

AMENDMENT NO. 1
TO
AGREEMENT BETWEEN THE COUNTY OF DUPAGE, ILLINOIS
AND FEHR GRAHAM FOR PROFESSIONAL ENGINEERING SERVICES
FOR
DESIGN, BIDDING AND CONSTRUCTION OF IMPROVEMENTS AT THE
WOODRIDGE GREENE VALLEY WASTEWATER TREATMENT FACILITY – PHASE 1

THIS AMENDMENT modifies the AGREEMENT made the 14th day of March, 2023, between COUNTY OF DUPAGE, a body politic and corporate, with offices at 421 North County Farm Road, Wheaton, Illinois 60187 (hereinafter referred to as the COUNTY) and FEHR GRAHAM ENGINEERING AND ENVIRONMENTAL (formerly d.b.a. DEUCHLER, A DIVISION OF FEHR GRAHAM), licensed to do business in the state of Illinois, with offices at 230 Woodlawn Avenue, Aurora, Illinois 60506 (hereinafter referred to as the CONSULTANT).

RECITALS

WHEREAS, the COUNTY intends to apply for a loan from the Illinois Environmental Protection Agency (IEPA) Water Pollution Control Loan Program (WPCLP) for the design and construction of IMPROVEMENTS AT THE WOODRIDGE GREENE VALLEY WASTEWATER TREATMENT FACILITY – PHASE 1 (hereinafter referred to as the PROJECT); and

WHEREAS, the IEPA has specific requirements pursuant to Title 35 Illinois Administrative Code Part 365 Procedures for Issuing Loans from the Water Pollution Control Loan Program (hereinafter referred to as the LOAN RULES) which must be addressed in order for WPCLP funds to be utilized to pay for engineering design and construction services;

NOW, THEREFORE, in consideration of the premises, the mutual covenants, terms, and conditions herein set forth and previously set forth in the AGREEMENT, and the understandings of each party to the other, the parties do hereby mutually covenant, promise and agree as follows:

A1-1.0 INCORPORATION AND CONSTRUCTION

A1-1.1 All recitals set forth above in this AMENDMENT NO. 1 and previously set forth in the AGREEMENT, unless specifically repealed through this AMENDMENT NO. 1, are incorporated herein and made part thereof, the same constituting the factual basis for the AGREEMENT, effective beginning from the original date of the AGREEMENT.

A1-1.2 The headings of the paragraphs and subparagraphs of this AMENDMENT NO. 1 are inserted for convenience of reference only and shall not be deemed to constitute part of the AGREEMENT or to affect the construction hereof.

A1-2.0 AUDIT AND ACCESS TO RECORDS

A1-2.1 Books, records, documents and other evidence directly pertinent to performance of WPCLP loan work under this AGREEMENT shall be maintained in accordance with generally accepted Accounting Principles. The IEPA or any of its authorized representatives shall

have access to the books, records, documents and other evidence for the purpose of inspection, audit and copying. Facilities shall be provided for access and inspection.

- A1-2.2 Audits conducted pursuant to this provision shall be in accordance with auditing standards generally accepted in the United States of America.
- A1-2.3 All information and reports resulting from access to records pursuant to the above shall be disclosed to the IEPA. The auditing agency shall afford the CONSULTANT an opportunity for an audit exit conference and an opportunity to comment on the pertinent portions of the draft audit report.
- A1-2.4 The final audit report shall include the written comments, if any, of the audited parties.
- A1-2.5 Records shall be maintained and made available during performance of project services under this AGREEMENT and for three years after the final WPCLP loan closing. In addition, those records that relate to any dispute pursuant to the LOAN RULES Section 365.650 or Section 662.650 (Disputes) or litigation or the settlement of claims arising out of project performance or costs or items to which an audit exception has been taken, shall be maintained and made available for three years after the resolution of the appeal, litigation, claim or exception.

A1-3.0 COVENANT AGAINST CONTINGENT FEES

- A1-3.1 The CONSULTANT warrants that no person or selling agency has been employed or retained to solicit or secure this contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees. For breach or violation of this warranty, the loan recipient shall have the right to annul this AGREEMENT without liability or in its discretion to deduct from the contract price or consideration or otherwise recover, the full amount of such commission, percentage, brokerage, or contingent fee.

A1-4.0 USEPA NONDISCRIMINATION CLAUSE

- A1-4.1 The CONSULTANT shall not discriminate on the basis of race, color, national origin or sex in the performance of this AGREEMENT. The CONSULTANT shall carry out applicable requirements of 40 CFR Part 33 in the award and administration of contracts awarded under EPA financial assistance agreements. Failure by the CONSULTANT to carry out these requirements is a material breach of this AGREEMENT which may result in the termination of this AGREEMENT or other legally available remedies.

A1-5.0 USEPA FAIR SHARE PERCENTAGE CLAUSE


- A1-5.1 The CONSULTANT agrees to take affirmative steps to assure that disadvantaged business enterprises are utilized when possible as sources of supplies, equipment, construction and services in accordance with the WPCLP LOAN RULES. As required by the award conditions of USEPA's Assistance Agreement with the IEPA, the CONSULTANT acknowledges that the fair share percentages are 5% for Minority-Owned Business Enterprises (MBEs) and 12% for Woman-Owned Business Enterprises (WBEs).

IN WITNESS OF, the parties set their hands and seals as of the date first written above.

County of DuPage

Fehr Graham

Deborah Conroy, Chairman
DuPage County Board



Mick Gronewold, P.E.
Principal

Jean Kaczmarek
DuPage County Clerk



Christopher DeSilva, P.E.
Branch Manager