
COUNTY OF DuPAGE, ILLINOIS

INDEPENDENT CONTRACTOR AGREEMENT

This AGREEMENT ("Agreement") is effective as of the 1st day of February, 2024, and is entered into by and between the County of DuPage, a body politic and corporate ("County") and McGuireWoods Consulting LLC, an Contractor ("Contractor").

RECITALS

WHEREAS, the County desires that CONTRACTOR render certain services more fully described herein; and

WHEREAS, the CONTRACTOR has demonstrated expertise in providing such services, has represented that it has the requisite knowledge, skill, experience, and other resources necessary to perform such services and is desirous of providing such services for the County.

NOW, THEREFORE, in consideration of the foregoing and the mutual covenants contained herein, the parties hereby agree as follows:

1. **Incorporation of Recitals:** The matters recited above are hereby incorporated into and made a part of this Agreement.
2. **Term:** This Agreement is for a term commencing, February 1, 2024 through January 31, 2025. ("Term"), unless terminated sooner as provided herein.
3. **Termination**
 - 3.1 Except as otherwise set forth in this AGREEMENT, either party shall have the right to terminate this AGREEMENT for any cause or without cause thirty (30) days after having served written notice upon the other party, except in the event of CONTRACTOR'S insolvency, bankruptcy or receivership, in which case termination shall be effective immediately upon receipt of notice.
 - 3.2 Upon such termination, the liabilities of the parties to this AGREEMENT shall cease, but they shall not be relieved of the duty to perform their obligations up to the date of termination, or to pay for deliverables tendered prior to termination. There shall be no termination expenses.
 - 3.3 Upon termination of this AGREEMENT, all data, work products, reports and documents produced because of this AGREEMENT shall become the property of the COUNTY. Further, CONSULTANT shall provide all deliverables within fourteen (14) days of termination in accordance with the other provisions of this AGREEMENT.
4. **Scope of Services:** CONTRACTOR agrees to provide the services required and, if applicable, set forth on Exhibit "A" including the deliverables set forth thereon ("Services"), in accordance with the terms and conditions of this Agreement. The County may, from time to time, request changes in the Scope of Services. Any such changes, including any increase or decrease in CONTRACTOR's fees, shall be documented by an amendment to this Agreement in accordance with State and County laws.
5. **Compensation and Payment:** Compensation for Services during the initial term shall be based on a monthly rate of \$8,000, over the period of the contract and that shall not exceed, \$96,000.00. with no reimbursement for expenses. Compensation shall be based on actual Services performed during the Term of this Agreement and the County shall not be obligated to pay for any Services not in compliance with this Agreement. In the event of early termination of this Agreement, the County shall only be obligated to pay the fees incurred up to the date of termination. In no event shall the County be liable for any costs incurred or services performed after the effective date of termination as provided herein. Consultant shall

submit invoices referencing this Agreement with such supporting documentation as may be requested by the County. Payments shall be subject to 50 ILCS 505, "Local Government Prompt Payment Act". Payment will not be made on invoices submitted later than six months (180 days) after delivery of goods and any statute of limitations to the contrary is hereby waived.

6. **Non-appropriation:** Expenditures not appropriated in the current fiscal year budget are deemed to be contingent liabilities only and are subject to appropriation in subsequent fiscal year budgets. In the event sufficient funds are not appropriated in a subsequent fiscal year by the County for performance under this Agreement, the County shall notify CONTRACTOR and this Agreement shall terminate on the last day of the fiscal period for which funds were appropriated. In no event shall the County be liable to the CONTRACTOR for any amount in excess of the cost of the services rendered up to and including the last day of the fiscal period.
7. **Events of Default and Remedies.**
 - 7.1 Events of Default. Events of default include, but are not limited to, any of the following: (i) Any material misrepresentation by CONTRACTOR in the inducement of this Agreement or the performance of Services; (ii) Breach of any agreement, representation or warranty made by CONTRACTOR in this Agreement; or (iii) Failure of CONTRACTOR to perform in accordance with or comply with the terms and conditions of this Agreement.
 - 7.2 Remedies. In the event CONTRACTOR defaults under this Agreement and such default is not cured within fifteen (15) calendar days after written notice is given by the County, the following actions may be taken by the County: (i) This Agreement may be terminated immediately; and (ii) The County may deem CONTRACTOR non-responsible for future contract awards. The remedies stated herein are not intended to be exclusive and the County may pursue any and all other remedies available at law or equity.
8. **Standards of Performance:** CONTRACTOR agrees to devote such time, attention, skill, and knowledge as is necessary to perform Services effectively and efficiently. The CONTRACTOR acknowledges and accepts a relationship of trust and confidence with the County and agree to cooperate with the County in performing Services to further the best interests of the County.
9. **Assignment:** This Agreement shall be binding on the parties and their respective successors and assigns, provided however, that neither party may assign this Agreement, or any obligations imposed hereunder without the prior written consent of the other party.
10. **Confidentiality and Ownership of Documents.**
 - 10.1 Confidential Information. In the performance of Services, CONTRACTOR may have access to certain information that is not generally known to other ("Confidential information"). CONTRACTOR agrees not to use or disclose to any third party, except in the performance of Services, any confidential information or any records, reports or documents prepared or generated as a result of this Agreement without the prior written consent of the County. CONTRACTOR shall not issue publicity news releases or grant press interviews, except as may be required by law, during or after the performance of the Services, nor shall CONTRACTOR disseminate any information regarding Services without the prior written consent of the County. CONTRACTOR agrees to cause its personnel, staff and/or subcontractors, if any, to undertake the same obligations of confidentiality agreed to by CONTRACTOR under this Agreement. The terms of this Paragraph 9.1 shall survive the expiration or termination of this Agreement.

- 10.2 **Ownership.** All records, reports, documents, and other materials prepared by CONTRACTOR in performing Services, as well as all records, reports, documents, and other materials containing Confidential Information prepared or generated as a result of this Agreement, shall at all times be and remain the property of the County. All of the foregoing items shall be delivered to the County upon demand at any time and in any event, shall be promptly delivered to the County upon expiration or termination of the Agreement. In the event any of the above items are lost or damaged while in CONTRACTOR's possession, such items shall be restored or replaced at CONTRACTOR's expense. Notwithstanding any provision herein to the contrary, CONTRACTOR is permitted to retain a copy of the Confidential Information (i) to the extent and as long as required by law, regulation, administrative, court order, or record retention requirements or (ii) in compliance with its professional liability insurance policies. Any Confidential Information stored as electronic data on magnetic media due to automatic archiving and backup procedures shall be retained according to CONTRACTOR's normal record retention policies. Nothing herein prohibits CONTRACTOR from retaining copies of its work product that may rely on or incorporate, in whole or part, Confidential Information.
11. **Representations and Warranties of CONTRACTOR:** CONTRACTOR represents and warrants that the following shall be true and correct as of the effective date of this Agreement and shall continue to be true and correct during the Term of this Agreement.
- 11.1 **Licensed Professionals.** Services required to be performed by professionals shall be performed by professionals licensed to practice by the State of Illinois in the applicable professional discipline.
- 11.2 **Compliance with Laws.** CONTRACTOR is and shall remain in compliance with all local, state and federal laws, County of DuPage ordinances, and regulations relating to this Agreement and the performance of Services. Further, CONTRACTOR is and shall remain in compliance with all County policies and rules, including, but not limited to, criminal background checks.
- 11.3 **Good Standing.** CONTRACTOR is not in default and has not been deemed by the County to be in default under any other Agreement with the County during the five (5) year period immediately preceding the effective date of this Agreement.
- 11.4 **Authorization.** In the event CONTRACTOR is an entity other than a sole proprietorship, CONTRACTOR represents that it has taken all action necessary for the approval and execution of this Agreement, and execution by the person signing on behalf of CONTRACTOR is duly authorized by CONTRACTOR and has been made with complete and full authority to commit CONTRACTOR to all terms and conditions of this Agreement which shall constitute valid, binding obligations of Individual.
- 11.5 **Gratuities.** No payment, gratuity or offer of employment, except as permitted by the Illinois State Gift Ban Act, was made by or to CONTRACTOR in relation to this Agreement or as an inducement for award of this Agreement.
12. **Independent Contractor:** It is understood and agreed that the relationship of CONTRACTOR to the County is and shall continue to be that of an independent contractor and neither CONTRACTOR nor any of CONTRACTOR's employees shall be entitled to receive County employee benefits. As an independent contractor, CONTRACTOR agrees to be responsible for the payment of all taxes and withholdings specified by law, which may be due in regard to compensation paid by the County. CONTRACTOR agrees that neither CONTRACTOR nor its employees, staff or subcontractors shall represent themselves as employees or agents of the County.

13. **Indemnification:** CONTRACTOR agrees to indemnify and hold harmless the County, its members, trustees, employees, agents, officers and officials, from and against any and all liabilities, taxes, tax penalties, interest, losses, penalties, damages and expenses of every kind, nature and character, including costs and attorney fees, claims, liens, damages, obligations, actions, suits, judgments, settlements, or causes of action (collectively “Losses”) proximately caused by the negligence, gross negligence, willful misconduct or breach of this Agreement by CONTRACTOR or its employees or its subcontractors. This includes, but is not limited to, the unauthorized use of any trade secrets, U.S. patent or copyright infringement. As a condition of the indemnities set forth herein, the County shall provide CONTRACTOR with (i) prompt notice of any indemnifiable loss or claim, (ii) the option to assume the defense of any indemnified claim, and (iii) the right to approve or reject the settlement of any indemnified claim. The indemnities set forth herein shall survive the expiration or termination of this Agreement. Notwithstanding the foregoing, the CONTRACTOR and County shall not be deemed to have waived any rights, protections, or immunities under 745 ILCS 10/1-10 I, *et seq.* (Local Government and Governmental Employees Tort Immunity Act.) Notwithstanding the terms above, the indemnities hereunder shall not apply to the extent such Losses result from (i) CONTRACTOR’s reasonable reliance on information provided by the County, or (ii) a breach of this Agreement by the County, or (iii) the negligence or willful misconduct of the County.
14. **Insurance.**
At all times during the term of the contract, the Contractor and its independent contractors shall maintain, at their sole expense, insurance coverage for the Contractor, its employees, officers and independent contractors, as follows:
- 14.1 **Automobile Insurance.** If Contractor will be driving a vehicle in the course of performing the Services, Contractor shall attach a copy of its current automobile insurance card confirming that the vehicle is covered by insurance.
- 14.2 **Waiver.** In consideration of the County agreeing to waive its requirement that Contractor carry Commercial General Liability Insurance, Professional Liability Insurance and Worker's Compensation and Employer's Liability Insurance, Contractor agrees to hold the County, its members, trustees, employees, agents, officers and officials, harmless from all liability in any claim or action made by Contractor or any third party, and harmless from any judgment awarded by any court or administrative body, for personal injury, disability or death, or damage or destruction of property resulting from or connected with the Services, unless caused by the negligence or gross negligence of the County.
15. **Notices:** All notices required under this Agreement shall be in writing and sent to the addresses and persons set forth below, or to such other addresses as may be designated by a party in writing. All notices shall be deemed received when (i) delivered personally; (ii) sent by confirmed telex or facsimile (followed by the actual document); or (iii) one (1) day after deposit with a commercial express courier specifying next day delivery, with written verification of receipt.
16. **No Attorney-Client Relationship Established:** CONTRACTOR is a wholly owned subsidiary of the law firm McGuireWoods LLP (“McGuireWoods law firm”). Occasionally lawyers at the McGuireWoods law firm provide non-legal services to CONTRACTOR’s clients, but CONTRACTOR’s does not provide legal services or advice, nor does this Agreement include the provision of legal services by the McGuireWoods law firm or give rise to an attorney-client relationship between the McGuireWoods law firm and County. No communications with anyone at the McGuireWoods law firm will be protected by the attorney-client privilege. This Agreement does not affect the attorney-client relationship, or the privileged nature of any communications, between County and the McGuireWoods law firm pursuant to a separate engagement for legal services, whether established before or after the date of this Agreement. It is not necessary for County to engage the McGuireWoods law firm in order to obtain CONTRACTOR’s services, or vice versa.

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17. Conflicts of Interest: County acknowledges that it is engaging CONTRACTOR and is not represented by the McGuireWoods law firm under this Agreement, and County consents to the McGuireWoods law firm's representation of other persons and entities on legal matters, including litigation, that may adversely affect County's interests, directly or indirectly, but are unrelated to the specific representation County has asked CONTRACTOR to undertake on its behalf. Additionally, County consents to CONTRACTOR's representation of other persons and entities on matters unrelated to the specific representation County has asked CONTRACTOR's to undertake on County's behalf under this Agreement and that may adversely affect County's interests, directly or indirectly.

IF TO THE COUNTY:

Sheryl Markay
DuPage County Board Office
421 North County Farm Road
Wheaton, IL 60187

COPY TO: Mary Catherine Wells, Acting Procurement Officer
DuPage County Procurement Services Division
421 North County Farm Road
Wheaton, IL 60187-3978

COPY TO: Assistant State's Attorney – Conor P. McCarthy (Civil Bureau)
Office of DuPage County State's Attorney Robert B. Berlin William J.
Bauer Judicial Office Facility - Annex
503 North County Farm Road
Wheaton, Illinois 60187

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IF TO CONTRACTOR:

Greg Bales
McGuireWoods Consulting LLC
77 W Wacker Drive, Suite 4300
Chicago, IL 60610

18. **Entire Agreement and Amendment:** This Agreement, including all exhibits and referenced documents, constitutes the entire agreement of the parties with respect to the matters contained herein. All attached exhibits are incorporated into and made a part of this agreement. No modification of or amendment to this Agreement shall be effective unless such modification or amendment is in writing and signed by both parties hereto. Any prior agreements or representations, either written or oral, relating to the subject matter of this Agreement is of no force or effect.
19. **Governing Law:** This Agreement shall be governed by and construed in accordance with the laws of the State of Illinois without regard to any conflict of law or choice of law principles.
20. **Waiver:** No delay or omission by the County to exercise any right hereunder shall be construed as a waiver of any such right and the County reserves the right to exercise any such right from time to time as often and as may be deemed expedient.
21. **County Approval:** If applicable, This Agreement is subject to approval of the appropriate committee(s) and County Board of the County of DuPage.
22. **Subcontractors:** The County and Contractor agree that, from time to time, Contractor may need to provide specific representational services using a subcontractor with specialized knowledge and skills. Where Contractor engages a subcontractor, Contractor shall obtain a completed vendor ethics form from the subcontractor and shall tender the vendor ethics form to the County within 30 days of receipt of the subcontractor vendor ethics form.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized representatives as of the date first above written.

THE COUNTY OF DUPAGE, ILLINOIS

CONTRACTOR

By: _____
MARY CATHERINE WELLS
ACTING CHIEF PROCUREMENT OFFICER

By: _____
GREG BALES
SENIOR VICE PRESIDENT

DATE

12/20/23

DATE

COUNTY OF DuPAGE, ILLINOIS

EXHIBIT A

SCOPE OF SERVICES

County's Purchase Order #		County Resolution #	
Contract Name		Contract Date	
County's Project Manager	Sheryl Markay	Contractor's Project Manager	Greg Bales

This Scope of Services is for Contractors providing to the County certain Services pursuant to the above-referenced Contract and County Resolution

1. **DESCRIPTION OF CONTRACTOR'S WORK**

Consulting Services as a lobbyist representing DuPage County before the United States Congress and federal executive branch agencies.

2. **MILESTONE/DELIVERABLE INFORMATION:**

Will provide regular updates and reports as directed to the County Board Chair, Chair of the Legislative & Committee and the County Board.