

**#20038**  
**AGREEMENT FOR PROFESSIONAL SERVICES**  
**For LAKE COUNTY**

This AGREEMENT is entered into by and between Lake County ("County") and Syska Hennessy Group ("Consultant"), 330 N. Wabash, Suite 1505, Chicago, IL 60611-3605.

**RECITALS**

WHEREAS, Lake County is seeking a Consultant to provide services for LED Lighting Replacement for the Babcox Justice Center as noted in the Consultant's proposal dated January 22, 2020, ("Services"); and

WHEREAS, Consultant has the professional expertise and credentials to provide these Services and has agreed to assume responsibility for this Agreement.

NOW, THEREFORE, Lake County and Consultant agree as follows:

**SECTION 1. AGREEMENT DOCUMENTS**

The Agreement Documents that constitute the entire Agreement between Lake County and Consultant are in order of precedence:

- A. This Agreement and all exhibits thereto; and,
- B. Consultant's proposal and all exhibits thereto, including statement of work, dated January 22, 2020.

**SECTION 2. SCOPE OF WORK**

Consultant understands the project is located in Lake County Babcox Justice Center in Waukegan, Illinois. Consultant understands that Lake County needs A/E services for this project. The following is the Consultants understanding of the scope for the project.

1. The project is a replacement of existing older technology lighting with new, energy efficient LED lighting at the following locations within the Babcox Jail Facility:
  - a. A portion of the 2nd floor detention area including the Library area, Classrooms and Housing.
  - b. All of the lighting on floors 3 through 6 including the mezzanine spaces.
  - c. Total affected area for the base scope is approximately 117,000 SF.
  - d. As an alternate task item, the Records area of the 2nd floor and a portion of the Basement Utility and Storage areas totaling approximately 24,500 SF.
  - e. The exact areas included within the scope of work are highlighted in the Babcox drawing package dated January 7, 2020 and received via email.
2. A basis of design for the LED lighting replacement products was furnished as part of the request for proposal. We will use this as a guide to develop the specifications and quality for the replacement lighting products.
3. The County will also pursue energy rebates through the ComEd Energy Efficiency Program. Our services will include assisting the County with the documentation and filing of the appropriate documents to facilitate the rebate process.
4. The project budget is approximately \$1.5 million.
5. The project delivery method for Architectural Lighting Design shall be a traditional public bid, design/bid/build approach. However, the County may elect to procure the project through an alternate process. This could be part of an ID/IQ or maintenance project. We will include a deductive alternate if the County elects to pursue this approach.
6. The project will be constructed through a single permit package.

7. The project will not pursue sustainable building programs and certifications such as LEED, Well or LBC.

### **SECTION 3. DURATION**

This Agreement shall be effective as of the date Lake County gives Consultant notice to proceed, and unless terminated pursuant to Section 15 shall be effective until the date the work is complete.

The work is complete upon a determination of completion by Lake County. A determination of completion shall not constitute a waiver of any rights or claims which Lake County may have or thereafter acquire with respect to any provision of this Agreement.

At the end of the Agreement term Lake County reserves the right to extend the Agreement for an additional period up to sixty (60) days.

### **SECTION 4. AGREEMENT PRICE**

The County will pay Consultant a fee of \$129,180 for deliverables as identified in Consultant's proposal dated January 22, 2020 and will bill the County not more than once per month based upon the actual expense reimbursement.

### **SECTION 5. INVOICES & PAYMENT**

- A. A purchase order will be issued for the work and Consultant shall submit invoice(s) detailing the products and services provided and identify the purchase order number on all invoices.
- B. Consultant shall maintain records showing actual time devoted and cost incurred. Consultant shall permit a representative from Lake County to inspect and audit all data and records of Consultant for work and/or services provided under this Agreement. Consultant shall make these records available at reasonable times during the Agreement period and for one year after the termination of this Agreement.
- C. All payments shall be made in accordance with the Illinois Local Government Prompt Payment Act (50 ILCS 505/1 et seq.).

### **SECTION 6. CHANGE ORDERS**

In the event changes to the Scope of the project and/or additional work become necessary or desirable to the parties, the parties shall follow the procedures set forth in this Section. A Change shall be effective only when documented by a written, dated agreement executed by both parties which expressly references this Agreement (a "Change Order"). The Change Order shall set forth in detail: (i) the Change requested, (ii) the reason for the proposed Change; (iii) the cost of the Change; and (iv) the impact of the Change on time for completion of the project.

In the event either party desires a Change, the Project Manager for such party shall submit to the other party's Project Manager a proposed Change Order. If the receiving party does not accept the Change Order in writing within ten (10) days, the receiving party shall be deemed to have rejected the Change Order. If the parties cannot reach agreement on a proposed Change, Contractor shall nevertheless continue to render performance under this Agreement in accordance with its (unchanged) terms and conditions.

Changes that involve or increase in the amounts payable by the County may require execution by the County Purchasing Agent. Some increases may also require approval by the County Board. In those cases where the County Purchasing Agent's signature is required, or County Board approval is needed, the Change Order shall not be deemed rejected by County after ten (10) days provided the Project Manager has indicated in writing within the ten (10) day period of his intent to present the Change Order for appropriate signature or approval.

## **SECTION 7. INDEMNIFICATION**

Consultant agrees to indemnify, save harmless, and defend Lake County, its 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 or in connection with the work covered by this Agreement caused directly by the negligence or willful or wanton conduct of Consultant. The foregoing indemnity shall apply except if such injury, death, or damage is caused directly by the gross negligence or willful or wanton conduct of Lake County, its agents, servants, or employees or any other person indemnified hereunder.

## **SECTION 8. INSURANCE**

The Consultant 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 with an A.M. Best Rating of at least A-and provide the County with a Certificate of Insurance 15 days before the start of the project, and thereafter annually for contracts/ projects that will last more than one year. Insurance in the following types and amounts is necessary and/or where applicable:

### Commercial General Liability Insurance

In a broad form on an occurrence basis shall be maintained, to include, but not be limited to, coverage for property damage, bodily injury (including death), personal injury and advertising injury in the following coverage forms where exposure exists:

- Premises and Operations
- Independent Contractors
- Products/Completed Operations
- Liability assumed under an Insured Contract/ Contractual Liability
- Personal Injury and Advertising Injury

With limits of liability not less than:

\$ 1,000,000 Each Occurrence

\$ 1,000,000 Products-Completed Operations

\$ 1,000,000 Personal and Advertising injury limit

\$ 2,000,000 General aggregate; the CGL policy shall be endorsed to provide that the General Aggregate limit applies separately to each of the contractor's projects away from premises owned or rented to contractor.

### Automobile Liability Insurance (if applicable)

Automobile liability insurance shall be maintained to respond to claims for damages because of bodily injury, death of a person, or property damage arising out of ownership, maintenance, or use of a motor vehicle. This policy shall be written to cover any auto whether owned, leased, hired, or borrowed.

The Contractor's auto liability insurance, as required above, shall be written with limits of insurance not less than the following:

\$ 1,000,000 Combined single Limit (Each Accident)

### Excess/ Umbrella Liability (if applicable)

The Contractor's Excess/ Umbrella liability insurance shall be written with the umbrella follow form and outline the underlying coverage, limits of insurance will be based on size of project:

\$ 2,000,000 per occurrence limit (*minimum, and may be higher depending on the project*)

### Workers Compensation (Coverage A) and Employers Liability (Coverage B)

Workers Compensation Insurance covering all liability of the Contractor arising under the Worker's

Compensation Act and Worker's Occupational Disease Act at limits in accordance with the laws of the State of Illinois. Employers' Liability Insurance shall be maintained to respond to claims for damages because of bodily injury, occupational sickness, or disease or death of the Contractor's employees, with limits listed below:

Employers Liability

- a) Each Accident \$1,000,000
- b) Disease-Policy Limit \$1,000,000
- c) Disease-Each Employee \$1,000,000

Such Insurance shall contain a waiver of subrogation in favor of Lake County.

Professional Liability – Errors and Omissions (if applicable)

The Engineers/Architects/Consultants for the plans of the project shall be written with limits of insurance not less than the following:

\$ 1,000,000 per claim per policy year

Coverage shall be provided for up to three (3) years after project completion. Policy is to be on a primary basis if other professional liability is carried.

Professional Liability – Cyber Liability (if applicable)

Cyber Liability Insurance for property damage to electronic information and/or data; first and third party risks associated with e-business, internet, etc., with limits of insurance not less than the following:

\$ 1,000,000 per occurrence limit

Technology Errors and Omissions (if applicable)

The Contractor's Software Developer and/or IT Consultant for the plans, including developing and implementing technology for Lake County, or of the project, shall be written with limits of insurance not less than the following:

\$ 1,000,000 per occurrence limit

Liability Insurance Conditions

Contractor agrees that with respect to the above required insurance:

- a) The CGL policy shall be endorsed for the general aggregate to apply on a "per Project" basis;
- b) The Contractor's insurance shall be primary & non-contributory over Lake County's insurance in the event of a claim.
- c) Contractor agrees that with respect to the above required insurance, Lake County shall be named as additional insured, including its agents, officers, and employees and volunteers and be provided with thirty (30) days' notice, in writing by endorsement, of cancellation or material change. A blanket additional insured ISO endorsement is preferred for Contractors who have multiple projects with the County.
- d) Lake County shall be provided with Certificates of Insurance and the appropriate corresponding ISO form endorsements 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 thirty (30) days prior to the expiration of cancellation of any such policies. No manuscript endorsements will be accepted. Any hard copies of said Notices and Certificates of Insurance and Endorsements shall be provided to:

**Lake County  
Purchasing Division  
18 N. County 9th Floor  
Waukegan, Illinois 60085**

**Attn: RuthAnne Hall, Lake County Purchasing Agent**

- e) **Electronic copies of Notices, Certificates of Insurance and Endorsements can be emailed to [Purchasing@lakecountyil.gov](mailto:Purchasing@lakecountyil.gov) in place of hard copies.**

Failure to Comply: In the event the Contractor fails to obtain or maintain any insurance coverage required under this agreement, Lake County may purchase such insurance coverage and charge the expense to the Contractor.

#### **SECTION 9. INDEPENDENT CONTRACTOR**

Consultant is defined and identified as an independent contractor, not an employee or agent of Lake County and the County has no right to control or direct Consultant's manner, detail, or means by which Consultant accomplishes tasks under this Agreement.

#### **SECTION 10. 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 11. 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 12. 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 13. JURISDICTION, VENUE, CHOICE OF LAW AND PROFESSIONAL STANDARDS**

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 14. NOTICES AND COMMUNICATIONS**

All notices and communications which may be given by Lake County to Consultant relative to this Agreement shall be addressed to the Consultant at the address shown herein below:

Syska Hennessy Group  
330 N. Wabash, Suite 1505  
Chicago, IL 60611-3605.

Copies of any notices and communications which propose to alter, amend, terminate, interpret, or otherwise change this Agreement shall be provided to: Lake County Purchasing Division, 18 North County Street, Waukegan, Illinois 60085-4350; Attention: Purchasing Agent.

#### **SECTION 15. ASSIGNMENT, ALTERATIONS AND MODIFICATIONS**

Except as otherwise provided herein, this Agreement shall not be assigned, delegated, altered, or modified without the express written consent of both parties. This Agreement supersedes any and all other agreements, oral or written, between the parties hereto with respect to the subject matter hereof.

To the extent Lake County agrees to an assignment, delegation, or subcontract by Consultant, Consultant shall remain liable to Lake County with respect to each and every item, condition and other provision hereof to the same extent that Consultant would have been obligated if it had done the work itself and no assignment, delegation, or subcontract had been made.

#### **SECTION 16. TERMINATION**

Lake County reserves the right to terminate this Agreement, or any part of this Agreement, with or without cause, upon thirty (30) days written notice. In case of such termination, Consultant shall be entitled to receive payment from Lake County for work completed to date in accordance with the terms and conditions of this Agreement.

In the event that this Agreement is terminated due to Consultant's default, Lake County shall be entitled to purchase substitute items and/or services elsewhere and charge Consultant with any or all losses incurred, including attorney's fees and expenses.

#### **SECTION 17. CONFIDENTIALITY**

Both parties acknowledge that Consultant's documents and dealings related to this Agreement are subject to the Illinois Open Meetings Act (5 ILCS 120/1 et seq.) and the Illinois Freedom of Information Act (5 ILCS 140/1 et seq.).

#### **SECTION 18. WORK PRODUCT**

All work product prepared by Consultant pursuant to this Agreement, including, but not limited to, policies, reports, analysis, plans, designs, calculations, work drawings, studies, photographs, models, and recommendations shall be the property of Lake County. Consultant shall deliver the work product to Lake County upon completion of Consultant's work, or termination of the Agreement, whichever comes first. Consultant may retain copies of such work product for its records; however, Consultant may not use, print, share, disseminate, or publish any work product related to this Agreement without the consent of Lake County.

#### **SECTION 19. NEWS RELEASES**

Consultant may not issue any news releases regarding this Agreement without prior approval from Lake County.

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

Lake County:

Syska Hennessy Group

\_\_\_\_\_  
Purchasing Agent  
Lake County

\_\_\_\_\_  
Title

Date \_\_\_\_\_

Date \_\_\_\_\_



**Revised: February 5, 2020**

January 22, 2020

Jonathan Joy  
Facility & Construction Services  
Lake County Government  
18 North County Street – 9<sup>th</sup> Floor  
Waukegan, Illinois 60085

Re: Engineering Services Proposal for  
Babcox Justice Center – 20 S. County, Waukegan, IL  
LED Lighting Replacement

Dear Jonathan:

We are pleased to submit our proposal to provide MEP consulting engineering services for the LED lighting replacement project at the Babcox Justice Center. We will also carry sub-consultants to perform architectural services for the project.

**I. Scope of Projects**

We understand the project is located in Lake County Babcox Justice Center in Waukegan, Illinois. It is our understanding that Lake County needs A/E services for this project. The following is our understanding of the scope for the project.

1. The project is a replacement of existing older technology lighting with new, energy efficient LED lighting at the following locations within the Babcox Jail Facility:
  - a. A portion of the 2<sup>nd</sup> floor detention area including the Library area, Classrooms and Housing.
  - b. All of the lighting on floors 3 through 6 including the mezzanine spaces.
  - c. Total affected area for the base scope is approximately 117,000 SF.
  - d. As an alternate task item, the Records area of the 2<sup>nd</sup> floor and a portion of the Basement Utility and Storage areas totaling approximately 24,500 SF.
  - e. The exact areas included within the scope of work are highlighted in the Babcox drawing package dated January 7, 2020 and received via email.
2. A basis of design for the LED lighting replacement products was furnished as part of the request for proposal. We will use this as a guide to develop the specifications and quality for the replacement lighting products.
3. The County will also pursue energy rebates through the ComEd Energy Efficiency Program. Our services will include assisting the County with the documentation and filing of the appropriate documents to facilitate the rebate process.
4. The project budget is approximately \$1.5 million.
5. The project delivery method for Architectural Lighting Design shall be a traditional public bid, design/bid/build approach. However, the County may elect to procure the project through an alternate process. This could be part of an ID/IQ or maintenance project. We will include a deductive alternate if the County elects to pursue this approach.

6. The project will be constructed through a single permit package.
7. The project will not pursue sustainable building programs and certifications such as LEED, Well or LBC.

**II. Scope of Services - MEP Consulting Services**

- A. Syska Hennessy Group will survey the existing conditions and installed systems as they relate to the lighting components within the building. We assume existing design drawings will be provided for our use and that the building engineer will be available to answer our questions during our survey.
- B. Syska will prepare design drawings using Revit. As-Built drawings will be provided by the General Contractor.
- C. BAS integration is not anticipated or included in the project scope.
- D. Syska will coordinate all work associated with this project with Lake County Facilities.
- E. This proposal is based on standard design practices which will include design solutions utilizing standard commercially available detention grade luminaires. All lighting selections will be coordinated with the County for application to the various areas of the project.
- F. Replacement of existing lighting is assumed on a one-for-one basis. Existing branch circuits will be used and will not require changes or updates. If through site investigation or the results of the illumination calculations indicate a need for changes to the electrical infrastructure, additional work will be required. Additional fees and effort will be evaluated and approved before making changes.
- G. Recessed lighting replacement may require patching and painting of ceiling surfaces. The existing ceiling conditions will be identified, and architectural details will be created to accommodate the ceiling repairs.
- H. The population and locations of emergency lighting will not change as part of the scope of this project.
- I. Lighting material selections and budgets will be coordinated and reviewed with the County for acceptance prior to final design implementation. Budget information will be provided by the owner prior to final designs.
- J. Illuminance calculations to validate the performance of the new, replacement lighting will be required in all areas and as necessary to demonstrate the appropriate lighting levels for normal and emergency conditions. We will use electronic, AGI32 software to develop calculation models and plots of results. It is anticipated that illumination levels will improve with the new lighting however there may be conditions where lighting levels do not meet current standards.
- K. Lighting controls will utilize existing switch banks.
- L. We have excluded upgrades to the Life Safety system. Existing emergency fixtures will be replaced and will remain on the same emergency lighting system.
- M. Our fees and basic services assume the project will be prepared using either 2D Autocad format. We assume that electronic CAD files of the current facilities do not exist and Syska will need to prepare these to facilitate the project.
- N. We have valued for the following meetings that we anticipate being required to complete the project:



1. Initial Project Kick-Off.
  2. Site meetings to review existing conditions. We anticipate a minimum of 3-days to complete this task depending on access to the facility.
  3. Progress meeting at approximately 50 percent design completion.
  4. Design review meeting at 90 percent completion of construction documents.
  5. Final design review meeting at the 100 percent construction document submittal.
  6. Pre-bid meeting with County.
  7. Bid review meeting with County.
  8. Pre-construction meeting with County and successful bidder.
  9. Four construction coordination meetings
  10. Final punchlist
  11. Additional teleconference meetings as necessary to coordinate design and construction.
- O. The paragraphs below describe the scope of lighting services and our approach or work methodology to complete the important design phases of the focus areas of the project previously identified:
1. Preliminary Design
    - i. We will convene an initial project kick-off meeting with the County to determine lighting intent and goals for the project. This should identify preferences, energy goals, budgets, schedule and procurement process.
    - ii. As part of this initial phase we will review the existing record documents and use those as a basis to start a site review of existing conditions.
    - iii. Perform a review of existing site conditions. This will determine and validate existing lighting types, quantities and locations. This is a necessary precursor to developing new replacement plans.
    - iv. Develop the necessary CAD files from the available record documents and site review information.
  2. Construction Documents
    - i. At the commencement of the Construction Documents phase, we will begin applying the information developed through the initial preliminary design phase upon approval from the County. We will prepare lighting layout drawings, luminaire schedule, perform illuminance calculations and product specifications for each of the program areas to meet the design intent.
    - ii. Includes plan views and building interior elevation drawings (as necessary) identifying luminaire types and locations.
    - iii. Preliminary details of lighting installations (as necessary)
    - iv. Luminaire schedule with manufacturer's specification information, electrical characteristics and loads.
    - v. Package of luminaire cut sheets reflecting the design intent.
    - vi. Obtain initial distributor net pricing for lighting materials to help maintain budget control of design.
    - vii. Coordinate application of new LED lighting with new lighting controls.
    - viii. Meet with County at various milestones as previously identified to review project progress.
    - ix. Perform illuminance calculations to validate performance of lighting designs for client approval and to satisfy AHJ submittal requirements. Shall include the following:
      - a) Selected interior areas for normal illumination levels
      - b) Emergency egress illumination

- x. Preparation of final lighting replacement construction documents for permit submittal to Waukegan.
  - xi. Response and corrections to construction documents to comply with permit review comments.
  - xii. Prepare final construction drawings and specifications for bidding and construction.
3. Bid Phase
- i. Provide response to bid RFI's.
  - ii. Attend pre-bid conference.
  - iii. Assist County with the review of lighting materials bids.
  - iv. Attend pre-construction conference with successful bidder.

4. Construction Phase Services:

Construction services will be limited to the following tasks:

- i. Syska will review shop drawings, product data or samples of materials as listed in the contract documents, but only for the purpose of determining conformance with the design concept of the work and with the contract documents.
  - ii. Syska will review construction RFI's related to Lighting systems.
  - iii. Syska will attend construction coordination meetings through teleconference or in-person as necessary.
  - iv. Syska will make site visits to observe the progress of the lighting installations to determine if work is in conformance with the contract documents. We anticipate 4 project site visits during construction and a visit for final punchlist and owner acceptance.
5. The Construction Phase will commence with the award of the building contract for construction and will terminate upon the first to occur of either (a) issuance of a final certificate of payment to the Contractor or (b) 30 days after the substantial completion of the Project.

P. The following work is excluded from our services, however, is available upon request:

- 1. Analysis of other building MEP systems, except those noted in the Scope of Project including HVAC, plumbing, fire protection.
- 2. Creation of As-Built Drawings. As-built drawings to be provided by contractor.
- 3. Extensive verification of existing systems and systems' components (if we need to obtain information for systems hidden above the ceiling).
- 4. On site supervision of any work activity or trade.
- 5. Upgrades to the building life safety systems.
- 6. Any Division 25 work.

**III. Architectural Scope of Services**

Refer to attached proposal from Architectural sub-consultant for Architectural Scope of Services.

**IV. Understanding of Schedule**

In meeting goals of you and our client, we understand that the project schedule may be similar to the following. The purpose of this schedule is to support our fee proposal.

<b>LED Lighting Replacement</b>	<b>Dates</b>
Kick-off	Feb. 2020
Preliminary Design – 4 Weeks	April 2020
Contract Documents – 4 Weeks	May 2020
Issue for Bid	June 2020
Construction Start	Sept. 2020
Construction Complete – 12 Weeks	Jan. 2021

**V. Fee**

- A. Based on the scope of work indicated above, we propose the following lump sum fee:

<b>LED Lighting Replacement</b>	<b>Lump Sum Fee</b>
Site Review	\$5,800
Preliminary Design	\$17,500
Construction Documents	\$37,650
Construction Administration	\$13,500
ComEd Rebate Program Coordination	\$5,250
<i>Project MEP Total</i>	<i>\$79,700</i>
Architectural Sub-Consultant	\$30,140
Estimate Reimbursable Expenses	\$1,950
<b>Total Lump Sum Fee</b>	<b>\$111,790</b>
Alternate: Basement and 2 <sup>nd</sup> Floor Areas Design – MEP	\$9,250
Alternate: Basement and 2 <sup>nd</sup> Floor Areas Design – Architecture	\$8,140
Deduct Alternate for ID/IQ or JOC Procurement Process	(\$6,250)

- B. Invoicing will be monthly based on work complete. We will provide Lake County monthly forecasts for our anticipated efforts if required.

- C. Compensation for Changes

It is understood that where there are approved changes to work already completed, we shall be paid additional compensation, based on a negotiated lump sum amount.

- D. Additional Services

Additional services must have prior authorization before proceeding. An estimated fee and scope letter will be submitted for signed authorization. Authorized additional services will be invoiced to you based on the following billing rate schedule.

**VI. Hourly Rate Schedule**

<b><u>MEP Classification</u></b>	<b><u>Billing Rate</u></b>
Principal-in-Charge	\$270.00
Project Manager/ Supervising Engineer	\$215.00
Senior Engineer	\$200.00
Engineer	\$145.00
BIM/CADD Operator / Administrator	\$110.00

**Note:**

*Hourly billing rates are defined as the direct salaries of all personnel engaged on the project and the portion of the cost of their mandated and customary contributions and benefits related thereto, such as employment taxes, other employee benefits (insurance, sick leave, holidays, vacations, pensions) and similar contributions and benefits, plus overhead and profit.*

The above rates are applicable through December 31, 2020. We would anticipate an average increase in technical salary cost (and therefore Hourly Billing rates) of approximately five percent (5%) per annum.

*\* Subject to review annually.*

**VII. Reimbursable Expenses**

We will be reimbursed for the following expenses at 1.0 times cost over and above any other fees or compensation described in this Agreement.

- A. All reproduction costs for plots, prints and/or reports.
- B. Special delivery.
- C. All local travel.
- D. Subconsultants (subject to 10% markup)

**VIII. Compensation for Additional Services**

- a. It is understood that where the Client approves changes to the Engineer's work already completed, or there is a change in scope of the project, these are Additional Services for which the Engineer shall be paid additional compensation based on the Engineer's actual hours at the billing rates scheduled in Section IV. These services are delineated in Section IX.
- b. Changes required to meet construction budget requirements will be Additional Services except when the Engineer's Scope of Services clearly states a budgeted construction amount, and that it is the Engineer's responsibility to design within a specific budget and to prepare cost estimates of that part of the

**IX. Billing and Payments**

Payments to the Engineer will be made monthly; Basic Fee and Additional Services payments on percent completed and Reimbursable Expenses based on invoices submitted.

Syska Hennessy's fees do not include any taxes that may be imposed on them. Taxes, if applicable to our fees for services, are above our fees quoted and you agree to be responsible for any liability and payment of them

**X. Additional Services**

The following will be considered Additional Services and are not included in basic fee:

- a. Design and construction meeting attendance, except as noted elsewhere. Field observation walk beyond the allowance stated above.
- b. Utility rebates requiring special studies. We have included assistance with ComEd related lighting rebates.
- c. Mechanical, plumbing, fire protection, low voltage design services. Electrical power and lighting design beyond the scope of work.
- d. Renewable energy systems.
- e. Services resulting from changes in the scope of the Project or its design from that described in above.
- f. Services to reflect changes by the Client, Owner or Architect, including evaluation and incorporation of substitutions, value engineering proposed by Contractors, and change orders to previously approved work.
- g. Services to prepare documents out of sequence or for out of sequence installation work
- h. Services to revise documents required by the enactment of revisions of codes, laws, or regulations after the preparation of such documents, or due to other causes outside the control of the Engineer.
- i. Services made necessary by the default or deficiencies of a Contractor or Construction Manager.
- j. Services relative to the design and implementation of future facilities, systems, and equipment which are not intended to be constructed during the Construction Phase.
- k. Investigations involving detailed consideration of operations, maintenance and overhead expenses; preparation of feasibility and energy studies, cash flow and economic evaluations, rate schedules and appraisals.
- l. Services resulting from the award of more than one prime contractor.
- m. Services or consultation after completion of the Construction Phase.
- n. Additional or extended services during the Construction Phase, including full-time field observation.
- o. Survey of As-Built conditions for the preparation of AutoCAD Record Drawing files. As-built drawings to be provided by Contractor.
- p. Preparing to serve or serving as a consultant or witness for the Client or Owner in any litigation, arbitration, mediation, public hearing or other legal or administrative proceeding involving the Project.
- q. Life Cycle Cost analysis and reports.
- r. Basic and enhanced commissioning services.
- s. New Pre-action or gaseous fire suppression systems designs.
- t. Filing with authorities having jurisdiction (we assume a separate consultant will be engaged for this service).
- u. CFD Modeling and Analysis.

- v. Testing and metering.
- w. Circuit tracing.
- x. On site supervision of any work activity or trade.
- y. O&M Review and Analysis.
- z. Factory Witness Testing.
- aa. Potential M&V systems design / plan.
- bb. Long lead item packages.
- cc. Acoustical design.
- dd. We have excluded detailed EMF studies.
- ee. Short Circuit Coordination Studies and Arc Flash Hazard analysis
- ff. Mass notification system
- gg. Daylight Simulation

**XI. Terms and Conditions**

Our standard terms and conditions (STC) are appended to this proposal as Attachment A and form an integral part of our agreement to provide services. The STC and this proposal shall constitute the entire agreement and no other terms and conditions in any documents, acceptance, or acknowledgment shall be effective or binding (except for superior agreements expressly incorporated by reference into same) unless expressly agreed to in writing by all parties concerned. If you did not receive our STC, please contact us in writing and we will immediately provide same to you for your review. In the event that these STC are not fully executed, they shall nonetheless be effective and controlling to the parties so long as Syska has provided you with same and has begun work and not received written objections or modifications.

Thank you for this opportunity to present our fee proposal for the referenced project. We would be delighted to address any questions which you may have, and can be reached at 312.588.3578.

Very truly yours,

**SYSKA HENNESSY GROUP, INC.**



Jeffrey Martin, PE  
Associate Partner



Joseph O'Sullivan, PE  
Senior Principal

**DATE:** January 22, 2020

**CLIENT:** Lake County

**PROJECT LOCATION:** Waukegan, IL

**PROJECT DESCRIPTION:** Babcox Justice Center

**1. EXTENT OF AGREEMENT:** These Terms and Conditions supplement and govern all aspects of the obligations and liabilities between Syska Hennessy Group ("Syska") and the Client relating to the Project. Unless otherwise expressly defined, the terms used in this document have the same meaning as terms in the Engineering Proposal which this document supplements. In the event of any inconsistencies between these Terms and Conditions and the Engineering Proposal or any other agreement ("collectively referred to as "Other Agreements") executed previously or simultaneously to this document, the provisions of these Terms and Conditions shall control and supersede all prior or simultaneous negotiations, representations and agreements, either written or oral. The Other Agreements and these Terms and Conditions are referred to herein collectively as the "Agreement." The Client acknowledges and agrees that it has reviewed these Terms and Conditions and that neither it nor Syska shall be deemed to be the scrivener of this document for the purpose of drawing an inference to construe an ambiguity herein. In the event that these Terms and Conditions are not fully executed, they shall nonetheless be effective and controlling to the parties so long as Syska has provided same to the Client and has begun work and not received written objections or modifications. Services provided by Syska herein are solely for the benefit of the Client and nothing contained in these Terms and Conditions shall create a contractual relationship with or a cause of action in favor of a third party.

**2. DEFINITIONS:**

**2.1.** The term **"Instruments of Service"** means all of the information produced in furtherance of this project, including, without limitation, the plans and specifications prepared by or for Syska, in any medium, including graphic and pictorial representations, indicating the related engineering designs for the Project and shall include plans, sections, details, schedules, diagrams and written descriptions which set forth the design intent of the Project as well as any other drawings, diagrams, calculations, reports, operational and design data.

**2.2.** The term **"Work"** means the construction and services, supplies, labor, equipment, materials, components, or assemblies related to or required for the construction of the Project by a contractor and other construction specialists. The Work may constitute the whole or a part of the Project, whether completed or partially completed.

**2.3.** The term **"Construction Documents"** shall mean the drawings and specifications from which the Work is actually constructed.

**2.4.** The term **"Record Documents"** means a revised set of Construction documents based upon the As Builts prepared by Contractor, reflecting all major deviations made during the construction process.

**2.5.** The term **"Project"** shall refer to the description, location and identity of the project in the header of this Agreement and as more fully described in the scope of service which is part of this Agreement, of which the services performed under this Agreement may be the whole or part.

**3. STANDARD OF CARE:** Syska's services shall be performed in a manner consistent with that degree of skill and care ordinarily exercised by practicing professionals performing similar services in the same locality, at the same site and under the same or similar circumstances and conditions (the "Standard of Care"). Syska makes no other representations or warranties, express or implied, with respect to the services rendered hereunder.

**4. ADDITIONAL SERVICES:** The services described in this Paragraph are not included in Basic Services to be provided by Syska. If the Client requests that Syska perform any of the following services (the "Additional Services"), the Client shall provide Syska with additional compensation equal to Syska's hours expended at Syska's standard hourly rates. Syska's hourly rates may be adjusted annually in accordance with Syska's standard practice. In the alternative, the Client and Syska may agree on stipulated sum fees for specific Additional Services. However, in no event shall Syska be compelled or required to perform what it deems to be an Additional Service unless the Client provides the appropriate written change order.

**4.1. PRIOR TO ISSUANCE OF CONSTRUCTION DOCUMENTS:** It shall be an Additional Service if Syska is requested to make any revisions in the Instruments of Service when such revisions are:

**4.1.1.** inconsistent with approvals or instructions previously given by the Client;

**4.1.2.** required because of changes in the Project including, size, quality, complexity, the Client's schedule, the Client's budget, or the method of bidding or negotiating and contracting for construction;

**4.1.3.** required due to errors or omissions in the services of any Client's consultant or anyone performing work;

**4.1.4.** required by the enactment or revisions to codes, laws or regulations subsequent to the preparation of such documents;

**4.1.5.** due to changes required as a result of the Client's failure to render decisions in a timely manner; or

**4.1.6.** required to reduce the cost of the Project to comply with previous cost estimates or Project budgets, including value engineering.

**4.2. AFTER THE ISSUANCE OF CONSTRUCTION DOCUMENTS:** It shall be an Additional Service if Syska is requested to make any revisions to the Instruments of Service that are not the result of Syska's failure to comply with the Standard of Care and all of the following activities after the issuance of Construction Documents shall be considered Additional Services:

**4.2.1.** preparing any changes to the Instruments of Service or preparing other documentation, analysis and supporting data, evaluating contractors' proposals, and providing other services in connection with change orders and Construction Change or Extra Work Directives.

**4.2.2.** providing services in connection with evaluating substitutions or alternates proposed by a contractor, the Client or others.

**4.2.3.** providing services made necessary by the default or termination of a contractor, by defects or deficiencies in the construction of the Project or by the failure of performance on the part of the Client, any contractor or others performing services or Work in connection with the Project.

**4.2.4.** providing services in connection with claims submitted by any contractor or others performing services or providing Work on the Project.

**4.2.5.** providing services in connection with the preparation for legal proceedings or attendance at public hearings or other meetings.

**4.2.6.** providing services when submittals are reviewed prior to receiving a submittal schedule, reviewing submittals out of sequence, or if more than two reviews are required of any submittal.

**4.2.7.** providing services in responding to unnecessary, excessive or unreasonable requests for information submitted by the Client, any contractor or others who are performing Work or supplying materials in connection with the Project.

**4.2.8.** providing services in excess of one punch list compilation for each area or component of the Project and one review of the punch list items for completion.

**4.2.9.** providing any services requested by the Client after the earlier of the issuance of the final Certificate for Payment or sixty (60) days after Substantial Completion was originally scheduled.

**4.2.10.** providing services that are not customarily provided by an engineer as basic services on projects of similar size, complexity and scope as the Project and which have not been set forth as Basic or Additional Services in this Agreement.

**4.2.11.** providing "fast track" services.

**4.2.12.** segregating bidding packages for pricing and award of contracts for the construction of the Project.

**4.2.13.** In the event that the Client seeks the assistance of Syska in the prosecution of any claim against another Project participant, or the defense of any claim asserted against the Client, then Syska shall be fully reimbursed for all costs incurred at the respective hourly rates identified for Additional Services together with any expenses associated therewith.

**5. LIMITATIONS OF LIABILITY:**



**5.1. AGGREGATE LIMITS:** To the fullest extent permitted by law, Client and Syska each waive any right to consequential, liquidated or incidental damages and agree that the total liability, in the aggregate, of Syska and Syska's officers, directors, employees, agents, and independent professional associates, and any of them, to the Client and any one claiming by, through or under the Client, for any and all injuries, claims losses, expenses, or damages whatsoever arising out of or in any way related to Syska's services, the Project or this Agreement, from any cause or causes whatsoever, including but not limited to, the negligence, errors, omissions, strict liability, breach of contract, misrepresentation, or breach of warranty of Syska or Syska's officers, directors, employees, agents or independent professional associates, or any of them, shall not exceed the lesser of the total compensation received by Syska for the specific work performed resulting in Client's damages or the limits of the available insurance coverage specifically identified and required by the Client for this Project at the time when the claim is resolved.

**5.2. COST INCREASES:** Syska is not responsible for cost increases to the Project as a result of requests made by the Client after Construction Documents are issued for permit, changes in governmental agency requirements after previous approval, unforeseen conditions or causes beyond the reasonable control of Syska. For Work that has been omitted from the drawings and specifications beyond the Standard of Care, but is necessary for the proper completion of the Project and would have been added to the original bid if shown on the drawings and specifications, if discovered at a time when the Work is more expensive to install than it would have been if originally shown on the drawings and specifications, Syska's error is measured as the portion of the costs and fees that would have been avoided in the original bid had the Work been shown. In the event of a disagreement regarding Syska's error, the dispute resolution procedures in this Agreement shall apply.

**5.3. THIRD-PARTY DEFICIENCIES:** Syska is not responsible to the Client or any third parties for errors, omissions or other deficiencies in the services of any other design professional or design-build contractor rendering design, engineering or related services for the Client not employed by Syska. Syska's sole liability in connection with the services of the Client's consultants or design-build contractors shall be to the extent expressly identified in the scope of services. The Client shall require consultants or design-build contractors retained by the Client to coordinate their services and documents with those of Syska and Syska's consultants.

**5.4. RESPONSIBILITY FOR CONSTRUCTION OF PROJECT:** Syska is not responsible for the actual construction of the Project and shall not be deemed to have a duty of means and methods.

**5.5. CERTIFICATION.** Syska is under no duty to execute certifications unless the language and the scope of the certification is provided to Syska prior to performing work and Syska, in its professional opinion, believes that its scope provides a sufficient basis for executing the certification.

**5.6. INSTRUMENTS OF SERVICE:** The Instruments of Service are not a substitute for the shop drawings and other submittals which will be used to actually construct the Project. Nothing in the Agreement shall create or be deemed to create any duty upon Syska to supervise the construction means and methods and/or safety procedures of any contractor, subcontractor, or their employees or agents, or any other person or party. Syska shall not incur any liability as a result of the acts, omissions, or failure to properly perform of any contractor, subcontractor, or their employees or agents, or any other person or party.

**5.6.1. REVIEW SERVICES:** If included as part of the scope of work, observation or review services performed by Syska pursuant to the Agreement, whether of material or work and whether performed prior to, during or after completion of construction, are performed solely for the purpose of attempting to determine general conformity of the work performed by others with the contract plans and specifications. Syska shall not be responsible to make exhaustive or continuous reviews to check the quality or quantity of the Work.

**5.6.2. RESPONSIBILITY FOR CONSTRUCTION COSTS:** Upon the request of the Client, Syska shall review and comment on any proposed Project construction budget or estimates of construction costs prepared by or for the Client. The Client acknowledges that any comments represent Syska's judgment as a professional familiar with the construction industry, and it is not responsible for (i) cost increases due to the timing of a contractors' buy-outs for the Project; (ii) the cost of labor, materials or equipment; (iii) Contractors' methods of determining bid prices; (iv) competitive bidding, market or negotiating conditions; (v) contractors' fabricators' or suppliers' failure to meet Project schedules; or (vi) the quality of construction work or the materials supplied for the Project. Accordingly, Syska does not represent that bids or negotiated prices will not vary from the Client's Project construction budget or from any estimate of construction costs reviewed by Syska. The Client further agrees that Syska shall have no liability for actual construction costs exceeding the Project construction budget or prior cost estimates. If the Client requests that Syska provide redesign services to reduce construction costs, Syska shall be compensated for such redesign efforts as Additional Services, provided that such redesign efforts were not required due to an error, inconsistency or omission in the Instruments of Service beyond the Standard of Care.

**5.6.3. RESPONSIBILITY FOR PROJECT SCHEDULE:** Syska is responsible for meeting the milestone dates set forth in a schedule of design deliverables that it

agrees to and are incorporated in to the Client's Project Schedule. However, if Syska's ability to meet any of its specific milestone dates is adversely affected by the actions of the Client, construction manager, any contractor or others, then Syska's liability for missing any milestone dates shall be reduced to the extent the delay is caused by the actions or failure to act of others.

**5.7. RECORD DOCUMENTS:** The Client acknowledges that Syska is generally not responsible for the production or modification of Record Documents as it is a contractor's sole responsibility, who through his superintendent, is constantly present at the site, in control of operations, and involved in all details of construction. Should Syska be requested to prepare or modify Record Documents, the Client understands the limitations of the Record Documents and acknowledges and agrees that Syska has not verified the accuracy or completeness of the information on which the Record Documents are based and agrees to indemnify and release Syska for any liability for any errors or omissions that may be incorporated therein.

**5.8. ACCELERATED PROJECT DELIVERY OR FAST TRACK:** In the event the Client chooses to take advantage of the potential time and cost savings benefits of an accelerated project delivery or fast-track process, the Client acknowledges that it has been advised that the Project will be affected. Some of the effects of either process include the necessity of making early or premature commitments to design decisions and the issuance of incomplete and uncoordinated Construction Documents for permitting, bidding, and construction purposes. The Client acknowledges that the Project, if developed on either basis, will likely require associated coordination, design, and redesign of parts of the Project after Construction Documents are issued and the construction contract is executed, and may require removal of work-in-place, all of which events may cause an increase in the Cost of the Work and/or an extension of the Project construction schedule. Therefore, the Client acknowledges the necessity of including sufficient contingencies in the budget for the Cost of the Work to account for additional costs and construction schedule extensions arising from either process.

**5.9. MEDIA AND WEBSITE LIABILITY:** The Client recognizes that the Instruments of Service may be generated, stored, transmitted, or published in various media, including, but not limited to traditional hard copy (i.e., blueprints), CADD formats, via Internet or Extranet websites and the Instruments of Service may be subject to tampering, modifications by parties over whom Syska has no control. The Instruments of Service are also subject to discrepancies as a result of numerous factors, including, transmission and translation errors resulting from differences in computer software, hardware and equipment-related problems, disc malfunctions and user error. If requested, Syska shall provide the Client with the Instruments of Service in electronic form. The Client releases Syska from any claims as a result of differences between Syska's filed hard copy and the electronic form of the Instruments of Service. For each recipient to whom the Client provides the Instruments of Service in electronic form or to whom Syska provides the Instruments of Service in electronic form at the Client's request or under this Agreement, the Client agrees to defend, indemnify and hold harmless Syska, its consultants, and their respective officers, directors and employees from all claims, liability, loss, damages, judgments and costs, including reasonable attorney's fees and expenses, arising from any differences between the filed hard copy and the electronic form of the Instruments of Service. The Client acknowledges and agrees that it is responsible for the initiation and maintenance of any Project Internet or Extranet site and any related computer software and hardware (collectively, the "Site") and for all costs associated therewith, including without limitation, any monthly fees for users of the Site charged by the service provider which shall be retained by the Owner. Syska shall have no responsibility for the initiation or maintenance of the Site or for any costs associated with the Site. Syska shall also have no responsibility or liability for any delays or damages caused by the failure of the Site to function properly and shall not be liable to the Client or to any contractor, consultant or any third party for any delays, errors or omissions in Syska's services caused by the failure of the Site to function properly. The Client agrees that all Project-related contracts shall provide that each user of the Site is granted a limited license to utilize the content of the Site in connection with the Project only, with no right to sublicense or resell, consistent with and subject to the terms and conditions of this Agreement. The Client shall also obtain a release from each user of the Site naming Syska as a releasee from all claims, liability, loss and damages, arising from or related to the publication of the Instruments of Service or other materials on the Site.

**5.10. HAZARDOUS MATERIALS:** Syska's services do not include services related to detection, reporting, permitting, analysis, or abatement of asbestos, hazardous or toxic materials including molds and fungus (collectively "hazardous materials") at the Project site. In the event Syska or any other party encounters hazardous materials at the jobsite, or should it become known in any way that hazardous materials may be present at the jobsite or any adjacent areas that may affect the performance of Syska's services, Syska may, without liability for consequential or any other damages, suspend performance of services on the Project until the Client retains appropriate specialist consultants or contractors to identify, abate and/or remove the hazardous materials and warrant that the jobsite complies with applicable laws and regulations. To the fullest extent permitted by law, the Client shall defend, indemnify and hold harmless Syska, its consultants, and their respective officers, directors and employees from and against all claims, liability, loss, damages, judgments, costs, and expenses, including reasonable attorneys' fees and expenses, which any of them may at any time sustain or incur by reason of any demands, claims, causes of action or



legal proceedings arising out of or in connection with asbestos, hazardous or toxic materials on the Project site.

#### 5.11. INDEMNIFICATION:

**5.11.1. SYSKA INDEMNIFICATION OF CLIENT:** Syska shall indemnify, but not defend, the Client and its officers, directors and employees from and against all, liability, loss, damages, judgments, costs, and expenses, including reasonable attorney's fees and expenses to the extent caused by Syska's negligent acts or negligent omissions in the preparation of the Instruments of Service and for patent, copyright or trademark infringement attributable to Syska's services. The Client further agrees that, to the fullest extent permitted by law, no shareholder, officer, director, partner, principal, or employee of Syska shall have personal liability under this Indemnification provision, under any provision of the Agreement or for any matter in connection with the professional services provided in connection with the Project. In no event shall the duty to indemnify be deemed a duty to defend.

**5.11.2. CLIENT INDEMNIFICATION OF SYSKA:** The Client assumes liability for and agrees to indemnify and hold harmless Syska, its consultants, and their respective officers, directors, and employees, from and against all liability, loss, damages, judgments and costs, including reasonable attorney's fees and expenses, to the extent they are caused by an act or omission of the Client, its agents, employees, consultants or contractors. This indemnity applies to any deviations from the Instruments of Service not approved by Syska in writing. The Client shall provide written notice of any known inconsistencies in Syska's services expeditiously after discovery. The provisions of this section shall extend for all time notwithstanding the termination or expiration of the Agreement.

#### 6. CLIENT'S RESPONSIBILITY: The Client shall provide the following:

**6.1.** Full information identifying its requirements for and limitations on the Project. Syska is entitled to rely upon the accuracy and completeness of the information provided by the Client.

**6.2.** A representative authorized to act on the Client's behalf with respect to the Project who shall render decisions in a timely manner pertaining to all requests and/or documents submitted by Syska.

**6.3.** Periodically update the budget for the Project and shall not significantly increase or decrease the overall budget, the portion of the budget allocated for the services performed herein, or any contingencies in the budget without the agreement of Syska as to whether the change will require a corresponding change in the Project scope and quality.

**6.4.** Tests, inspections and reports required by law or the Agreement, including, but not limited to, chemical tests and tests for hazardous materials.

**6.5.** All legal, insurance and accounting services, including auditing services, that it determines shall be necessary to address the Client's needs and interests relating to the Project.

**6.6.** All fees necessary for securing the approval of authorities having jurisdiction over the Project.

**6.7.** Prompt written notice to Syska if the Client becomes aware of any fault or defect on the Project.

**6.8.** The Client recognizing that there will be changes and additions to engineering drawings during construction as a result of field conditions, changes in code or other unforeseeable changes that impact the current design, shall establish design and construction contingency funds after discussion with Syska to cover additional costs which may result from such changes and additions. The project budget shall include a minimum contingency of 5% of total construction cost each for such design and construction contingency fund.

**6.9.** The Client shall inform Syska of all contractor change order requests for work designed by Syska and shall obtain Syska's written opinion as to the change request prior to execution of the change order.

**6.10.** The Client shall review and approve submissions for each phase of the work in a timely manner and shall authorize Syska in writing to proceed with each succeeding phase.

#### 7. INSURANCE COVERAGES:

**7.1. MINIMUM AMOUNT OF COVERAGE:** Syska shall maintain the following minimum amounts of insurance during the term of this Agreement.

Type	Coverage
Workers' Compensation	Statutory
Employer's Liability	\$ 1,000,000
General Liability (each occurrence)	\$ 1,000,000
Automobile Liability (combined single limit)	\$ 1,000,000
Professional Liability	\$ 1,000,000
	(per claim and in the aggregate)
Umbrella Liability	\$ 1,000,000

**7.2. PROJECT POLICIES:** If the Client chooses to acquire a policy of professional liability insurance for the Project, then the Client agrees that it will pay

the cost of the project policy and that Syska must agree on the limits of coverage, parties covered, deductible required and length of the policy period after substantial completion of the services.

**7.3. CERTIFICATES OF INSURANCE:** Syska shall upon request provide to the Client certificates of insurance evidencing compliance with the insurance requirements.

**8. OWNERSHIP AND USE OF INSTRUMENTS OF SERVICE:** Syska is the author and owner of the Instruments of Service and shall retain all common law, statutory and other rights, including copyrights, whether the project for which they are made is executed or not. Provided Syska is fully compensated for its services and expenses on the Project, the Instruments of Service shall be made available to be used for construction of the Project and for operation, modification and maintenance of the Project following its completion. The Instruments of Service shall not be used or reused by Client on other projects, for additions to this Project, for completion of this project by others, or for any other purposes for which they were not specifically prepared, except with the express written consent of Syska and with appropriate compensation to Syska. The Client agrees that Syska, its consultants, and their respective officers, directors or employees shall have no liability to the Client and Client shall indemnify, defend and hold them harmless from and against all claims, liability, loss, damages, judgments and costs, including reasonable attorneys' fees and expenses, which any of them may at any time sustain or incur arising out of or resulting from the unauthorized use of the Instruments of Service.

**8.1.** Submission or distribution for governmental approvals or for other proper purposes in connection with the Project is not to be construed as publication in derogation of Syska's rights under copyright law.

**8.2.** The Client warrants that it has a license to use and/or copy any documents it supplies to Syska for re-use on this Project that were prepared by others. To the fullest extent permitted by law, the Client shall defend, indemnify and hold harmless Syska, its consultants, and their respective officers, directors and employees from and against all claims, liability, loss, damages, judgments and costs including reasonable attorneys' fees and expenses, which any of them may at any time sustain or incur by reason of breach of the Client's warranty.

**9. TERMINATION AND SUSPENSION:** Except as otherwise provided in this section, this Agreement may be terminated by either party upon not less than thirty (30) calendar days' written notice should the other party fail substantially to perform in accordance with the terms of this Agreement through no fault of the party initiating the termination. If the defaulting party fails to cure its default within the thirty (30) calendar day notice period or fails to commence action to cure its default when the cure cannot reasonably be completed within thirty (30) days, the termination shall take effect without further notice.

**9.1.** Failure of the Client to make payments to Syska in accordance with this Agreement shall be considered substantial non-performance and grounds for termination. At the option of Syska, if the Client fails to make payment when due Syska for services or expenses or fails to comply with any other material obligation under this Agreement, Syska may, upon seven (7) calendar days' written notice to the Client, suspend the performance of its services under this Agreement. Unless payment in full is received by Syska or the Client's other breach hereunder is cured within the seven (7) calendar day notice period, the suspension shall take effect without further notice. In the event of a suspension of services, Syska shall have no liability for any delay or damage caused because of such suspension of services.

**9.2.** Upon a suspension of services by the Client, Syska shall be paid for all fees and expenses for services performed through the date of the suspension plus demobilization expenses. Upon the resumption of Syska's services, Syska's fee shall be equitably adjusted and Syska shall be reimbursed for all expenses incurred as a result of the suspension. If the Client's suspension of Syska's services continues for more than ninety (90) calendar days, Syska may terminate this Agreement upon seven (7) calendar days' written notice to the Client.

**10. FEE PROVISION:** Promptly upon receipt, the Client shall review Syska's invoice requesting payment for services and reimbursable expenses. Invoices shall be submitted monthly. Reimbursable expenses include the actual expenses incurred in connection with the Project. Backup documentation for these expenses can be provided upon request for a ten percent (10%) administrative fee. If the Client disputes in good faith any portion of the invoice, the Client shall notify Syska in writing within five (5) days of receipt of the disputed invoice. The Client shall indicate that portion of the invoice that it disputes and provide a statement as to the reasons for disputing such portion. Any statement or portion of statement not disputed by the Client within the time period set forth herein, shall be paid by the Client within fifteen (15) days of receipt of the invoice. All monies secured by the Client to pay for the Services identified herein shall be deemed to be held in trust for Syska and Syska shall have the right to require the Client, upon request, to furnish evidence of the Client's ability to remit payment for all services. Syska's fees do not include any taxes that may be imposed on them. Taxes, if applicable to our fees for services, are above our fees quoted and the Client agrees to be responsible for any liability and payment of them.

**10.1.** Payments due Syska and which remain unpaid shall bear interest 30 days from the date of the invoice at the rate of eighteen percent (18%) per annum. Syska is entitled to recover any and all legal fees and any other costs

expended if it becomes necessary to pursue legal actions to collect fees due hereunder. Client expressly acknowledges that Syska shall be entitled to a judgment for its attorney fees and court costs attributable to the collection of its fees which are ultimately adjudicated/arbitrated to be rightfully due and owing.

**10.2.** In the event of a dispute pursuant to the services rendered hereunder, the Client shall not have the right to set off any payments due or owing to Syska and shall be obligated to remit all payments due and owing for completed service. Syska's full payment pursuant to this section shall be a condition precedent for its obligation of performance.

**10.3.** Payments are to be remitted via wire transfer based on the following information:

Beneficiary: Syska Hennessy Group, Inc.  
1185 Ave of the Americas  
New York, NY 10036

Bank: TD Bank, N.A.  
475 Park Avenue South  
New York, New York 10016  
Account No.: 7915510643  
Routing No.: 026013673

**11. ANTI-BRIBERY AND ANTI-CORRUPTION COMMITMENT:** The parties agree that no payments or transfers of value by Client in connection with the Agreement shall be made that have the purpose or effect of public or commercial bribery, or acceptance of or acquiescence in, extortion, kickbacks, or other unlawful or improper means of obtaining business. Client hereby represents, warrants, and covenants that Client and its subsidiaries, owners, partners, officers, directors, employees, agents, representatives, and subcontractors are fully aware of the provisions of the United States Foreign Corrupt Practices Act ("FCPA"), 15 U.S.C. §78dd-1, *et seq.*, as amended regarding, among other things, payments to government officials. No Client or Syska employee may receive or accept anything of value, or that may be perceived as valuable, from any other individual for the purpose of influencing any act, securing an improper advantage, or obtaining/retaining business. Either party may terminate this Agreement at any time during the Project, if it has a good faith basis to believe that the other party failed to comply with the provisions of this Section 11, including any non-compliance prior to the effective date of this Agreement.

**12. NO SOLICITATION OF EMPLOYEES:** The Client agrees and acknowledges that it will not, directly or indirectly, solicit or hire any employee of Syska or induce any Syska employee to terminate his or her employment with Syska without the express written consent of Syska. Recognizing that Syska has expended a substantial investment in recruitment, advertisement, testing, and training of their personnel, the Client agrees that if it violates the previous clause and hires a Syska employee within one year of the completion of the Project, it shall pay Syska for each employee thus hired, the amount of one year's salary, at the last level of annual remuneration that employee received from Syska.

**13. DISPUTE RESOLUTION:**

**13.1. MEDIATION:** In recognition of the negative consequences associated with disputes both in terms of lost time and expense to all parties, the Client and Syska agree to settle their disputes by good-faith mediation as a condition precedent to the institution of legal proceedings by either party. If mediation would jeopardize the substantive rights of either party due to the application of any applicable statute of limitations, then mediation will be required during the dispute resolution process to the extent it may be used without jeopardizing the substantive rights of either party. The parties shall share the mediator's fee and any filing fees equally. The mediation shall be held in the place where the Project is located, unless another location is mutually agreed upon.

**13.2. LITIGATION:** In the event that the matter cannot be resolved through (or is not appropriate for) negotiation or mediation, the dispute shall be submitted for determination in the applicable courts of the state where the Project is located, and this Agreement shall be subject to and construed in accordance with the laws of that state. The Client shall not assert any claim against Syska more than three (3) years after the date of the substantial completion of the Project.  
**(YOU NEED TO CONSIDER IF THE WORK IS INTERNATIONAL)**

**14. NOTICES:** Any and all notices or other communications required by this Agreement or by law to be served on, given to, or delivered to either party, shall be in writing and shall be deemed received when personally delivered to the party to whom it is addressed, project manager, or in lieu of such personal service, upon receipt of telegraphic or facsimile notice or three (3) days after deposit in the United States mail, first-class, postage prepaid, at the respective addresses set forth below:

Syska: Syska Hennessy Group, Inc.  
330 N. Wabash, Suite 1505  
Chicago, IL 60611  
Attention: Counsel

Client: Lake County  
18 N. County St., 9<sup>th</sup> Floor  
Waukegan, IL 60085  
Attention: Counsel

**15. FORCE MAJEURE:** Neither the Client nor Syska shall be held accountable or penalized under the terms of this Agreement for the failure to perform which is occasioned by war, strike, Act of God, natural disaster, or other casualty beyond the reasonable control of the Client or Syska.

**16. ENTIRE AGREEMENT/MODIFICATION/ASSIGNMENT:** This Agreement contains the entire agreement between parties with respect to the matters covered herein and supersedes any previous agreements (oral or written) or understandings between the parties. The Agreement may be amended only by written modification executed by both parties and may not be assigned without the written permission of the non-assigning party. Notwithstanding the foregoing, Syska may assign this Agreement to an affiliated or related entity of Syska in order to comply with professional registration requirements for engineering and architecture companies within the jurisdiction in which the Project is located.

**17. PUBLICITY:** Syska shall have the right to include photographic or artistic representations of the design of the Project among its promotional and professional materials. Syska shall be given reasonable access to the completed Project to make such representations. However, Syska's materials shall not include the Client's confidential or proprietary information if the Client has previously advised Syska in writing of the specific information considered by the Client to be confidential or proprietary. The Client shall provide professional credit for Syska in the Client's promotional materials for the Project.

**18. SUCCESSORS/ASSIGNS:** This Agreement shall be binding upon the parties' successors and permitted assignees. Syska may assign this Agreement to an affiliated or related entity of Syska in order to comply with professional registration requirements for engineering and architecture companies within the jurisdiction in which the Project is located.

**19. SEVERABILITY:** The partial or complete invalidity of any one of more provisions of this Agreement shall not affect the validity or continuing force and effect of any other provision.

**Agreed and Accepted by:**

\_\_\_\_\_  
(Client)

By: \_\_\_\_\_

\_\_\_\_\_  
(Signature)

Name: \_\_\_\_\_

\_\_\_\_\_  
(Print or type)

Title: \_\_\_\_\_

\_\_\_\_\_  
(Print or type)

**Agreed and Accepted by Syska Hennessy Group, Inc.**

By: \_\_\_\_\_

\_\_\_\_\_  
(Signature)

Name: \_\_\_\_\_

\_\_\_\_\_  
(Print or type)

Title: \_\_\_\_\_

\_\_\_\_\_  
(Print or type)



HEALY, BENDER & ASSOCIATES, INC.

A R C H I T E C T S

P L A N N E R S



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*SENIOR ARCHITECTS*  
SCOTT A. RHEL  
JODY A. WOODLEY

January 22, 2020  
(REVISED February 5, 2020)

Jeffrey Martin PE, LEED AP BD+C, Associate Partner  
Syska Hennessy Group, Inc.  
330 N. Wabash Avenue, Suite 1505  
Chicago, Illinois 60611

Re: Proposal for Architectural Services  
Lake County Lighting Upgrade Work  
Babcox Justice Complex  
Waukegan, Illinois  
Project No. 1-2120-5

Dear Jeff:

Thank you for the opportunity to provide architectural support for Syska Hennessy Group, Inc. (SHG) for the proposed Lake County Lighting Upgrade Work at the Babcox Justice Complex in Waukegan. We are committed to the successful performance of the work for this project. We value each of our clients including SHG and endeavor to provide services to exceed expectations. Our staff has considerable experience with renovation work and with institutional projects.

Based upon the information you sent over, it is our understanding the base proposal work will consist of replacement of a portion of lighting fixtures on the 2nd floor (19,590 sf), and all of floors 3, 4, 5, and 6 (24,400 sf per floor including the mezzanine level) as a base project scope. In addition, there will be an alternate proposal for replacement of lighting fixtures in a portion of the basement (21,978 sf) and the 2nd floor (2,520 sf). Lighting replacement will utilize the basis of design product cut sheets furnished by the County. It is understood that the County will be seeking energy rebates from Com-Ed to help offset the cost of this project. As we discussed, we have excluded any involvement in the rebate process.

Currently, this project is identified to be publicly bid; however, we are to provide a deductive alternate should the County decide to utilize an alternate procurement method which does not require the full blown public bid plans and specifications. Our services will include the development and preparation of Contract Documents (drawings and specifications), assistance with permitting through Waukegan, and limited Construction Phase services. We have excluded attendance at Owner Contractor progress meetings. We also understand SHG is the prime professional and that our services are to be provided in conjunction with and direct to SHG as the prime professional.

Our proposals are based upon SHG furnishing lighting plans depicting existing conditions along with

furnishing AutoCAD format backgrounds for the areas of proposed work. Our proposals are based on our Instruments of Service being performed in AutoCAD format with progress and final Construction Documents provided to SHG in electronic PDF format. We assume construction submittal reviews will be made available and transmitted through a web-based tracking platform established by SHG.

We assume reasonable access to proposed work areas will be arranged through SHG and authorized Lake County representatives.

**Base Proposal – Lighting Replacement on 2<sup>nd</sup> Floor (19,590 sf) and All of Floors 3, 4, 5, and 6 (24,400 sf per floor including the mezzanine level)**

We understand the base proposal project will include work necessary to remove existing lighting fixtures and replace with new LED lighting fixtures and related ceiling work on a portion of the 2<sup>nd</sup> Floor (19,590 sf) and all of floors 3, 4, 5, and 6 (24,400 sf per floor including the mezzanine level).

Anticipated scope of architectural work:

- Patching, repair, and/or complete replacement of portions of walls and ceilings to accommodate the light fixture replacement work.

Proposed Design Phase services:

- One (1) on-site review of project areas to become generally familiar with the required scope and to document existing conditions.
- Coordination of architectural patching and repair work as noted above with SHG lighting replacement plans.
- Preparation of architectural drawings and technical specifications for inclusion into SHG's project bidding and construction documents.
- Participation in up two (2) project coordination meetings via conference call or webcam.

Proposed Construction Phase (CA) services:

- Responding to RFI's related to architectural work during bidding and construction.
- Review of submittals related to architectural work
- One (1) on-site inspection in conjunction with SHG to confirm and establish the date of Substantial Completion and includes the preparation of a punch list for incomplete items related to architectural work.

Schedule:

Design Phase services: Winter/Spring 2020  
Construction Phase services: Fall/Winter 2020

Fee Proposal:

We propose to perform professional architectural Design Phase and Construction Phase services related to the above described scope of work for Base Proposal – Lighting Replacement on 2<sup>nd</sup> Floor (19,590 sf) and All of Floors 3, 4, 5, and 6 (24,400 sf per floor including the mezzanine level) project based on a Lump Sum fee of \$27,400. There is no reduction in fee if an alternate procurement method is utilized.

If additional Construction Phase (CA) visits are required, we will perform these at \$1,500 per daily visit, inclusive of travel time and mileage.

**Alternate Additional Proposal – Lighting Replacement at Basement (21,978 sf) and the 2<sup>nd</sup> Floor (2,520 sf)**

We understand the alternate additional proposal project will include work necessary to remove existing lighting fixtures and replace with new LED lighting fixtures and related ceiling work on a portion of the basement (21,978 sf) and the 2<sup>nd</sup> floor (2,520 sf). These services are assumed to be performed in conjunction and at the same time as the base proposal project.

Anticipated scope of architectural work:

- Patching, repair, and/or complete replacement of portions of walls and ceilings to accommodate the light fixture replacement work.

Proposed Design Phase services:

- One (1) on-site review of project areas to become generally familiar with the required scope and to document existing conditions.
- Coordination of architectural patching and repair work as noted above with SHG lighting replacement plans.
- Preparation of architectural drawings and technical specifications for inclusion into SHG's project bidding and construction documents.
- Participation in up two (2) project coordination meetings via conference call or webcam.

Proposed Construction Phase (CA) services:

- Responding to RFI's related to architectural work during bidding and construction.
- Review of submittals related to architectural work
- One (1) on-site inspection in conjunction with SHG to confirm and establish the date of Substantial Completion and includes the preparation of a punch list for incomplete items related to architectural work.

Schedule:

Design Phase services: Winter/Spring 2020  
Construction Phase services: Fall/Winter 2020

Fee Proposal:

We propose to perform professional architectural Design Phase and Construction Phase services related to the above described scope of work for Alternate Additional Proposal – Lighting Replacement at Basement (21,978 sf) and the 2<sup>nd</sup> Floor (2,520 sf) project based on a Lump Sum fee of \$7,400. This fee proposal is based upon the Alternate Proposal services being performed in conjunction with the Base Proposal services. There is no reduction in fee if an alternate procurement method is utilized.

If additional Construction Phase (CA) visits are required, we will perform these at \$1,500 per daily visit, inclusive of travel time and mileage.

### **General Information**

As clarification, our services do not include performing detailed measured drawings; performing comprehensive physical assessments of existing architectural components and systems; nor does it include design and project management services for the removal of hazardous materials including but not limited to asbestos, if present.

We are available to commence the above described services immediately and are committed to meet the Design Phase completion schedule for the project. If we are engaged to proceed, we recommend our services with SHG be incorporated into an agreement like the form utilized on the Mechanical Infrastructure Project.

We again thank you for the opportunity to provide our proposal for architectural services. We look forward to again working with you.

Very truly yours,

HEALY, BENDER & ASSOCIATES, INC.

A handwritten signature in black ink, appearing to read 'D. Patton', with a long horizontal flourish extending to the right.

David G. Patton, AIA, LEED AP BD+C  
Principal