

CONTRACT FOR PROFESSIONAL SERVICES

Agreement for Additional Technical Service Provider Work for Kane County Facility Efficiency Improvements under the Energy Efficiency and Conservation Block Grant

This agreement is entered into and will be effective as of the date of final execution of this contract, between the COUNTY OF KANE (the "*County*"), a body corporate and politic existing under the laws of the State of Illinois and a unit of local government under §1 of Article VII of the Illinois Constitution (Ill. Const., Art. VII, §1), and Patrick Engineering Inc. (the "*Consultant*"). For and in consideration of the mutual promises set forth herein, the parties agree as follows:

§ 1. Purpose of agreement

The County hereby retains the Consultant to provide technical support to county during pre-bid and bid review processes, prepare bid specs for Buildings B/I, Building C, Building A, and 3rd Street Courthouse, and conduct energy analyses for the Kane County Facility Efficiency Improvements program under Kane County's Energy Efficiency and Conservation Block Grant.

§ 2. Scope of services

The services to be provided by the Consultant (the "*Work*"), are set forth in **Exhibit 2**.

§ 3. Term of this agreement

The term of this agreement will commence as of the date hereof and continue, unless earlier terminated in accordance herewith, until the Work is completed.

§ 4. Relationship of parties

The Consultant will serve as the County's professional engineering consultant in the performance of the Work. The relationship between the parties is that of a buyer and seller of professional services and as such the Consultant is an independent contractor of the County in the performance of the Work and it is understood that the parties have not entered into any joint venture or partnership. The Consultant is not an employee or the agent of the County for any purpose.

§ 5. Compensation

- (a) The County will pay the Consultant an amount not to exceed \$11,700 for which the Consultant will fully complete the Work. The Consultant will submit to the County an itemized monthly invoice reflecting the work completed within the preceding calendar month and the time spent thereon. The monthly invoice will also include a summary of all previous invoices up to, and including, the invoice for the current month. The Work will be billed at the hourly rates set forth in **Exhibit 1**. The County will pay each such invoice within 45 days of its receipt.

§ 6. Time for completion of the work

The Work will be completed no later than **May 31, 2010**.

§ 7. Terms and conditions

- (a) The Director of the Kane County Department of Environmental Management (the "**Director**"), or his written designee, shall act as the County's representative with respect to the Work and shall transmit to and receive from the Consultant information with respect to the Work. The Consultant shall coordinate all work through the Client and shall report results of all work directly to the Client.
- (b) The Director may, by written order, make changes in specific work items if such changes are within the scope of services set forth in **Exhibit 2**. If any such change is not within the scope of services, the Consultant will so notify the Director and will submit a proposed change order reflecting an increase (or decrease) in the work. Hourly rates for additional work will be those set forth in **Exhibit 1**. No such change order will be effective to modify this agreement unless it has first been reduced to writing and approved by all undersigned parties.
- (c) The County may, anytime and without cause, upon notice to the Consultant terminate this agreement before completion of the Work. Upon termination, the Consultant will cease all work under this agreement and will turn over to the County all information, records, documents, data, property, publications or other material theretofore received or prepared by the Consultant under or resulting from this agreement, all of which will become the property of the County. The Consultant will submit a final invoice for all work done through the date of termination which will be paid within 45 days of its receipt. In the event of termination, only actual time spent and expenses incurred in the performance of the Work prior to termination will be compensated. The County will have no liability for lost profits, overhead or other consequential or incidental damages. In the event of termination, the County will be free to abandon the work or retain another consultant to complete the Work.
- (d) The obligations of the County under this agreement are contingent upon the prior appropriation of funds by the Kane County Board if applicable.
- (e) The Consultant will maintain books, records, documents, time sheets and other evidence pertinent to its performance of the Work according to generally accepted accounting principles and practices consistently applied. The County or its authorized representatives will have access to such books, records, documents and other evidence for inspection, audit, and copying. The Consultant will provide appropriate facilities for such access and inspection during normal business hours.

§ 8. Ownership of Documents and Confidentiality

All documents, including all original drawings, specifications, tables and data prepared or collected in the course of the Work are and remain the property of the County; shall be maintained as confidential property of the County, shall not be disclosed in whole or in part, to any non-parties to this agreement except at the direction of the County. All data obtained from the County, including digital mapping information, is to be used solely for the purpose of the Work, and shall not be retained by the Consultant for use in any other manner.

§ 9. Responsibility of Consultant

The Consultant shall perform the Work in accordance with generally accepted and currently recognized practices and principles applicable to the performance thereof and in a manner consistent with that level of care and skill ordinarily exercised by professionals currently performing such work in the same locality under similar conditions. The Consultant represents and warrants that it has thoroughly reviewed the Work; that it is thoroughly familiar with the field of knowledge bearing upon the performance of the Work; that it has any licenses, permits or approvals necessary or appropriate to perform the Work; and that it can produce the Work within the term of this agreement and for the compensation stated herein.

§ 10. Indemnity

The Consultant shall indemnify, defend (with counsel reasonably satisfactory to those parties to be defended), and hold the County, its elected officials, the Committee, the Director, and their respective agents and employees, harmless from any and all claims, demands, liabilities, damages, loss, cost or expense for or on account of any injury or damage which may arise or which may be alleged to have arisen out of or in connection with, or as a result of any negligent acts, errors and/or omissions of the Consultant, its subcontractors, and their respective employees and agents, in performing the Work, including, but not limited to, claims for releases or disposal of hazardous substances or wastes under CERCLA, RCRC, or any similar federal or state environmental law or regulation.

§ 11. Insurance

The Consultant will obtain prior to the commencement of the Work and will maintain for a minimum of 3 years following completion of the Work the following insurance coverage:

- | | |
|----------------------------|--|
| (a) Workers Compensation | Shall be in accordance with the provisions of the laws of the State of Illinois; |
| (b) General Liability | \$2,000,000 combined single limit (or equivalent); |
| (c) Automobile Liability | \$1,000,000 combined single limit (or equivalent); |
| (d) Excess Liability | \$2,000,000 each occurrence; and |
| (e) Professional Liability | \$2,000,000 per claim. |

Prior to commencement of the Work, the Consultant will furnish the County with a certificate of insurance evidencing the coverage listed above which names the County as an additional insured

and provides that the County will receive not less than 30 days' prior written notice of any cancellation of or material change in the policy.

§ 12. Equal Employment Opportunity

Section 6.1 of the Illinois Department of Human Rights Rules and Regulations is hereby incorporated herein by this reference as though fully set forth.

§ 13. No subcontracts

The Consultant will be held responsible for the performance of the Work. No part of the Work may be the subject of a subcontract between the Consultant and any other person without the prior written consent of the Director.

§ 14. Notice

Any notice, invoice, certification or communication required or permitted hereunder shall be sufficiently given if served personally, sent *via* fax, or sent by first class mail, postage prepaid to the Kane County Department of Environmental and Building Management, attention Tim Harbaugh, Director, Kane County Government Center, 719 S. Batavia Ave., Geneva, IL 60134, (Fax No. 630/208-5137).

Notice *via* fax shall be effective as of the date and time set forth on the fax transmittal sheet produced by the sending fax machine. Notice by first class mail shall be effective four days after mailing.

§ 15. Miscellaneous

- (a) This agreement constitutes the entire agreement between the parties and supersedes any prior agreement relating to the subject matter hereof. This agreement may be modified or amended only by a duly authorized written instrument executed by the parties hereto.
- (b) The agreement shall be governed by and construed in accordance with the laws of the State of Illinois. Any action brought under or which relates to this agreement shall be brought in Kane County, Illinois.
- (c) This agreement shall be binding upon and shall inure to the benefit of the parties and their successors and assigns, provided, however, that neither party may assign this agreement without the prior written consent of the other.
- (d) The waiver by one party of any breach of this agreement or the failure of one party to enforce at any time, or for any period of time, any of the provisions hereof, shall be limited to the particular instance and shall not be deemed to be a waiver of any future breach or a waiver of any provision of this agreement.
- (e) Nothing in this agreement shall be construed as creating any personal liability on the part of any officer, employee or agent of any public body that may be a party to this agreement, nor

shall it be construed as giving any rights or benefits under this agreement to anyone other than the parties hereto.

- (f) All exhibits referred to in this agreement are attached and by this reference incorporated herein as though fully set forth.
- (g) This agreement may be executed in any number of counterparts, all such counterparts taken together constituting but one and the same agreement.
- (h) If any action is filed under or relating to this agreement, the non-prevailing party (as determined by the Court) shall pay, in addition to all other amounts which the non-prevailing party may be ordered to pay, the prevailing party's costs, expenses and reasonable attorney's fees.

§ 16. ARRA AND EECBG REQUIREMENTS ACKNOWLEDGEMENT

The Consultant acknowledges that this project is funded in part, or in whole, by an Energy Efficiency and Conservation Block Grant (EECBG) from the U.S. Department of Energy through the Federal American Recovery and Reinvestment Act of 2009 (ARRA). As such, the Consultant shall abide by all regulations set forth by the U.S. Department of Energy for EECBG funding and the United States Government for ARRA funds. Consultant acknowledges that they have received and reviewed a copy of the Kane County EECBG DOE grant agreement, number DE-EE0000818/000, dated 8/24/09, and will comply with all applicable requirements and regulations. Further, Consultant shall (if not already) obtain a DUNS number and register with the U.S. Central Contractor Registration (CCR) and provide DUNS number and CCR verification to the County upon receipt.

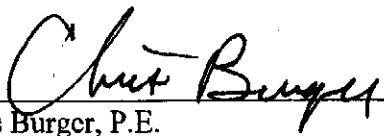
Consultant DUNS #: (to be filled out by Consultant) 02-130-0280

The County of Kane

Patrick Engineering, Inc.



Christopher Rossman
Director, Purchasing



Chris Burger, P.E.
Vice President

4.19.10
Date

4-19-10
Date

EXHIBIT 1

(Hourly Rates)

See attached Rate Schedule

The attached rate schedule will be utilized for staff not specifically mentioned below. The following personnel are listed in the proposal with specific project rates:

Staff	Hourly Rate
Chris Burger, Senior Engineer	\$150
Ron Swager, Technical Specialist	\$95
Dave Kramer, Senior Engineer	\$95
Lauren Erdmanis, Engineer	\$95

EXHIBIT 2
(The Work)

April 15, 2010

Ms. Karen Kosky
Watershed Engineer
Kane County Environmental and Building Management
719 Batavia Avenue, Building A
Geneva, IL 60134

Subject: Proposal for Continuing Services
Energy Efficiency Specification and Management
Patrick Proposal No. 2B003.513(a)

Dear Ms. Kosky:

Patrick Engineering Inc. (Patrick) is pleased to provide this letter proposal to provide professional engineering services for Kane County to continue services relating to the implementation of the Judicial Center and the Juvenile Justice Center buildings specifications and preparing specifications for remaining buildings identified in the energy study.

SCOPE OF SERVICES

Patrick has prepared the following scope of services based on our understanding of the project need. The proposed scope of services includes the following items:

1. Provide technical support to county during pre-bid, and bid review processes. Patrick will help answer questions posed to the County from prospective bidders and questions that arise during bid reviews as necessary.
2. Prepare Bid Specs for Buildings B/I, Building C, Building A, and 3rd Street Courthouse. Patrick will prepare technical specifications for the lighting, insulation and controls for:
 - Buildings B/I – L4 and L5
 - Building C – L3, L4, L5, L6, L9, and K5
 - Building A – L3, L4, K4, C1
 - 3rd Street Courthouse – L4, L5, L6, K6, I1
3. Energy Analyses. Prepare Energy savings calculations for a white roof and attic insulation for the B&I and 3rd street Courthouse. Patrick will use engineering calculations to determine the energy improvement in terms of heating and cooling energy reduction.

RECOMMENDED BUDGET

Patrick will provide the scope of work outlined herein on a time-and-materials basis in accordance with Patrick's 2010 Fee Schedule (attached). We recommend a budget of \$11,700 be established to complete the proposed scope of services.

<u>Task</u>	<u>Description</u>	<u>Budget</u>
1	Technical support	\$1,900
2	New Specs	\$6700
3	Energy Analysis	\$3100
	Subtotal	\$11,700

SCHEDULE

Once authorization to proceed is received, the scope of services will begin immediately.


AGREEMENT AND AUTHORIZATION

If you would like Patrick to perform these services, please have the County issue a Contract for Professional Services outlining the Scope of Services we have described. Receipt of the Contract will serve as our notice to proceed. This proposal is valid only when accepted and returned to Patrick Engineering Inc. within 30 days from the date of this letter.

Should you have any questions or concerns, please do not hesitate to contact me at 217-525-7050.

Sincerely,

PATRICK ENGINEERING INC.



Chris Burger, P.E.
Vice President

Enclosures: Patrick's 2010 Fee Schedule

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