

**From:** Elizabeth Runge <elirun@two-rivers.org>  
**Sent:** Monday, April 25, 2022 10:06 AM  
**To:** Naletta Sanchez  
**Cc:** que@scott-crawford.com; mdahlem@fehrgraham.com; Beggs, Tauren R - DNR; harris.byers@stantec.com; Gregory Buckley  
**Subject:** Re: Updated: West River Loft - Two Rivers  
**Attachments:** Fehr Gram Env Work Tasks - West River Loft.pdf

On Mon, Apr 25, 2022 at 10:00 AM Naletta Sanchez <[naletta.sanchez@wedc.org](mailto:naletta.sanchez@wedc.org)> wrote:

I'm running about 10 min late

Naletta Sanchez  
608-210-683

September 23, 2021

Que El-Amin - Principal  
Scott Crawford, Inc.  
4201 N. 27<sup>th</sup> Street  
Milwaukee, WI 53132

**RE: Bright Horizons Property – Environmental Work Through Closure**

**Dear Que:**

The Phase I Environmental Site Assessment (ESA) on the Property located at 1702 13th Street in Two Rivers, Manitowoc County, Wisconsin, dated June 9, 2021 revealed multiple Recognized Environmental Conditions (RECs) in connection with the Property. Phase II ESA work was done to investigate the RECs in which soil and groundwater contamination was found underlying most of the eastern half of the Property.

Based on data obtained and structural plans for the onsite proposed building at this point, Fehr Graham recommends the following environmental scope of work.

**SCOPE OF WORK**

**Task 1: Report the Contamination to Wisconsin Department of Natural Resources (WDNR); Notify WDNR of Consultant (Fehr Graham) is Hired by Responsible Party (RP); Overall Project Management**

Report the contamination to the WDNR in accordance with the Spills Law, ch. 292, Wis. Stats. by submitting “Notification for Hazardous Substance Discharge (Non-Emergency Only)” Form 4400-225. The current property owner will be the RP of the contamination (which currently is Bright Horizon Properties, LLC)

Within 30 days of reporting the contamination, WDNR requires written verification (such as a letter from the consultant) that the RP has hired Fehr Graham as their environmental consultant. If we do not take action within this time frame, the WDNR may initiate enforcement action against the RP.

Overall project management for meetings, reviews, client/DNR communication and task management.

**Cost Estimate = \$11,000**

**Task 2: Submit a Site Investigation Work Plan (SIWP) to WDNR**

Per Chapter NR 716, within 60 days of reporting the contamination, Fehr Graham must submit a work plan for completing the investigation. The work plan must comply with the requirements in the NR 700 Wis. Adm. Code rule series and should adhere to current WDNR technical guidance documents. Fehr Graham is assuming no WDNR review fee will be required.

**Cost Estimate = \$5,400**

### **Task 3: Complete Additional Fieldwork and Submit Site Investigation Report (SIR) to WDNR**

- We may have enough data to show WDNR that no further soil and groundwater investigation is needed, and I will likely try for that option, however, WDNR may require additional site investigation activities. If so, then we must initiate the site investigation within 90 days of submitting the SIWP. If a fee for WDNR review has been submitted, the site investigation must begin within 60 days after receiving WDNR comments.
  - For our projects, we complete the work in two phases (Task 1 and Task 2). In general, the intent of Task 1 is to define the extent of soil contamination on the property and to provide groundwater data to support the placement of permanent wells, if necessary. Task 2, if necessary, includes the placement of permanent groundwater monitoring wells, sampling these wells for four quarters, and applying that data to our trend analysis to determine if there is a stable, decreasing, or increasing trend in contaminant levels over the course of monitoring.
  - Within 60 days after completion of the field investigation and receipt of the laboratory data, we must submit an SIR to the WDNR.
  
- Environmental Borings within Footprint to Define Vertical Contamination
  - The proposed building is proposed to use rammed aggregate piers, one system of which is the Geopier® system, to be utilized for the support of the structure. These will be driven to depths of ≥ 65-feet below existing grade and in locations where there is currently soil contamination not vertically delineated to that depth.
  
- Estimation
  - Installation of 12 Geoprobe to 20 feet, sample from 10-15 feet and 15-20 feet within the building footprint (assumed eight borings), sample 0-4 feet and gw interface for site investigation delineation borings (assumed four borings); 24 soil lab.
  - Fehr Graham will submit an SIR to the WDNR with a \$1,050 review fee to satisfy NR 700 requirements.
  
- Reporting
  - An SIR per Chapter NR 716 will be compiled and submitted to WDNR with a review fee.

**Cost Estimate = \$16,300**

### **Task 4: River Sediment and Surface Water Sampling**

Since soil and groundwater are contaminated along the Property near the riverfront and since groundwater is flowing towards the West Twin River, the WDNR may ask that we sample river sediment to verify if the Property is contaminating the riverbed sediments. At each location, enough sediment will be obtained to collect contaminant sediment samples for analysis. At each location, sediment depth will be measured. This will involve manually (by hand) driving a ½ inch diameter fiberglass rod into the sediment until a refusal layer is encountered (winter) or utilizing the sludge judge in non-ice conditions. The type of material encountered at refusal will be noted. Refusal material will be determined by the abruptness of the rod stopping and the noise and vibration and will most likely be (1) cobble and larger rock, (2) gravels, and/or (3) sand or finer material. Samples will be obtained for contaminants of concern (Volatile Organic Compounds (VOCs), Polycyclic

Aromatic Hydrocarbons (PAHs), Polychlorinated Biphenyls (PCBs), and Resource Conservation and Recovery Act (RCRA) metals.

Groundwater is most likely flowing towards the West Twin River. Fehr Graham will not test any surface water unless advised to do so by WDNR. It is unlikely surface water will need to be tested, but Fehr Graham also wants to make you aware that WDNR may require testing.

**Cost Estimate = \$7,400**

**Task 5: Remedial Action Plan (RAP)/Remedial Action Options Reporting (RAOR)**

The evaluation process for the RAP/RAOR will follow WAC NR 722.07(3), which states that the RAOR should be, “used to determine which remedial action option constitutes the most appropriate technology or combination of technologies to restore the environment, to the extent practicable, within a reasonable period of time and to minimize the harmful effects of the contamination to the air, land, or waters of the state, to address the exposure pathways of concern, and effectively and efficiently address the source of the contamination”. The evaluation of the remedial action options will be based on the following requirements and in compliance with the requirements of WAC NR 722.09, which incorporates long-term effectiveness, short-term effectiveness, implement-ability, restoration time frames, and economic feasibility.

**Cost Estimate = \$6,700**

**Task 6: Quarterly Groundwater Monitoring (7 rounds) with WDNR Reporting (1 round already completed)**

WDNR normally requires eight quarterly rounds of sampling. Currently there are 12 groundwater monitoring wells, with one round of sampling that has occurred at the current 12 monitoring wells, so we will assume seven additional rounds of groundwater monitoring at the site for contaminants of concern (VOCs, PAHs, PCBs, and RCRA metals) are warranted, albeit the contaminant list could be reduced based on data obtained through the site investigation process.

**Cost Estimate Fieldwork = \$29,900**

Fehr Graham will submit quarterly groundwater monitoring reports to WDNR (non-fee).

**Cost Estimate Reporting = \$32,100**

**Task 7: Soil and Water Management Plan and Dewatering Management**

A Soil and Water Management Plan (SMP) will be prepared by Fehr Graham to provide a plan for the management of soil (and/or groundwater) during redevelopment construction activities where contaminated environmental media (e.g., soil and/or groundwater) or a combination of contaminated soil and other solid waste materials (e.g., historic fill) could be encountered. The SMP will be developed to assist construction contractors in understanding how to safely manage such materials in compliance with state law.

The SMP will describe recommended procedures for the handling, on-site reuse, transport, storage, and off-site disposal of soils excavated during construction activities. It will also outline recommended management procedures to be followed for dewatering activities associated with such construction, if necessary.

The SMP will include a description of recommended engineering controls and air monitoring procedures to help protect workers and other individuals in the vicinity from fugitive dust, particulates, vapor emissions, or potential exposure to contaminated soil and/or groundwater.

Based on current data, and dependent on foundation recommendations, some of the soil in the subsurface beneath the building may be beneficially reused onsite as cover or fill material or transported offsite to locations other than a licensed recycling and disposal facility where the contaminated media will need to be disposed of.

Dewatering of contaminated groundwater will need to be approved prior to the initiation of redevelopment activities. Fehr Graham will use current groundwater data to seek approval of disposal into the City of Two Rivers sewer system. If this is denied, the groundwater will most likely need to be pumped into fractionation tanks for storage, testing, and disposal at a licensed facility.

**Cost Estimate = \$3,900**

#### **Task 8: Soil Profiling with Landfill**

Total soil quantities to be landfilled, landfill pricing, and disposal approval will need to be obtained prior to any excavation activities by Waste Management, which includes filling out a new profile and paying \$100 profile fee. Based on the data, it is estimated that the contaminated soil can be removed from the property and disposed of at Waste Management landfill under manifests at an all-in approximate cost of \$42 per ton which includes disposal (\$25.00 per ton), Wisconsin Generator Tax (\$13.00 per ton), environmental fee (\$2.00 per ton), fuel (\$2.00 per ton and depends on fuel cost at time of project), and Waste and Materials Management (WMM) fee (\$2.00 per ton).

**Cost Estimate = \$3,400**

#### **Task 9: Vapor Mitigation Design**

Since there is soil and groundwater contamination within the footprint of the proposed building, the potential for VOC vapor intrusion may exist. To address possible vapor concerns into the building, a passive sub-slab vapor venting system (with the ability to go active) will be designed by Fehr Graham for placement beneath the proposed building.

**Cost Estimate = \$2,800**

#### **Task 10: Development at Historic Fill Site or Licensed Landfill – Sampling and Exemption Application**

Within boring logs MW-8 and MW-9, fill material containing petroleum odors/staining, wood debris, and coal were observed overlying organic native sediments including peat. This suggests in this area of the Property, most likely that the fill material was historically placed on top of the native wetland, marsh, or depression in this area to adjust the grade. Any deposit of waste material, other than by homeowners on their own property, meets the statutory definition of a landfill. Landfills that were established before 1970 and were never licensed by the WDNR are called historic fill sites.

The WDNR's administrative codes prohibit the placement of structures or other development on buried waste without an exemption to WAC § NR 506.085, because of legitimate and documented concerns about leachate, generation of methane, and past disposal practices.

Depending on the development in this area, there may be a need for a submittal of a “Development at Historic Fill Site or Licensed Landfill – Exemption Application” (Forms 4400-226 and 226A) that documents and supports the proposed development.

- An exemption most likely will not be necessary
  - If non-structural development (such as parks or open space) in which the existing cap and underlying wastes are not disturbed
  - If a new or additional cover is to be placed solely for the purposes of remediation under WAC ch. NR 700 rule series, and the existing cover and waste are not disturbed
- An exemption request will likely be necessary:
  - With establishment or construction of any buildings over the waste disposal area
  - Excavation of the cover or any waste materials
  - If additional cover is to be placed over buried waste for the purpose of development or construction, such as soils, asphalt, or concrete
  - Should it be necessary to excavate an existing cover or waste in order to install a cover solely for the purposes of remediation, then an exemption is required and can be incorporated into the remediation approval.
  - Building a structure next to a landfill that is producing methane could expose the structure to a public safety concern.

Depending on redevelopment plans, a conversation with WDNR personnel should probably take place to verify if an exemption request is needed or not. If it is, fieldwork and reporting costs are included.

**Cost Estimate Fieldwork = \$10,200**

**Cost Estimate Reporting = \$10,400**

**Task 11: Remedial Action: Soil Excavation/Grading Oversight (15 days)**

Fehr Graham has assumed to be onsite for 15-business days during soil excavation, grading, backfilling, and soil cap construction activities working under the guidelines of the SMP.

**Cost Estimate = \$22,600**

**Task 12: Construction Oversight and Vapor Barrier Assistance (Assume 10 days)**

Fehr Graham can be onsite for construction oversight of the installation of the subgrade vapor mitigation system should questions arise from Fehr Graham’s “Vapor Mitigation Design” document.

**Cost Estimate = \$15,700**

**Task 13: Monitor Imported Fill and Backfill Testing/Oversight for Soil Cover (Assume 15 days)**

Based on data obtained, a large portion of the site is contaminated within 4-feet of ground surface above WDNR direct contact Residual Contaminant Levels. Per the preliminary design plans, this contaminated area is proposed to be greenspace. If it is to be greenspace, per WDNR RR-709, soil covers may be used to prevent direct contact exposure to contaminated soils. However, a 2-foot thickness of clean soil should be placed over the contaminated soil. Soil covers should be vegetated

to prevent erosion and deterioration. Therefore, at least 6 inches of topsoil, with appropriate seeding or sod, to establish a good growth of grass should be placed on top of the clean soil (i.e., 2.5-feet of clean soil will need to be placed on top of most the current greenspace areas). If topsoil is used, then consideration can be given to reducing the minimum thickness of the clean soil, so plans will be to place 18-inches of clean soil across the Property with an additional 6-inches of topsoil on top of that (2 feet total) and then property seeded or sodded.

The clean backfill material will be mostly imported. The only sure way to prevent contamination of a site by fill is by practicing good management of fill which requires meticulous recordkeeping and careful selection of service providers, as well as following a program that ensures it is truly “clean” fill. This program includes: testing, recordkeeping and constant surveillance. Improperly sourced or monitored fill may contain unwanted contamination, which could potentially pollute the development site.

Acceptance of clean fill at a site requires environmental management to ensure the quality and consistency of the entire batch of clean fill. The General Contractor is recommended to find an acceptable source of clean fill, free of environmental contamination, close to intended use area that is reasonably priced.

To assure the fill is clean, Fehr Graham will sample the imported fill for VOCs, PAHs, PCBs and RCRA metals. The WDNR encourages sampling frequency consistent with s. NR 718.12, WAC, when sampling is performed to determine whether soil can be classified as clean soil. Section NR 718.12, WAC states, "The sampling frequency is one sample for every 100 cubic yards of contaminated soil for the first 600 cubic yards with a minimum of two samples being collected and, for volumes of contaminated soil that exceed 600 cubic yards, one sample for each additional 300 cubic yards." Fehr Graham is estimating approximately 2,500 cubic yards of fill at this time. That would equate to 13 soil samples to assure the backfill material for the soil cover is “clean.”

**Cost Estimate = \$22,600**

#### **Task 14: Remedial Action Documentation (RAD) Reporting**

This report will describe the results of the remedial excavation activities that were completed at the site pursuant to Chapter NR 724. The WDNR will be contacted to discuss the findings from this report. It is expected that upon completion of the site, with continued favorable groundwater contaminant trends, case closure can be pursued after the submittal of this report.

**Cost Estimate = \$9,700**

#### **Task 15: Closure Reporting**

After Property redevelopment is complete, and if the data supports it, a closure report will be submitted to WDNR. The WDNR will then request additional information if needed or issue a conditional closure letter.

**Cost Estimate = \$13,200**

If conditional closure is issued, the monitoring wells will be abandoned and well abandonment forms will be submitted to WDNR. Upon acceptance of these forms, the WDNR will then issue a final case closure letter which may or may not require continuing obligations.

**Cost Estimate = \$3,500**

## **EXCLUSIONS – NOT INCLUDED IN SCOPE**

- Soil Disposal Costs
- Soil Cover System Costs
- Vapor Mitigation Construction and Materials Costs
- Soil borings or groundwater samples beyond the planned 12 borings and seven rounds of 16 groundwater samples
- UST Removal and Tank System Site Assessment(s)
- Investigative Soil Waste Removal
- Additional Reporting or WDNR Report Review Fees Beyond This Scope
- Off-Site Liability Exemption Application

## **COMMODITY COSTS**

### **Laboratory analysis**

- |   |                            |
|---|----------------------------|
| » Soil - Soil Borings = \$7,500                         | » River Sediment = \$1,300 |
| » Soil - Imported Fill (est. 2,500 cubic yards) \$4,100 | » Groundwater = \$34,100   |
|   | » Surface Water = \$1,200  |

### **Drilling**

**Geoprobe Driller = \$8,600**

### **Groundwater Drums and Disposal**

**Cost Estimate = \$2400**

## **FEES**

Fehr Graham will conduct the services outlined above for a total estimated cost of \$286,000.

## **AUTHORIZATION**

I hope this proposal meets your needs. If you have any questions and would like to discuss further, please reach out to me at this office. If you would like to move forward with the work described herein, please sign the attached service agreement and return to me. We look forward to working with you.

Thank you,



Matt Dahlem, PG  
Branch Manager



**AGREEMENT  
FOR PROFESSIONAL SERVICES**

Client        Que El-Amin  
                 Scott Crawford, Inc.  
                 4201 N. 27th Street  
                 Milwaukee, WI 53216

414.678.1723

Description of Services:

**Scott Crawford, Inc. - Bright Horizons Property - Environmental Work Through Closure**

Fehr Graham to complete the scope of services as outlined in the proposal dated September 24, 2021, included herein.

COST:

The fixed fee for performing the above services is \$286,000.

The attached General Conditions are incorporated into and made a part of this Agreement.

ACCEPTED AND AGREED TO:

I/we, the undersigned, authorize Fehr Graham to provide services as outlined above, and also agree that I/we are familiar with and **ACCEPT THE TERMS OF THE ATTACHED GENERAL CONDITIONS.**

CLIENT:

CONSULTANT:

Signature \_\_\_\_\_

By  \_\_\_\_\_

Name \_\_\_\_\_

Name        Ken R. Thompson

Title \_\_\_\_\_

Title        Principal

Date Accepted \_\_\_\_\_

Date Proposed        September 24, 2021

## GENERAL CONDITIONS TO AGREEMENT FOR PROFESSIONAL SERVICES

1. The Client requests the professional services of Fehr Graham hereinafter called "The Consultant" as described herein.
2. The Consultant agrees to furnish and perform the professional service described in this Agreement in accordance with accepted professional standards. Consultant agrees to provide said services in a timely manner, provided, however, that Consultant shall not be responsible for delays in completing said services that cannot reasonably be foreseen on date hereof or for delays which are caused by factors beyond his control or delays resulting from the actions or inaction of any governmental agency. Consultant makes no warranty, expressed or implied, as to his findings, recommendations, plans and specifications or professional advice except that they were made or prepared in accordance with the generally accepted engineering practices.
3. It is agreed that the professional services described in the Agreement shall be performed for Client's account and that Client will be billed monthly for said services. A 1½% per month service charge will be incurred by Client for any payment due herein and not paid within 30 days of such billing which is equal to an ANNUAL PERCENTAGE RATE OF 18%. Partial payments will be first credited to the accrued service charges and then to the principal.
4. The Client and the Consultant each binds himself, his partners, successors, executors, and assigns to the other party to this agreement and to the partners, successor, executors, and assigns of such other party in respect to this agreement.
5. The Client shall be responsible for payment of all costs and expenses incurred by the Consultant for his account, including any such monies that the Consultant may advance for Client's account for purposes consistent with this Agreement.
6. The Consultant reserves the right to withdraw this Agreement if not accepted within 30 days.
7. A claim for lien will be filed within 75 days of the date of an invoice for services (last day of services rendered) unless the account is paid in full or other prior arrangements have been made. All attorney fees incurred by the Consultant due to the filing of said lien or the foreclosure thereof shall be borne by the Client.

In the event suit must be filed by Consultant for the collection of fees for services rendered, Client will pay all reasonable attorney's fees and court costs.

If Client defaults in payment of fees or costs due under the terms of this Agreement and Consultant incurs legal expenses as a result of such failure, Client shall be responsible for payment for Consultant's reasonable attorney fees and costs so incurred.

8. The Consultant shall present, for the consideration of the Client, engineering and technical alternatives, based upon its knowledge and experience in accordance with accepted professional standards, with selection of alternatives and final decisions as requested by the client to be the sole responsibility of the Client.
9. Construction Phase Activities (When applicable) - In connection with observations of the work of the Contractor(s) while it is in progress the Consultant shall make visits to the site at intervals appropriate to the various stages of construction as the Consultant deems necessary in Agreement to observe as an experienced and qualified design professional the progress and quality of the various aspects of the Contractor(s)' work. Based on information obtained during such visits and on such observation, the Consultant shall endeavor to determine in general if such work is proceeding in accordance with the Contract Documents and the Consultant shall keep the Client informed of the progress of the work.

The purpose of the Consultant's visits to the site will be to enable the Consultant to better carry out the duties and responsibilities assigned to and undertaken by the Consultant during the Construction Phase, and, in addition, by exercise of the Consultant's efforts as an experienced and qualified design professional, to provide for the Client a greater degree of confidence that the completed work of the Contractor(s) will conform generally to the Contract Documents and that the integrity of the design concept as reflected in the Contract Documents has been implemented and preserved by the Contractor(s). The Consultant shall not, during such visits or as a result of such observations of Contractor(s)' work in progress, supervise, direct or have control over Contractor(s)' work nor shall the Consultant have authority over or responsibility for the means, methods, techniques, sequences, or procedures of construction selected by Contractor(s), for safety precautions and programs incident to the work of Contractor(s) or for any failure of Contractor(s) to comply with laws, rules, regulations, ordinances, codes, or orders applicable to Contractors(s) furnishing and performing their work. Accordingly, the Consultant can neither guarantee the performance of the construction contracts by Contractor(s) nor assume responsibility for Contractor(s)' failure to furnish and perform their work in accordance with the Contract Documents.

10. Estimates of Fees – When fees are on a time and material basis the estimated costs required to complete the services to be performed are made on the basis of the Consultant's experience, qualifications, and professional judgment, but are not guaranteed. If the costs appear likely to exceed the estimate in excess of 20%, the Consultant will notify the Client before proceeding. If the Client does not object to the additional costs within seven (7) days of notification, the increased costs shall be deemed approved by the Client.
11. The Consultant is responsible for the safety on site of his own employees. This provision shall not be construed to relieve the Client or the Contractor(s) from their responsibility for maintaining a safe work site. Neither the professional services of the Consultant, nor the presence of his employees or subcontractors shall be construed to imply that the Consultant has any responsibility for any activities on site performed by personnel other than the Consultant's employees or subcontractors.
12. Original survey data, field notes, maps, computations, studies, reports, drawings, specifications and other documents generated by the Consultant are instruments of service and shall remain the property of the Consultant. The Consultant shall provide copies to the Client of all documents specified in the Description of Services.

Any documents generated by the Consultant are for the exclusive use of the Client and any use by third parties or use beyond the intended purpose of the document shall be at the sole risk of the Client. To the fullest extent permitted by law, the Client shall indemnify, defend and hold harmless the Consultant for any loss or damage arising out of the unauthorized use of such documents.

13. No claim may be asserted by either party against the other party unless an action on the claim is commenced within two (2) years after the date of the Consultant's final invoice to the Client.
14. If a Client's Purchase Order form or acknowledgment or similar form is issued to identify the agreement, authorize work, open accounts for invoicing, provide notices, or document change orders, the preprinted terms and condition of said Purchase Order shall be superseded by the terms hereof.
15. Standard of Care – Services performed by Consultant under this agreement will be conducted in a manner consistent with that level of care and skill ordinarily exercised by members of the profession currently practicing under similar conditions. No other representation expressed or implied, and no warranty or guarantee is included or intended in any report, opinion or document under this agreement.
16. Liability Insurance – Consultant will maintain such liability insurance as is appropriate for the professional services rendered as described in this Agreement. Consultant shall provide Certificates of Insurance to Client, upon Client's request, in writing.
17. Indemnification and Limitation of Liability – Client and Consultant each agree to indemnify and hold the other harmless, including their respective officers, employees, agents, members, and representatives, from and against liability for all claims, costs, losses, damages and expense, including reasonable attorney's fees, to the extent such claims, losses, damages or expenses are caused by the indemnifying party's acts, errors or omissions.

The Client understands that for the compensation herein provided Consultant cannot expose itself to liabilities disproportionate to the nature and scope hereunder. Therefore, the Client agrees to limit Consultant's liability to the Client arising from Consultant's professional acts, errors or omissions, such that the total aggregate liability of Consultant shall not exceed \$50,000 or Consultant's total fee for services rendered on this Project, whichever is less.

18. Allocation of Risk – Consultant and Client acknowledge that, prior to the start of this Agreement, Consultant has not generated, handled, stored, treated, transported, disposed of, or in any way whatsoever taken responsibility for any toxic substance or other material found, identified, or as yet unknown at the Project premises. Consultant and Client further acknowledge and understand that the evaluation, management, and other actions involving toxic or hazardous substances that may be undertaken as part of the Services to be performed by Consultant, including subsurface excavation or sampling, entails uncertainty and risk of injury or damage. Consultant and Client further acknowledge and understand that Consultant has not been retained to serve as an insurer of the safety of the Project to the Client, third parties, or the public.

Client acknowledges that the discovery of certain conditions and/or taking of preventative measures relative to these conditions may result in a reduction of the property's value. Accordingly, Client waives any claim against Consultant and agrees to indemnify, defend, and hold harmless Consultant and its subcontractors, consultants, agents, officers, directors, and employees from any claim or liability for injury or loss allegedly arising from procedures associated with environmental site assessment (ESA) activities or the discovery of actual or suspected hazardous materials or conditions. Client releases Consultant from any claim for damages resulting from or arising out of any pre-existing environmental conditions at the site where the work is being performed which was not directly or indirectly caused by and did not result from, in whole or in part, any act or omission of Consultant or subcontractor, their representatives, agents, employees, and invitees.

If, while performing the Services set forth in any Scope of Services, pollutants are discovered that pose unanticipated or extraordinary risks, it is hereby agreed that the Scope of Services, schedule, and costs will be reconsidered and that this Agreement shall immediately become subject to renegotiation or termination. Client further agrees that such discovery of unanticipated hazardous risks may require Consultant to take immediate measures to protect health and safety or report such discovery as may be required by law or regulation. Consultant shall promptly notify Client upon discovery of such risks. Client, however, hereby authorizes Consultant to take all measures Consultant believes necessary to protect Consultant and Client personnel and the public. Furthermore, Client agrees to compensate Consultant for any additional costs associated with such measures.

19. In the event of legal action to construe or enforce the provisions of this agreement, the prevailing party shall be entitled to collect reasonable attorney fees, court costs and related expenses from the losing party and the court having jurisdiction of the dispute shall be authorized to determine the amount of such fees, costs and expenses and enter judgment thereof.
20. Termination – The obligation to provide further services under this Agreement may be terminated by either party upon seven (7) days written notice in the event of substantial failure by the other party to perform in accordance with the terms hereof through no fault of the terminating party. In the event of any termination, Consultant will be paid for all services rendered to the date of receipt of written notice of termination, at Consultant's established chargeout rates, plus for all Reimbursable Expenses including a 15% markup.
21. Provision Severable – The unenforceability or invalidity of any provisions hereof shall not render any other provisions herein contained unenforceable or invalid.
22. Governing Law and Choice of Venue – Client and Consultant agree that this Agreement will be governed by, construed, and enforced in accordance with the laws of the State of Wisconsin. If there is a lawsuit, Client and Consultant agree that the dispute shall be submitted to the jurisdiction of the Wisconsin District Court in and for Green County, Wisconsin.