stated in the RFQ, will the WDNR require a baseline risk assessment to be included in the RI, or just summarize the DHS risk information?

Answer: The Department does not intend to perform an extensive baseline risk assessment. The Department intends to utilize the DHS's assessment.

19. *Question:* Will the feasibility study scope include fate and transport modeling?

Answer: This will be more apparent when the SOW is distributed. The SOW will be shared to those that are formally requested for proposal and if the question remains after review, further clarification will be provided. As to the extent that fate and transport modeling influences your project team and qualifications, assume that a complex model of the site is not desired, but a screening-level model may be useful for evaluating the efficacy of capping.

20. *Question:* Is speciation data available for the Hg contamination?

Answer: No. The majority of the sediment Hg testing utilized the State Lab of Hygiene and EPA method SW846 7471A for total mercury on a dry weight basis. However, the 2013 sediment testing did include limited methyl mercury testing of the sediment using EPA method 1630.

21. *Question:* Will the contractor be provided information about contamination source(s)/ control?

Answer: At the current time, the source(s) of contamination are unknown. Further investigation for potential sources is also occurring through additional Phase I/II work under a separate contract through the R&R program. This may or may not conclude prior to starting work on the RI.

22. *Question:* Will as-built construction drawings and supporting engineering details be available for relevant structures (i.e. sheet piling, bridges, etc.) if needed for remedial alternative evaluation?

Answer: The as-built drawings for the Segment 1 walls are readily available, as well as previous engineering stability analysis. As-builts for the pedestrian bridge crossing in Segment 4 is assumed to be readily available from the City. The DNR does not know the status of as-builts for the Canadian Pacific railroad crossing nor the State Hwy 33 bridge crossing.

23. *Question:* Does the WDNR anticipate the need for the contractor to conduct archaeological assessments as part of the FS or will such assessments be provided?

Answer: We do not anticipate there to be a need to conduct archaeological assessments as part of this SOW. Previous assessments have been performed by the City in 2003 as part of the restoration plans that were unrelated to the sediment contamination. This information will be provided as well as the more recent results of the DNR's search of the Historic Structures Inventory.

24. *Question:* Page 2 of the RFQ has a heading of "Utilization of Small, Minority, and Women's Business Enterprises." The narrative under this heading refers only to minority business enterprises. Does this mean that the target utilization of 5% is only for minority-owned businesses and excludes use of small, women, or disabled veteran-owned businesses?

Answer: The 5% target for participation of certified MBE's is the only target that has been established by statute. While utilization of women owned and veteran owned and small business is encouraged, there is not a statutory goal for these kinds of businesses.

25. *Question:* What programs were previous investigations completed under?

Answer: See answer to question 26.

26. *Question:* What previous investigations have been completed at the Portage Canal?

Answer: Below is a summary of previous sediment investigations:

Org	Year	# Location	# Samples	Segment	Tested for	Reason
SES	2003	15	8	1-3	DRO, GRO, PVOC, pesticides, dioxins, PCBs, metals, Geotech	Phase II assessment , DOT revitalization
WDNR	2004	33	70	1-4	Hg, Pb	Sediment Characterization entire canal
NRT for WDNR	2009	7	14	1	TOC, metals, TCLP, Elutriate	Segment 1 Construction Design
WDNR	2013	19	51	2-3	Hg, Pb, pH, GS	Across Canal, verify movement or reductions
WDNR	2013	67	285	2-4	Hg, MeHg, Pb, pH, GS, TOC, TCLP, PAH	Vertical and linear delineation

27. *Question:* What reports will be available for the project for the proposals, can you supply a reference list?

Answer: Much of the information that will be supplied is in raw data format and not summarized in final reports and thus the purpose of performing the RI. Descriptions of some of the information will be included in the SOW. The data available was generated primarily from the investigations indicated in the answer to question 26. As for a reference list of finalized reports, see below.

Document	By	Type	Year	For	Format
Feasibility Study of Re-Opening Portage Canal	General Engineering Company, Inc.	Study	October 1987		Electronic
Feasibility Study for Tourism Development at the Portage Canal and Fort Winnebago	Economics Research Associates	Report	February 1993	Steering Committee	Electronic

Document	By	Type	Year	For	Format
Historic Portage Canal Improvement Plan	MSA	Report	1999	City of Portage	Hardcopy
Phase I Hazardous Materials Assessment Portage Canal Restoration Project (Final)	Mead and Hunt	Report	April 2003	City of Portage / DOT	Electronic & hardcopy
Bill & Jack's Garage (Site 8) 228 W. Edgewater Street	Soils and Engineering Services, Inc.	Phase II Environmental Site Exploration Reports	August 2003	Mead and Hunt, Inc	Electronic
Gruber Automotive Parts (Site 15) 208 E. Edgewater Street					
Portage Cleaners (Site 23)					
Ameritech/Sportswar Screenprint (Site 31) 501 E. Mullet Street					
Kaiser Commercial Property (Site 35) 743 E. Mullet Street					
Battery Casings Site (Site 36), East Mullet Street					
Hauser Oil & Gas (Site 37) 700 E. Mullet Street					
Crawford Oil/Meigs Asphalt (Site 39) 1220 Superior Street					
Sediment Sampling					
Storm Sewer Outfall Sediment Results					
Historic Sediment PCB Testing Results	DNR	Memo	October 2013	DHS	Electronic
Phase I Hazardous Materials Assessment Portage Canal Restoration Project (Draft)	Mead and Hunt	Report	December 2002	City of Portage / DOT	Hardcopy
Section 404 Permit Application Portage Canal Rehabilitation	Mead and Hunt	Report	2004	City of Portage / DOT	Hardcopy
Stormwater Management Plan	General Engineering Company, Inc.	Report	January 2008	City of Portage	Electronic
Contract Documents Portage Canal Dredge Project Dewitt to Adams Street	NRT	Contract Documents	May 2009	WDNR	Electronic & hardcopy
Revetment Wall Stability Analysis	Mead and Hunt	Report	July 2009	WDNR	Electronic & hardcopy
Contract Documents Portage Canal Dredge Project Dewitt to Adams Street (Rebid)	NRT	Contract Documents	December 2009	WDNR	Electronic & hardcopy
Revetment Wall Stability Analysis	Mead and Hunt	Report	March 2010	WDNR	Electronic & hardcopy
Information Sheet	DNR	Flyer	July 2013	County Fair	Electronic