

AGREEMENT #14086 FOR ENGINEERING SERVICES

This AGREEMENT is entered into by and between Lake County (County) and Christopher B. Burke Engineering, LTD, 9575 West Higgins Road, Rosemont, IL 60018 (hereafter "Engineer").

RECITALS

WHEREAS, Lake County is seeking an Engineer to provide Engineering services for

PW#2012.054 Excess Flow Facility Improvements at the Round Lake Sanitary District (RLSD) Site as described in Attachment A; and

WHEREAS, the Engineer is a professional provider of Engineering services; and

NOW, THEREFORE, Lake County and the Engineer AGREE AS FOLLOWS:

SECTION 1. AGREEMENT DOCUMENTS

This AGREEMENT constitutes the entire agreement between the County and the Engineer.

SECTION 2. SCOPE OF SERVICES

The Engineer shall provide engineering services described in Attachment A.

SECTION 3. DURATION

The work shall be completed within See Attachment A days after execution of this Agreement.

SECTION 4. INDEMNIFICATION

The Engineer agrees to indemnify, save harmless and defend the County, their agents, servants, and employees, and each of them against and hold it and them harmless from any and all lawsuits, claims, demands, liabilities, losses and expenses, including court costs and attorney's fees, for or on account of any injury to any person, or any death at any time resulting from such injury, or any damage to property, which may arise or which may be alleged to have arisen out of Engineer's negligent acts in connection with the services covered by this Agreement. The foregoing indemnity shall apply except if such injury, death or damage is caused directly by the willful and wanton conduct of the County, their agents, servants, or employees or any other person indemnified hereunder.

SECTION 5. INSURANCE

The Engineer must obtain, for the Contract term and any extension of it, insurance issued by a company or companies qualified to do business in the State of Illinois and provide the County with evidence of insurance. Insurance in the following types and amounts is necessary:

- **Worker's Compensation Insurance** covering all liability of the Engineer arising under the Worker's Compensation Act and Worker's Occupational Disease Act at statutory limits.
- **Professional Liability** to include, but not be limited to, coverage for Errors and Omissions to respond to claims for loss there from.
 - **General Aggregate Limit** \$3,000,000
 - **Each Occurrence Limit** \$1,000,000
- **Automobile Liability:**
 - **Bodily Injury, Property Damage (Each Occurrence Limit)** \$1,000,000

Engineer agrees that with respect to the above required Automobile Liability insurance, Lake County shall:

- Be named as additional insured by endorsement to the extent of the negligence of the Engineer;
- Be provided with thirty (30) days notice, in writing, of cancellation of material change;
- Be provided with Certificates of Insurance evidencing the above required insurance, prior to commencement of this Contract and thereafter with certificates evidencing renewals or replacements of said policies of insurance at least fifteen (15) days prior to the expiration of cancellation of any such policies. Forward Notices and Certificates of Insurance to: Lake County Central Services, 18 N. County St, Waukegan, IL 60085-4350.

SECTION 6. AGREEMENT PRICE

Lake County will pay to the Engineer the amount not to exceed \$ 249,700.00.

SECTION 7. INVOICES & PAYMENT

Invoices may be submitted for work performed on a monthly basis based upon the percent of work completed in the amount not-to-exceed in Section 6. Submit invoice(s) detailing the services provided. Payments shall be made in accordance with the Local Government Prompt Payment Act.

Engineer will address Invoices to:

Lake County Public Works
 650 West Winchester Road
 Libertyville, IL 60048-1391
 Attn: David Humbert

County will make Payments to:

Christopher B. Burke Engineering, LTD.
 9575 West Higgins Road
 Rosemont, IL 60018

SECTION 8. STATEMENT OF OWNERSHIP

The drawings, specifications and other documents prepared by the Engineer for this Project are the property of the County, and Engineer may not use the drawings and specifications for any purpose not relating to the Project without the County's consent, except for the Engineer's services related to this Project. All such documents shall be the property of the County who may use them without Engineer's permission for any current or future Lake County project; provided, however, any use except for the specific purpose intended by this Agreement will be at the County's sole risk and without liability or legal exposure to the Engineer.

The Engineer shall retain its copyright and ownership rights in its design, drawing details, specifications, data bases, computer software, and other proprietary property. Intellectual property developed, utilized, or modified in the performance of the services shall remain the property of the Engineer.

SECTION 9. TERMINATION

The County reserves the right to terminate this Agreement, or any part of this Agreement, upon thirty(30) days written notice. In case of such termination, the Engineer shall be entitled to receive payment from the County for work completed to date in accordance with terms and conditions of this Agreement. In the event that this Agreement is terminated due to Engineer's default, the County shall be entitled to contract for consulting services elsewhere and charge the Engineer with any or all losses incurred, including attorney's fees and expenses.

SECTION 10. JURISDICTION, VENUE, CHOICE OF LAW

This Agreement shall be governed by and construed according to the laws of the State of Illinois. Jurisdiction and venue shall be exclusively found in the 19th Judicial Circuit Court, State of Illinois.

SECTION 11. INDEPENDENT CONTRACTOR

The Engineer is an independent contractor and no employee or agent of the Engineer shall be deemed for any reason to be an employee or agent of the County.

SECTION 12. WARRANTIES

The Engineer represents and warrants to the County that none of the work included in this contract will in any way infringe upon the property rights of others. The Engineer shall defend all suits or claims for Engineer's infringement of any patent, copyright or trademark rights and shall hold the County harmless from loss on account thereof.

SECTION 13. ASSIGNMENT

Neither the Engineer nor the County shall assign any duties of performance under this Agreement without the express prior written consent of the other.

SECTION 14. MODIFICATION

This Agreement may be amended or supplemented only by an instrument in writing executed by the party against whom enforcement is sought.

SECTION 15. DISPUTE RESOLUTION

All issues, claims, or disputes arising out of this Agreement shall be resolved in accordance with the Appeals and Remedies Provisions in Article 9 of the Lake County Purchasing Ordinance.

SECTION 16. NO IMPLIED WAIVERS

The failure of either party at any time to require performance by the other party of any provision of this Agreement shall not affect in any way the full right to require such performance at any time thereafter. Nor shall the waiver by either party of a breach of any provision of this Agreement be taken or held to be a waiver of the provision itself.

SECTION 17. SEVERABILITY

If any part of this Agreement shall be held to be invalid for any reason, the remainder of this Agreement shall be valid to the fullest extent permitted by law.

SECTION 18. CHANGE IN STATUS

The Engineer shall notify the County promptly of any change in its status resulting from any of the following: (a) vendor is acquired by another party; (b) vendor becomes insolvent; (c) vendor, voluntary or by operation law, becomes subject to the provisions of any chapter of the Bankruptcy Act; (d) vendor ceases to conduct its operations in normal course of business. The County shall have the option to terminate this Agreement with the Engineer immediately on written notice based on any such change in status.

SECTION 19. DELIVERABLES

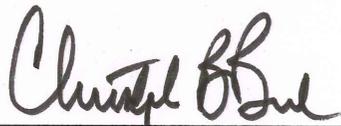
The Engineer shall provide deliverables as identified in Attachment A.

IN WITNESS HEREOF, the undersigned have caused this Agreement to be executed in their respective names on the dates hereinafter enumerated.

Lake County:

Christopher B. Burke Engineering, LTD:

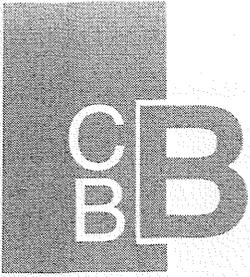
Peter E. Kolb
Director
Lake County Public Works



Christopher B. Burke, PhD, PE
President

Date: _____

Date: 2/24/14



CHRISTOPHER B. BURKE ENGINEERING, LTD.
9575 West Higgins Road Suite 600 Rosemont, Illinois 60018 TEL (847) 823-0500 FAX(847) 823-0520

ATTACHMENT A

January 9, 2014

Lake County Public Works Department
650 West Winchester Road
Libertyville, IL 60048-1391

Attention: Peter Kolb
Director

Subject: Proposal for Professional Engineering Services for
Round Lake Sanitary District – Excess Flow Facility Improvements
Engineering Services During Construction Proposal

Dear Mr. Kolb:

In response to your request, Christopher B. Burke Engineering Ltd. (CBBEL) is submitting this Proposal for Professional Engineering Services During Construction for the **Round Lake Sanitary District – Excess Flow Facility Improvements**. Included below is our Understanding of the Assignment, Scope of Services, and Engineering Fee.

UNDERSTANDING OF THE ASSIGNMENT

CBBEL is well qualified to provide Engineering Services During Construction for the **Round Lake Sanitary District – Excess Flow Facility Improvements** project. CBBEL has provided engineering services for the County for the planning and design of the proposed improvements and from this background we have invaluable knowledge of the project site and its history, the stakeholders and the design of the improvements. Our Construction Engineering Department has over 20 staff members that are experienced in all aspects required for the construction of the **Excess Flow Facility Improvements** project including surveying, civil, mechanical, electrical and environmental disciplines. We have provided engineering services during construction on several recent IEPA loan funded projects.

This proposal is for proposed services during construction. Engineering services during construction are eligible for reimbursement under the loan program pending IEPA's approval of those services.

SCOPE OF SERVICES

CBBEL will provide construction observation services per the following tasks:

Task 1 – Meetings: CBBEL will attend:

- Pre-award meeting
- Preconstruction meeting for purposes of reviewing Contractor's construction schedule and sequence(s) including demolition techniques; listing of materials and equipment submittals; general correspondence procedures; site access; staging areas required (on and off site); traffic control; subcontractors; submittals for payment. Shop drawing review procedures will also be discussed and in particular the Contractor will be advised that material and equipment are not to be installed prior to completion of the shop drawing review process.
- Contractor's weekly progress meetings
- NW TAC meetings

Task 2 – Shop Drawing and O&M Manual Review: CBBEL will provide services to review information and data submitted by the Contractor. Services will include the following:

- Log all Contractor data received and maintain a log book of shop drawings and submissions so as to track the status of submittals.
- Review Contractor's submittals for compliance with the intent of the Contract Documents.
- Prepare shop drawing review correspondence providing Contractor with our review comments.
- Notify the County of deficiencies, deviations or substitutions. With the notification, provide the County with an opinion for acceptance or denial, and request direction from the County regarding deviation or substitution.
- Advise the County when disapprovals may be necessary due to failing to conform to the Contract Documents.
- Review Contractor's O&M Manuals for conformance with IEPA requirements

Task 3A – Construction Observation – Office Activities:

CBBEL will provide engineering office services to perform the following duties:

Office:

- Provide office support related to interpretation of Contract Documents.
- Maintain office files of project correspondence, payment requests and change orders.
- Provide clarification(s) related to the intent of the Contract Documents.
- Prepare payment requisitions and change orders for the County and IEPA approval, review applications for payment with the Contractor for compliance with established procedures (under the SRLP) for their submission and forward them with recommendations to the County and IEPA for processing.
- Upon the Contractor's completion of its contract duties, prepare recommendation for final payment and project approval.

Task 3B – Construction Observation – Field Activities:

CBBEL will provide a part time Resident Engineer (RE) to support the County's full-time observer on site and CBBEL will perform the following duties:

Field:

- When present on site, observe the progress and quality of the executed work and determine if the work is proceeding in accordance with the Contract Documents. The Resident Engineer will keep the County informed of the progress of the work.
- Review the Contractor's schedule at construction conferences, and compare actual progress of work to Contractor's proposed construction schedule.
- Review Contractor's procedure for maintaining record drawings and field changes which may occur during the course of work.
- Maintain orderly files for correspondence, reports of job conferences, shop drawings and other submissions, reproductions or original Contract Documents including all addends, change orders and additional drawings issued subsequent to the award of the contract.
- Record the names, addresses and phone numbers of all contractors, subcontractors and major material suppliers in a field diary.
- For days in which the RE is present on site, keep a daily report book, which shall contain a daily report and quantity of hours on the job site, weather conditions, list of visiting officials, daily activities, job decisions and observations as well as general and specific observations and job progress.
- Prior to final walk through, submit to the Contractor a list of observed items (punch list) requiring correction.
- Verify that punch list items have been addressed and corrections have been made.
- Coordinate and conduct the final walk through with the County, prepare a final punch list (if required).
- Verify that all the items on the final punch list have been corrected and make recommendations to the County concerning acceptance of the project.
- Except upon written instructions of the County, the Resident Engineer or subconsultant Inspector shall not authorize any deviation from the Contract Documents.
- Determine if the project has been completed in accordance with the Contract Documents and that the Contractor has fulfilled all of their obligations.

PROJECT SCHEDULE

Tasks 1, 2, 3A and 3B will be provided in conjunction with the Award, the Contract Time allowance and Contractor's performance of the Construction Contract.

IEPA PROFESSIONAL SERVICES COMPLIANCE REQUIREMENTS
FROM SECTION 365.630 - CONTRACTS FOR PERSONAL AND PROFESSIONAL
SERVICES
TITLE 35 OF THE ILLINOIS ADMINISTRATIVE CODE
SUBTITLE C, CHAPTER II, PART 365

CBBEL agrees to audits and provision of access to records as follows:

Books, records, documents and other evidence directly pertinent to performance of WPCLP loan work under this engineering services agreement shall be maintained in accordance with generally accepted accounting principles. The Illinois Environmental Protection Agency or any of its authorized representatives shall have access to the books, records, documents and other evidence for the purpose of inspection, audit and copying. Facilities shall be provided for access and inspection of books, records, documents and other evidence.

Any audits conducted pursuant to Water Pollution Control Loan Program (WPCLP) loan work under this engineering services agreement shall be in accordance with auditing standards generally accepted in the United States of America.

All information and reports resulting from access to records pursuant to WPCLP loan work under this engineering services agreement shall be disclosed to the Agency. The auditing agency shall afford the engineer an opportunity for an audit exit conference and an opportunity to comment on the pertinent portions of the draft audit report. The final audit report shall include the written comments, if any, of the audited parties.

Records shall be maintained and made available during performance of project services under this agreement and for 3 years after the final loan closing. In addition, those records that relate to any dispute pursuant to Section 365.650 (Disputes) of Title 35 of the Illinois Administrative Code, Subtitle C, Chapter II, Part 365, litigation, the settlement of claims arising out of project performance, costs or items to which an audit exception has been taken shall be maintained and made available for 3 years after the resolution of the appeal, litigation, claim or exception.

Covenant against contingent fees clause:

CBBEL warrants that no person or selling agency has been employed or retained to solicit or secure this contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bonafide employees. For breach or violation of this warranty, the loan recipient shall have the right to annul this agreement without liability or in its discretion to deduct from the contract price or consideration or otherwise recover the full amount of such commission, percentage, brokerage, or contingent fee.

Certification Regarding Debarment:

A completed "Certification Regarding Debarment, Suspension, and Other Responsibility Matters" (EPA Form 5700-49) showing compliance with federal Executive Order 12549 (Appendix A, Exhibit C) is an attachment to this engineering services agreement.

Scope of the Engineering Services:

The Scope of engineering services to be performed under the Engineering Agreement is detailed in this agreement under the heading – **Scope of Services.**

Project Schedule:

The schedule for the engineering services to be performed under the Engineering Agreement is detailed in this agreement under the heading – **Project Schedule**.

Compensation:

The compensation for the engineering services to be performed under the Engineering Agreement is detailed above in this agreement under the heading – **Engineering Fee**.

DBE Affirmative Action:

CBBEL acknowledges that disadvantaged business enterprises are to be utilized when possible as sources of supplies, equipment, construction and services in accordance with the Clean Water Loan Program rules. As required by the award conditions of United States Environmental Protection Agency's (USEPA's) Assistance Agreement with IEPA, CBBEL acknowledges that the fair share percentages are 5% for Disadvantaged Business Enterprise (DBE) and 12% for Women's Business Enterprise (WBE). Because none of the professional services to be performed under this agreement are to be sub-contracted and because the fee for the professional services is below the \$25,000 threshold, CBBEL does not anticipate participation of DBE or WBE companies for providing the professional services detailed in the **Scope of Services**.

Non-Discrimination:

CBBEL shall not discriminate on the basis of race, color, national origin or sex in the performance of this contract. CBBEL shall carry out applicable requirements of 40 CFR Part 33 in the award and administration of contracts awarded under Environmental Protection Agency financial assistance agreements. Failure by CBBEL to carry out these requirements is a material breach of this contract which may result in termination of this contract or other legally available remedies.

ENGINEERING FEE

CBBEL proposes to provide the proposed Engineering Services defined under the Scope of Services, for the amounts as indicated below.

<i>Professional Engineering Services During Construction</i>	
Task	Fee
Task 1 - Meetings	\$46,400.00
Task 2 – Shop Drawings and O&M Manuals Review	\$50,700.00
Task 3A – Construction Observation - Office Services	\$55,100.00
Task 3B – Construction Observation – On Site Services	\$90,500.00
Direct Costs	\$7,000.00
Total	\$249,700.00

We will bill you at the hourly rates specified on the attached Schedule of Charges for Professional Services and establish our contract in conformance with the attached General Terms and Conditions, both of which are expressly incorporated into and are an integral part of this contract for Professional Engineering Services. The Scope of Services described above and related fee estimate are based upon information known to date. It shall be understood that CBBEL shall be allowed the opportunity to adjust our fee as additional information about this project is obtained and/or our level of participation increases beyond that for which we have budgeted. Engineering services performed for tasks not included in the proposal and/or beyond customary engineering efforts shall be billed to you on a time and materials basis.

Please sign and return one copy of this agreement as an indication of acceptance and notice to proceed. Please feel free to contact us anytime.

Sincerely,



Christopher B. Burke, PhD, PE, D.WRE, F.ASCE
President

MEE/mee/pjb

Encl.: Schedule of Charges

N PROPOSALS\ADMIN\2014\LCPWD-RLSDExcessFlowEngineeringServicesDuringConstruction.010914.docx

CHRISTOPHER B. BURKE ENGINEERING, LTD.
STANDARD CHARGES FOR PROFESSIONAL SERVICES
JANUARY, 2014

<u>Personnel</u>	<u>Charges*</u> <u>(\$/Hr)</u>
Principal	248
Engineer VI	217
Engineer V	179
Engineer IV	143
Engineer III	129
Engineer I/II	102
Survey V	200
Survey IV	169
Survey III	144
Survey II	104
Survey I	81
Resource Planner V	112
Resource Planner IV	108
Resource Planner III	100
Resource Planner I/II	88
Engineering Technician V	169
Engineering Technician IV	137
Engineering Technician III	123
Engineering Technician I/II	100
CAD Manager	149
Assistant CAD Manager	130
CAD II	129
CAD I	101
GIS Specialist III	124
GIS Specialist I/II	69
Landscape Architect	143
Environmental Resource Specialist V	183
Environmental Resource Specialist IV	141
Environmental Resource Specialist III	118
Environmental Resource Specialist I/II	97
Environmental Resource Technician	93
Administrative	92
Engineering Intern	55
Survey Intern	53
Information Technician III	109
Information Technician I/II	100

Direct Costs

Outside Copies, Blueprints, Messenger, Delivery Services, Mileage Cost + 12%

*Charges include overhead and profit

Christopher B. Burke Engineering, Ltd. reserves the right to increase these rates and costs by 5% after December 31, 2014.