



COUNTY OF KENDALL, ILLINOIS
COMMITTEE OF THE WHOLE
COUNTY OFFICE BUILDING
County Board Room 210
Thursday, April 11, 2019 at 4:00 PM
AGENDA

- 1. Call to Order and Pledge of Allegiance**
- 2. Roll Call:** Audra Hendrix, Matthew Prochaska, John Purcell, Robyn Vickers, Elizabeth Flowers, Tony Giles, Scott Gryder, Amy Cesich, Judy Gilmour, Matt Kellogg
- 3. Approval of Agenda**
- 4. Old Business**
 - *Discussion of Lennar and Raintree 2 SSA*
 - *Discussion of Ongoing Agreement for the Future Development of Lakewood Springs SSA*
 - *Discussion of Engineering Proposal from Healey Bender for Animal Control Facility Upgrade*
- 5. New Business**

From the PBZ Committee:

 - *Amended Petition 17-28 Request from Kendall County Planning, Building and Zoning Committee for Text Amendments to Sections 7.01.D.32 (Specials Uses in A-1 Agricultural District), 7.01.D.33 (Special Uses in A-1 Agricultural District) and 10.03.B.4 (Special Uses in M-3 Aggregate Materials Extraction, Processing and Site Reclamation District) of the Kendall County Zoning Ordinance Pertaining to Regulations of Outdoor Target Practice or Shooting Ranges (Not Including Private Shooting in Your Own Yard)*
- 6. Public Comment**
- 7. Questions from the Media**
- 8. Chairman's Report**
- 9. Review Board Action Items**
- 10. Executive Session**
- 11. Adjournment**

If special accommodations or arrangements are needed to attend this County meeting, please contact the Administration Office at 630- 553-4171, a minimum of 24-hours prior to the meeting time

COUNTY OF KENDALL, ILLINOIS
COMMITTEE OF THE WHOLE
 Thursday, March 14, 2019

CALL TO ORDER AND PLEDGE OF ALLEGIANCE - The meeting was called to order at 4:36p.m. by County Board Vice Chair Amy Cesich, who led the Pledge of Allegiance to the American Flag.

ROLL CALL

Attendee	Status	Arrived	Left Meeting
Scott Gryder	ABSENT		
Amy Cesich	Present		
Elizabeth Flowers	ABSENT		
Tony Giles	ABSENT		
Judy Gilmour	Here		
Audra Hendrix	Here		
Matt Kellogg	Yes		
Matthew Prochaska	Here		
John Purcell	Present		
Robyn Vickers	Yes		

Others present: Matt Asselmeier, Scott Koeppel, Dr. Amaal Tokars, ASA James Webb, State's Attorney Eric Weis

APPROVAL OF AGENDA – Motion made by Member Vickers to approve the agenda, second by Member Kellogg. With seven member's present voting aye, the motion to approve the agenda carried by a vote of 7-0.

OLD BUSINESS

- *Discussion regarding forwarding to the State's Attorney's Office for enforcement a Violation of Section 10.01.A.2. of the Kendall County Zoning Ordinance (Required Fencing in the M Zoning Districts) at 790 Eldamain Road – Discussed at the PBZ meeting, and the Committee recommended an additional extension. There was consensus by the committee to allow an additional 30-day extension for compliance of required fencing.*
- *Discussion of Lakewood Springs Development and SSA – Attorney Dan Kramer updated the Board on the 40 lots of the Lakewood Springs Club subdivision in Plano, including the SSA bonds, and the bond holders. Mr. Kramer also reviewed the proposed payment of \$193,540.58 for the Lakewood Springs Real Estate Tax Settlement that if approved by the County Board would be applied as follows:*

Taxes -\$82,210.92

Penalty - \$39,816.20
Collector Cost - \$10,802.00 (from Tax Sale)

Balance \$60,711.46 (to be paid toward Forfeiture Interest)

This settlement would include the County agreeing to wave \$428,603.50 of the forfeiture interest.

The item will be discussed and possibly approved by the County Board at the March 19, 2019 meeting.

NEW BUSINESS - None

PUBLIC COMMENT – Amaal Tokars, Kendall County Health Department Executive Director, asked for the status and timeline for completion of the proposed Dental Clinic construction project. Dr. Tokars stated that the original work order for the Dental Clinic project was submitted two years ago. Facilities Management Committee Chair Matt Kellogg, reiterated to Dr. Tokars the construction project process and instructions that were given to her at the January 10, 2019 Facilities meeting. Member Kellogg stated that simply submitting a work order to Facilities Management did not fulfill the lease requirement between the Health Department and the County. Member Kellogg again emphasized that the lease agreement clearly stated that any requests for structural modifications to the County-owned facility must be submitted in writing to the County Board.

Discussion on the process for submission of structural changes to the facility, and the approved KCFM project charts that were sent to all Department Heads and Elected Officials on December 4, 2017 by Mr. Smiley.

Member Kellogg said that Dr. Tokars has yet to send a written letter to the County Board, and therefore, there is no project plan, timeline or additional information available on the project until the Health Department complies with the Lease Agreement requirement.

QUESTIONS FROM THE MEDIA – None

REVIEW BOARD ACTION ITEMS – Vice Chair Cesich asked the committee to review the draft County Board agenda for March 19, 2019.

ITEMS FOR THE APRIL 11, 2019 COMMITTEE OF THE WHOLE MEETING - None

CHAIRMAN'S REPORT – Vice Chair Cesich reported that she, KC Highway Engineer Fran Klaas, and County Administrator Koeppel met with several legislators and the County's lobbying firm on March 13, 2019 to discuss capital bill funding for County projects. The Board will be updated as plans progress.

EXECUTIVE SESSION – Not needed

ADJOURNMENT – Member Vickers made a motion to adjourn the meeting, second by Member Prochaska. With seven members voting aye, the meeting was adjourned at 5:12p.m.

Respectfully Submitted,

Valarie McClain
Administrative Assistant and Recording Secretary

 **AIA** Document B102™ – 2007

Standard Form of Agreement Between Owner and Architect without a Predefined Scope of Architect's Services

AGREEMENT made as of the Twenty-third day of August in the year Two Thousand Seventeen

(In words, indicate day, month and year.)

BETWEEN the Owner:

(Name, legal status, address and other information)

Kendall County

804 W. John Street, Suite B

Yorkville, Illinois 60560

Telephone Number: 630-553-4012

Fax Number: 630-553-4125

and the Architect:

(Name, legal status, address and other information)

Healy, Bender & Associates, Inc.

4040 Helene Avenue

Naperville, IL 60564

Telephone Number: 630-904-4300

Fax Number: 630-904-1515

for the following Project:

(Name, location and detailed description)

Part I Analysis

County Office Building

111 W. Fox Street

Yorkville, Illinois 60560

The Owner and Architect agree as follows.

This document has important legal consequences.

Consultation with an attorney is encouraged with respect to its completion or modification.

RECEIVED

NOV 21 2017

Healy, Bender & Associates, Inc.

**AMENDMENT TO AIA DOCUMENT B102 – 2007
STANDARD FORM OF AGREEMENT BETWEEN OWNER AND ARCHITECT
FOR ADDITIONAL SERVICES**

**APRIL 8, 2019
DRAFT**

I. GENERAL

- A. Kendall County (the Owner) and Healy, Bender & Associates, Inc. (the Architect) have an existing Agreement, the AIA Document B102 – 2007 Standard Form of Agreement Between Owner and Architect dated August 23, 2017. This Agreement was for a defined scope of services related to the Part 1 Analysis for the County Office Building located at 111 W. Fox Street, Yorkville, Illinois. The services related to the County Office Building have been completed by the Architect and the Owner desires to perform an additional defined scope of services as described herein as an amendment to the original Agreement referenced above.
- B. In accordance with Article §9.1; the Agreement may be amended in writing. Terms of the original Agreement will remain unchanged, except for the following modifications to define the additional scope of services.
- C. Project name for the Additional Services described herein and to be added under the above referenced Agreement shall be as follows:

2019 HVAC Improvements
Kendall County Animal Control Facility
802 W. John Street
Yorkville, Illinois 60560

II. ARTICLE 1 – ARCHITECT'S RESPONSIBILITIES

- A. Amend the Agreement to include new Article 1B – Architect's Responsibilities

The Architect shall provide the following additional professional services related to the Animal Control Facility project:

- .1 The Architect's Additional Services shall consist of those described herein and include the usual and customary structural, mechanical, and electrical engineering services. Scope includes design for mechanical improvements to the office and kennel areas, miscellaneous building modifications including removal of the acoustical ceilings in the kennel area, minor demolition to accommodate a larger reception area, a kennel viewing area, reconfiguration of an existing room for use as the director's office, additional doors and exterior openings / windows at the kennel, and miscellaneous painting.
- .2 The Architect shall prepare a preliminary evaluation of the Owner's Project requirements including schedule, budget for the Cost of the Work, and the proposed procurement and delivery method.

- .3 The Architect shall review information furnished by the Owner, and shall review laws, codes, and regulations applicable to the Architect's services.
- .4 The Architect's services shall include up to two (2) on-site meetings to review Owner's requirements, to obtain general feedback from Owner representatives, and to make observations of existing conditions including building systems that can be readily observed above accessible ceilings.
- .5 The Architect's services shall include the preparation of architectural and engineering drawings and specifications for the proposed improvements. Construction details and materials will be noted and dimensioned. Drawings and specifications will be developed to comply with building codes.
- .6 The Architect shall manage the Architect's services, research applicable design criteria, attend Project meetings, communicate with members of the Project team, and report progress to the Owner.
- .7 The Architect's deliverables including drawings and specifications will be made available as electronic PDFs. Hardcopies, if requested by the Owner, and those as required for permitting purposes, will be invoiced as a reimbursable expense.
- .8 The Architect shall assist the Owner in soliciting competitive bids.
- .9 The Architect shall provide observation services during construction, up to three (3) visits, including one visit at the time of Substantial Completion. Additional visits, if requested by the Owner, will be invoiced at standard hourly rates.

III. ARTICLE 2 - OWNER'S RESPONSIBILITIES

- A. Revise the Owner Representative under §2.2 for the Animal Control Facility Project to be Jim Smiley.

IV. ARTICLE 6 - COMPENSATION

- A. HVAC design at Kennel Area, a Lump Sum fee of \$8,000.00
- B. HVAC design at Office Area, a Lump Sum fee of \$6,000.00
- C. Miscellaneous Renovation as described in Article 1B above, a Lump Sum fee of \$4,000

Total Lump Sum fee of \$18,000.00 with a fee reduction of \$2,000.00 if all areas are approved to proceed with design and construction concurrently.

V. SCOPE OF THE AGREEMENT

- A. Attachment (Jim Smiley sketch dated 3/28/19).

As agreed upon by the parties:

OWNER: KENDALL COUNTY

**Scott Gryder, Kendall County Board Chairman
Kendall County
111 W. Fox Street
Yorkville, Illinois 60560**

DATE: _____

ARCHITECT: HEALY, BENDER & ASSOCIATES, INC.

**David A. Healy, President
Healy, Bender & Associates, Inc.
4040 Helene Avenue
Naperville, Illinois 60560**

DATE: _____

**Jacob A. Been, Vice-President
Healy, Bender & Associates, Inc.
4040 Helene Avenue
Naperville, Illinois 60560**

DATE: _____

END

Kendall County Animal Control

Director move to Main Building

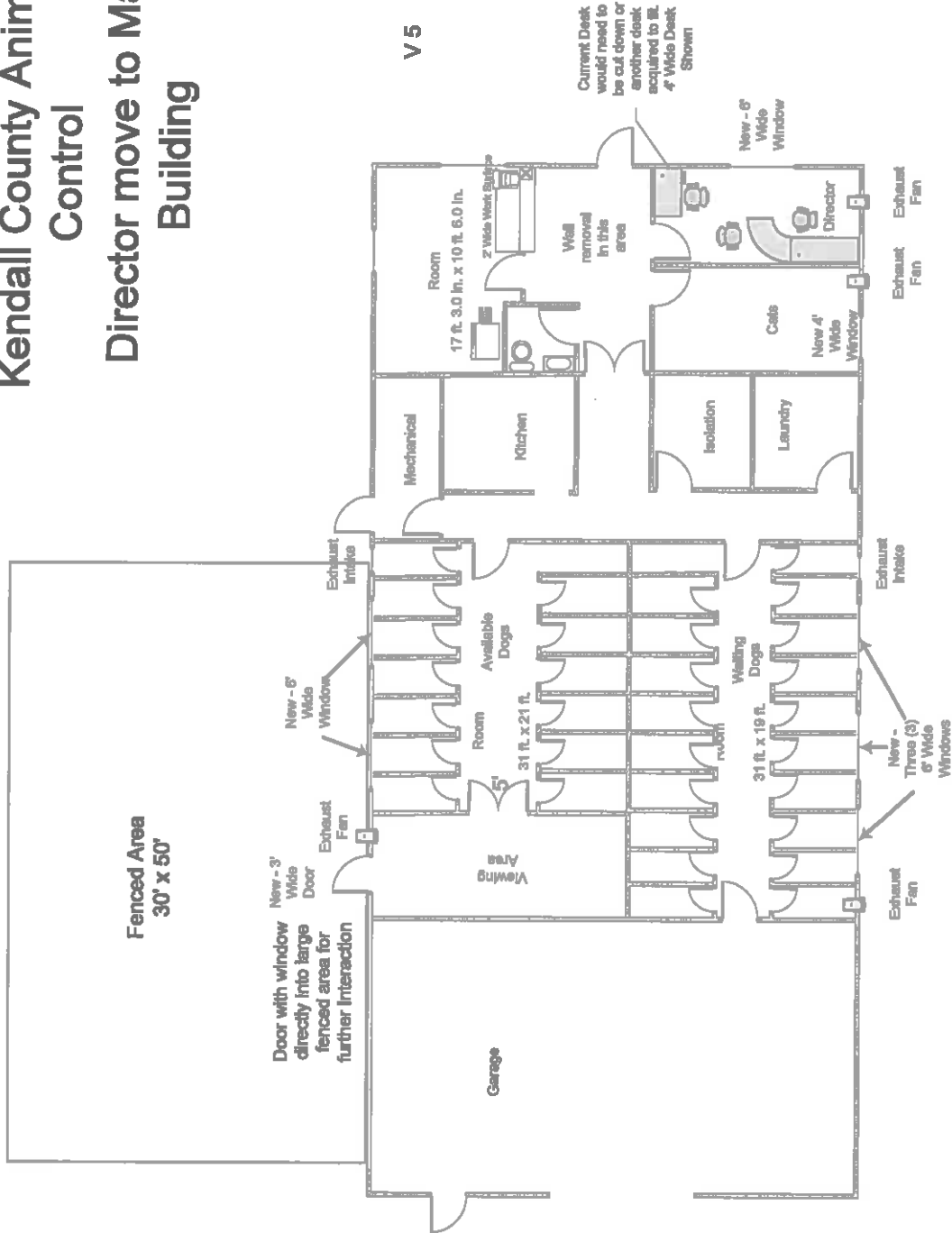


TABLE OF ARTICLES

- 1 ARCHITECT'S RESPONSIBILITIES**
- 2 OWNER'S RESPONSIBILITIES**
- 3 COPYRIGHTS AND LICENSES**
- 4 CLAIMS AND DISPUTES**
- 5 TERMINATION OR SUSPENSION**
- 6 COMPENSATION**
- 7 MISCELLANEOUS PROVISIONS**
- 8 SPECIAL TERMS AND CONDITIONS**
- 9 SCOPE OF THE AGREEMENT**

ARTICLE 1 ARCHITECT'S RESPONSIBILITIES

§ 1.1 The Architect shall provide the following professional services in accordance with the Architect's proposal dated June 2, 2017 (Attachment A):

(Describe the scope of the Architect's services or identify an exhibit or scope of services document setting forth the Architect's services and incorporated into this document in Section 9.2)

- .1 The Architect shall provide up to (2) two full day on-site programming sessions and building walk-throughs with key Owner representatives from each department housed at the County Office Building. Programming sessions are designed to gather input and feedback on current use, functionality, along with identifying 10 to 15-year projected space needs. Programming sessions will involve the review and discussion of any existing Capital Improvement Plan(s) the Owner wishes to use as reference.
- .2 The Architect shall document existing facility advantages, shortcomings, and problem areas as determined by building occupants, Owner representatives, and those made by the Architect's professional observations.
- .3 The Architect shall review and diagram programming, functionality and projected needs against existing conditions.
- .4 The Architect shall provide security planning services including an analysis of existing security operations, methods, and technology already in-place. The Architect shall provide recommendations to improve overall building security dovetailed with considerations made during programming (items .1 through .3 above). The Architect's security planning services will be provided in conjunction with Mayer Associates, Inc. of Northbrook, Illinois.
- .5 The Architect shall prepare a written report documenting findings and recommendations determined from the services provided in items .1 through .4 above. The report will provide an observation and analysis with recommendations for building and security improvements. The observation and analysis report will include a review of key physical factors such as site and building layout and how these play critical roles in measuring building security.
- .6 The Architect's written report shall diagram proposed modifications and improvements.
- .7 The Architect shall provide an Option of Probable Cost (cost estimate).
- .8 The Architect's deliverables including the report and plan diagrams will be made available as electronic PDFs. Hardcopies, if requested by the Owner, will be invoiced as a reimbursable expense in accordance with this Agreement.
- .9 The Architect shall provide prompt written notice to the Owner if the Architect becomes aware of any fault or defect in any Project under this Agreement, including errors, omissions or inconsistencies in the Architect's Instruments of Service.

§ 1.2 The Architect shall perform its services consistent with the professional skill and care ordinarily provided by architects practicing in the same or similar locality under the same or similar circumstances. The Architect shall

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perform its services as expeditiously as is consistent with such professional skill and care and the orderly progress of the Project.

§ 1.3 The Architect shall identify a representative authorized to act on behalf of the Architect with respect to the Project.

§ 1.4 Except with the Owner's knowledge and consent, the Architect shall not engage in any activity, or accept any employment, interest or contribution that would reasonably appear to compromise the Architect's professional judgment with respect to this Project.

§ 1.5 The Architect shall maintain the following insurance for the duration of this Agreement. ~~If any of the requirements set forth below exceed the types and limits the Architect normally maintains, the Owner shall reimburse the Architect for any additional costs.~~
(Identify types and limits of insurance coverage, and other insurance requirements applicable to the Agreement, if any.)

.1 General Liability ~~including but not limited to personal injury and property damage.~~

\$1,000,000.00 + Excess/Umbrella Liability: \$5,000,000.00.

.2 Automobile Liability

\$1,000,000.00 + Excess/Umbrella Liability: \$5,000,000.00.

.3 Workers' Compensation

\$1,000,000.00.

.4 Professional Liability

\$2,000,000.00.

§ 1.6 Each insurance policy in Section 1.5 shall not be cancelled or changed without thirty (30) days prior written notice, given by the insurance carrier to Owner at the address set forth below. Before starting work hereunder, Architect shall deposit with Owner certificates evidencing the insurance it is to provide hereunder. Owner shall be named as an Additional Insured on a Primary and Non-Contributory basis with respect to all liability coverage. Further, all liability and workers' compensation policies must include a waiver of subrogation in favor of Owner. Owner shall also be designated as the certificate holder. Owner's failure to demand such certificate of insurance shall not act as a waiver of Architect's obligation to maintain the insurance required under this Agreement. The insurance required under this Agreement does not represent that coverage and limits will necessarily be adequate to protect Architect, nor be deemed as a limitation on Architect's liability to Owner in this Agreement.

ARTICLE 2 OWNER'S RESPONSIBILITIES

§ 2.1 Unless otherwise provided for under this Agreement, the Owner shall provide information in a timely manner regarding requirements for and limitations on the Project, including a written program which shall set forth the Owner's objectives, schedule, constraints and criteria, including space requirements and relationships, flexibility, expandability, special equipment, systems and site requirements. Within 15 days after receipt of a written request from the Architect, the Owner shall furnish the requested information as necessary and relevant for the Architect to evaluate, give notice of or enforce lien rights.

§ 2.2 The Owner shall identify a representative ~~representative(s)~~ authorized to act on the Owner's behalf with respect to the Project. The Owner shall render decisions and approve the Architect's submittals in a timely manner in order to avoid unreasonable delay in the orderly and sequential progress of the Architect's services.

Owner representatives shall be Robert Davidson and Jim Smiley.

§ 2.3 The Owner shall coordinate the services of its own consultants with those services provided by the Architect. Upon the Architect's request, the Owner shall furnish copies of the scope of consulting services in the contracts

between the Owner and the Owner's consultants. The Owner shall furnish the services of consultants other than those designated in this Agreement, or authorize the Architect to furnish them as an Additional Service, when the Architect requests such services and demonstrates that they are reasonably required by the scope of the Project. The Owner shall require that its consultants maintain professional liability insurance as appropriate to the services provided, covered insurance is consistent with Section 1.5.

~~§ 2.4 The Owner shall furnish all legal, insurance and accounting services, including auditing services, that may be reasonably necessary at any time for the Project to meet the Owner's needs and interests.~~

§ 2.5 The Owner shall provide prompt written notice to the Architect if the Owner becomes aware of any fault or defect in the Project, including errors, omissions or inconsistencies in the Architect's Instruments of Service.

ARTICLE 3 COPYRIGHTS AND LICENSES

§ 3.1 The Architect and the Owner warrant that in transmitting Instruments of Service, or any other information, the transmitting party is the copyright owner of such information or has permission from the copyright owner to transmit such information for its use on the Project. If the Owner and Architect intend to transmit Instruments of Service or any other information or documentation in digital form, they shall endeavor to establish necessary protocols governing such transmissions.

~~§ 3.2 The Architect and the Architect's consultants shall be deemed the authors and owners of their respective Instruments of Service, including the Drawings and Specifications, and shall retain all common-law, statutory and other reserved rights, including copyrights. Submission or distribution of Instruments of Service to meet official regulatory requirements or for similar purposes in connection with the Project is not to be construed as publication in derogation of the reserved rights of the Architect and the Architect's consultants. Upon full and final payment in regard to the Project under this Agreement, Architect agrees Architect's Instruments of Service including drawings, specifications, reports, and plan diagrams will be delivered as electronic PDFs within fourteen (14) days after Owner's request to Architect, with hardcopies available for an additional expense upon request by the Owner. The documents and materials made or maintained under this Agreement and the Agreement Documents shall be and will remain the property of the Owner which shall have the right to use the same without restriction or limitation and without compensation to the Architect other than as provided in this Agreement. The Architect and Architect's consultants, employees and agents waive any copyright or trademark interest in said deliverables. The Architect may, at its sole expense, reproduce and maintain copies of deliverables provided to Owner. The Owner acknowledges that the use of the information that becomes the property of the Owner pursuant to this Paragraph, for purposes other than those contemplated in this Agreement, shall be at the Owner's sole risk.~~

§ 3.3 Upon execution of this Agreement, the Architect grants to the Owner a nonexclusive license to use the Architect's Instruments of Service solely and exclusively for the Project or subsequent work contemplated by the Project, provided that the Owner substantially performs its obligations, including prompt payment of all sums when due, under this Agreement. The Architect shall obtain similar nonexclusive licenses from the Architect's consultants consistent with this Agreement. The license granted under this section permits the Owner to authorize the Contractor, Subcontractors, Sub-subcontractors, and material or equipment suppliers, as well as the Owner's consultants and separate contractors, to reproduce applicable portions of the Instruments of Service solely and exclusively for use in performing services for the Project or subsequent work contemplated by the Project. If the Architect or Owner rightfully terminates this Agreement for cause as provided in Sections 5.3 and 5.4, the license granted in this Section 3.3 shall terminate ~~as set in this Section 3.3.~~

§ 3.3.1 In the event the Owner uses the Instruments of Service without retaining the author of the Instruments of Service, the Owner releases the Architect and Architect's consultant(s) from all claims and causes of action arising from such uses. ~~The Owner, to the extent permitted by law, further agrees to indemnify and hold harmless the Architect and its consultants from all costs and expenses, including the cost of defense, related to claims and causes of action asserted by any third person or entity to the extent such costs and expenses arise from the Owner's use of the Instruments of Service under this Section 3.3.1.~~

§ 3.4 Except for the licenses granted in this Article 3, no other license or right shall be deemed granted or implied under this Agreement. The Owner shall not assign, delegate, sublicense, pledge or otherwise transfer any license granted herein to another party without the prior written agreement of the Architect. Any unauthorized use of the Instruments of Service shall be at the Owner's sole risk and without liability to the Architect and the Architect's

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consultants. ~~Nothing in this Agreement shall prohibit the Owner from complying with its obligations under the Freedom of Information Act (5 ILCS 140, et seq.) without recourse by Architect.~~

ARTICLE 4 CLAIMS AND DISPUTES

§ 4.1 GENERAL

§ 4.1.1 The Owner and Architect shall commence all claims and causes of action, whether in contract, tort, or otherwise, against the other arising out of or related to this Agreement ~~in accordance with the requirements of the method of binding dispute resolution selected in this Agreement within the period specified by applicable law, but in any case not more than 10 years after the date of Substantial Completion of the Work.~~ law. The Owner and Architect waive all claims and causes of action not commenced in accordance with this Section 4.1.1. In any action with respect to this Agreement, Owner and/or Architect are free to pursue any legal remedies at law or in equity. This Agreement shall be interpreted and enforced under the laws of the State of Illinois, and if any provision is invalid for any reason such invalidations shall not render invalid other provisions, which can be given effect without the invalid provision. The parties agree that the venue for any legal proceeding between them shall be the Circuit Court of Kendall County, Illinois, Twenty-Third Judicial Circuit, State of Illinois.

~~§ 4.1.2 To the extent damages are covered by property insurance, the Owner and Architect waive all rights against each other and against the contractors, consultants, agents and employees of the other for damages, except such rights as they may have to the proceeds of such insurance as set forth in AIA Document A201-2007, General Conditions of the Contract for Construction, if applicable. The Owner or the Architect, as appropriate, shall require of the contractors, consultants, agents and employees of any of them similar waivers in favor of the other parties enumerated herein.~~

§ 4.1.3 The Architect and Owner waive consequential damages for claims, disputes or other matters in question arising out of or relating to this Agreement. This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination of this Agreement, except as specifically provided in Section 5.7.

§ 4.2 MEDIATION

~~§ 4.2.1 Any claim, dispute or other matter in question arising out of or related to this Agreement shall be subject to mediation as a condition precedent to binding dispute resolution. If such matter relates to or is the subject of a lien arising out of the Architect's services, the Architect may proceed in accordance with applicable law to comply with the lien notice or filing deadlines prior to resolution of the matter by mediation or by binding dispute resolution.~~

~~§ 4.2.2 The Owner and Architect shall endeavor to resolve claims, disputes and other matters in question between them by mediation which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Mediation Procedures in effect on the date of the Agreement. A request for mediation shall be made in writing, delivered to the other party to the Agreement, and filed with the person or entity administering the mediation. The request may be made concurrently with the filing of a complaint or other appropriate demand for binding dispute resolution but, in such event, mediation shall proceed in advance of binding dispute resolution proceedings, which shall be stayed pending mediation for a period of 60 days from the date of filing, unless stayed for a longer period by agreement of the parties or court order. If an arbitration proceeding is stayed pursuant to this Section, the parties may nonetheless proceed to the selection of the arbitrator(s) and agree upon a schedule for later proceedings.~~

~~§ 4.2.3 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. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof.~~

§ 4.2.4 If the parties do not resolve a dispute through mediation pursuant to this Section 4.2, the method of binding dispute resolution shall be the following:
(~~Check the appropriate box. If the Owner and Architect do not select a method of binding dispute resolution below, or do not subsequently agree in writing to a binding dispute resolution method other than litigation, the dispute will be resolved in a court of competent jurisdiction.~~)

— Arbitration pursuant to Section 4.3 of this Agreement

— Litigation in a court of competent jurisdiction

Init.

~~[]~~ Other (Specify)

§ 4.3 ARBITRATION

~~§ 4.3.1 If the parties have selected arbitration as the method for binding dispute resolution in this Agreement, any claim, dispute or other matter in question arising out of or related to this Agreement subject to, but not resolved by, mediation shall be subject to arbitration, which unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Arbitration Rules in effect on the date of this Agreement. A demand for arbitration shall be made in writing, delivered to the other party to this Agreement, and filed with the person or entity administering the arbitration.~~

~~§ 4.3.1.1 A demand for arbitration shall be made no earlier than concurrently with the filing of a request for mediation but in no event shall it be made after the date when the institution of legal or equitable proceedings based on the claim, dispute or other matter in question would be barred by the applicable statute of limitations. For statute of limitations purposes, receipt of a written demand for arbitration by the person or entity administering the arbitration shall constitute the institution of legal or equitable proceedings based on the claim, dispute or other matter in question.~~

~~§ 4.3.2 The foregoing agreement to arbitrate and other agreements to arbitrate with an additional person or entity duly consented to by parties to this Agreement shall be specifically enforceable in accordance with applicable law in any court having jurisdiction thereof.~~

~~§ 4.3.3 The award rendered by the arbitrator(s) shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof.~~

§ 4.3.4 CONSOLIDATION OR JOINDER

~~§ 4.3.4.1 Either party, at its sole discretion, may consolidate an arbitration conducted under this Agreement with any other arbitration to which it is a party provided that (1) the arbitration agreement governing the other arbitration permits consolidation; (2) the arbitrations to be consolidated substantially involve common questions of law or fact; and (3) the arbitrations employ materially similar procedural rules and methods for selecting arbitrator(s).~~

~~§ 4.3.4.2 Either party, at its sole discretion, may include by joinder persons or entities substantially involved in a common question of law or fact whose presence is required if complete relief is to be accorded in arbitration, provided that the party sought to be joined consents in writing to such joinder. Consent to arbitration involving an additional person or entity shall not constitute consent to arbitration of any claim, dispute or other matter in question not described in the written consent.~~

~~§ 4.3.4.3 The Owner and Architect grant to any person or entity made a party to an arbitration conducted under this Section 4.3, whether by joinder or consolidation, the same rights of joinder and consolidation as the Owner and Architect under this Agreement.~~

ARTICLE 5 TERMINATION OR SUSPENSION

~~§ 5.1 If the Owner fails to make payments to the Architect in accordance with this Agreement, such failure failure, unless otherwise provided for in this Agreement, shall be considered substantial nonperformance and cause for termination or, at the Architect's option, cause for suspension of performance of services under this Agreement. If the Architect elects to suspend services, the Architect shall give seven-fourteen (14) days' written notice to the Owner before suspending services. In the event of a suspension of services, the Architect shall have no liability to the Owner for delay or damage caused the Owner because of such suspension of services. Before resuming services, the Architect shall be paid all sums due prior to suspension and any reasonable expenses incurred in the interruption and resumption of the Architect's services. The Architect's fees for the remaining services and the time schedules shall be equitably adjusted. However, nothing in this Agreement shall be interpreted to conflict with the Illinois Local Government Prompt Payment Act, as amended (50 ILCS 505/1 et seq.), which shall control in the event of a conflict.~~

~~§ 5.2 If the Owner suspends the Project, Project for reasons other than the fault of the Architect, the Architect shall be compensated for services performed prior to notice of such suspension. When the Project is resumed, the Architect shall be compensated for expenses incurred in the interruption and resumption of the Architect's services. The Architect's fees for the remaining services and the time schedules shall be equitably adjusted.~~

~~§ 5.3 If the Owner suspends the Project for more than 90 cumulative days for reasons other than the fault of the Architect, the Architect may terminate this Agreement by giving not less than seven-fourteen (14) days' written notice.~~

~~§ 5.4 Either party may terminate this Agreement upon not less than seven-fourteen (14) 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.~~

~~§ 5.5 The Owner may terminate this Agreement upon not less than seven (7) days' written notice to the Architect for the Owner's convenience and without cause. No additional payments, penalties, and/or early termination charges shall be required upon termination of the Agreement under this clause.~~

~~§ 5.6 In the event of termination not the fault of the Architect, the Architect shall be compensated for services performed prior to termination, together with Reimbursable Expenses then due and all Termination Expenses as defined in Section 5.7. due.~~

~~§ 5.7 Termination Expenses are in addition to compensation for the Architect's services and include expenses directly attributable to termination for which the Architect is not otherwise compensated, plus an amount for the Architect's anticipated profit on the value of the services not performed by the Architect.~~

~~§ 5.8 The Owner's rights to use the Architect's Instruments of Service in the event of a termination of this Agreement are set forth in Article 3 and Section 6.3.~~

ARTICLE 6 COMPENSATION

§ 6.1 The Owner shall compensate the Architect for services described in Section 1.1 as set forth below, or in the attached exhibit or scope document incorporated into this Agreement in Section 9.2.

(Insert amount of, or basis for, compensation or indicate the exhibit or scope document in which compensation is provided for.)

Lump Sum fee of \$22,500.00

§ 6.2 COMPENSATION FOR REIMBURSABLE EXPENSES

~~§ 6.2.1 Reimbursable Expenses are in addition to compensation for the Architect's professional services and include expenses incurred by the Architect and the Architect's consultants directly related to the Project, as follows:~~

- ~~1—Transportation and authorized out-of-town travel and subsistence;~~
- ~~2—Long distance services, dedicated data and communication services, teleconferences, Project Web sites, and extranets;~~
- ~~3—Fees paid for securing approval of authorities having jurisdiction over the Project;~~
- ~~4—Printing, reproductions, plots, standard form documents;~~
- ~~5—Postage, handling and delivery;~~
- ~~6—Expense of overtime work requiring higher than regular rates, if authorized in advance by the Owner;~~
- ~~7—Renderings, models, mock-ups, professional photography, and presentation materials requested by the Owner;~~
- ~~8—Architect's Consultant's expense of professional liability insurance dedicated exclusively to this Project, or the expense of additional insurance coverage or limits if the Owner requests such insurance in excess of that normally carried by the Architect's consultants;~~
- ~~9—All taxes levied on professional services and on reimbursable expenses;~~
- ~~10—Site office expenses; and~~
- ~~11—Other similar Project-related expenditures.~~

~~§ 6.2.2 For Reimbursable Expenses, the compensation shall be the expenses incurred by the Architect and the Architect's consultants plus an administrative fee of _____ percent (____%) of the expenses incurred.~~

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§ 6.3 COMPENSATION FOR USE OF ARCHITECT'S INSTRUMENTS OF SERVICE

~~If the Owner terminates the Architect for its convenience under Section 5.5, or the Architect terminates this Agreement under Section 5.3, the Owner shall pay a licensing fee as compensation for the Owner's continued use of the Architect's Instruments of Service solely for purposes of the Project as follows:~~

§ 6.4 PAYMENTS TO THE ARCHITECT

§ 6.4.1 An initial payment of (~~\$~~) Zero Dollars and Zero Cents (\$0.00) shall be made upon execution of this Agreement and is the minimum payment under this Agreement. It shall be credited to the Owner's account in the final invoice.

§ 6.4.2 Unless otherwise agreed, payments for services shall be made monthly in proportion to services performed. Payments are due and payable upon presentation of the Architect's invoice. ~~Amounts unpaid (~~—~~) days after the invoice date shall bear interest at the rate entered below, or in the absence thereof at the legal rate prevailing from time to time at the principal place of business of the Architect.~~
~~(Insert rate of monthly or annual interest agreed upon.)~~

~~—%—~~ All payments shall be made in accordance with the Illinois Local Government Prompt Payment Act, as amended (50 ILCS 505/1 et seq.)

§ 6.4.3 The Owner shall not withhold amounts from the Architect's compensation to impose a penalty or liquidated damages on the Architect, or to offset sums requested by or paid to contractors for the cost of changes in the Work unless the Architect agrees or has been found liable for the amounts in a binding dispute resolution proceeding.

§ 6.4.4 ~~Records of Reimbursable Expenses and services performed on the basis of hourly rates shall be available to the Owner at mutually convenient times.~~

ARTICLE 7 MISCELLANEOUS PROVISIONS

§ 7.1 This Agreement shall be governed by the law of the place where the Project is located, ~~except that if the parties have selected arbitration as the method of binding dispute resolution, the Federal Arbitration Act shall govern Section 4.2 located.~~

~~§ 7.2 Terms in this Agreement shall have the same meaning as those in AIA Document A201-2007, General Conditions of the Contract for Construction.~~

§ 7.3 The Owner and Architect, respectively, bind themselves, their agents, successors, assigns and legal representatives to this Agreement. Neither the Owner nor the Architect shall assign this Agreement without the written consent of the other, except that the Owner may assign this Agreement to a lender providing financing for the Project if the lender agrees to assume the Owner's rights and obligations under this Agreement.

§ 7.4 If the Owner requests the Architect to execute certificates, the proposed language of such certificates shall be submitted to the Architect for review at least 14 days prior to the requested dates of execution. If the Owner requests the Architect to execute consents reasonably required to facilitate assignment to a lender, the Architect shall execute all such consents that are consistent with this Agreement, provided the proposed consent is submitted to the Architect for review at least 14 days prior to execution. The Architect shall not be required to execute certificates or consents that would require knowledge, services or responsibilities beyond the scope of this Agreement.

§ 7.5 Nothing contained in this Agreement shall create a contractual relationship with or a cause of action in favor of a third party against either the Owner or Architect.

§ 7.6 Unless otherwise required in this Agreement, the Architect shall have no responsibility for the discovery, presence, handling, removal or disposal of, or exposure of persons to, hazardous materials or toxic substances in any form at the Project site.

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~~§ 7.7 The Architect shall Only after obtaining prior written approval from the Owner, shall the Architect have the right to include photographic or artistic representations of the design of the Project among the Architect's promotional and professional materials. The Architect shall be given reasonable access to the completed Project to make such representations. However, the Architect's materials shall not include the Owner's confidential, security, or proprietary information if the Owner has previously advised the Architect in writing of the specific information considered by the Owner to be confidential or proprietary. Architect understands and agrees that the Project includes security recommendations, which constitute confidential or security information, and the disclosure of such information could jeopardize the safety of Owner's employees. Architect will take care not to disclose any information that could jeopardize the safety of Owner's employees. The Owner shall provide professional credit for the Architect in the Owner's promotional materials for the Project.~~

§ 7.8 If the Architect or Owner receives information specifically designated by the other party as "confidential" or "business proprietary," the receiving party shall keep such information strictly confidential and shall not disclose it to any other person except to (1) its employees, (2) those who need to know the content of such information in order to perform services or construction solely and exclusively for the Project, or (3) its consultants and contractors whose contracts include similar restrictions on the use of confidential information.

ARTICLE 8 SPECIAL TERMS AND CONDITIONS

Special terms and conditions that modify this Agreement are as follows:

§ 8.1 Non-Discrimination. Architect, its officers, employees, and agents agree not to commit unlawful discrimination and agree to comply with all applicable provisions of the Illinois Human Rights Act, Title VII of the Civil Rights Act of 1964, as amended, the Americans with Disabilities Act, the Age Discrimination in Employment Act, Section 504 of the Federal Rehabilitation Act, and all applicable rules and regulations.

§ 8.2 Certification. Architect certifies that Architect, its parent companies, subsidiaries, and affiliates are not barred from entering into this Agreement as a result of a violation of either 720 ILCS 5/33E-3 or 5/33E-4 (bid rigging or bid rotating) or as a result of a violation of 820 ILCS 130/1 et seq. (the Illinois Prevailing Wage Act). The Architect further certifies by signing this Agreement that Architect, its parent companies, subsidiaries, and affiliates have not been convicted of, or are not barred for attempting to rig bids, price-fixing or attempting to fix prices as defined in the Sherman Anti-Trust Act and Clayton Act, 15 U.S.C. § 1 et seq.; and has not been convicted of or barred for bribery or attempting to bribe an officer or employee of a unit of state or local government or school district in the State of Illinois in that Officer's or employee's official capacity. Nor has Architect made an admission of guilt of such conduct that is a matter of record, nor has any official, officer, agent, or employee of the company been so convicted nor made such an admission.

§ 8.3 Conflict of Interest: Both parties affirm no Kendall County officer or elected official has a direct or indirect pecuniary interest in Architect or this Agreement, or, if any Kendall County officer or elected official does have a direct or indirect pecuniary interest in Architect or this Agreement, that interest, and the procedure followed to effectuate this Agreement has and will comply with 50 ILCS 105/3.

§ 8.4 Compliance with State and Federal Laws. Architect agrees to comply with all applicable federal, state and local laws and regulatory requirements and to secure such licenses as may be required for its employees and to conduct business in the state, municipality, county and location. Such obligation includes, but is not limited to, environmental laws, civil rights laws, prevailing wage and labor laws.

§ 8.5 Notice. Any notice required or permitted to be given pursuant to this Agreement shall be duly given if sent by certified mail or courier service and received. In the case of notice to the Owner, Kendall County, Attention: James K. Smiley, KCFM Director, 804 W. John St., Suite B, Yorkville, Illinois 60560 with copy sent to: Kendall County State's Attorney, 897 John Street, Yorkville, Illinois 60560, And, in the case of Architect, Healy, Bender & Associates, Inc., Attention: David A. Healy, President, 4040 Helene Avenue, Naperville, Illinois 60564.

§ 8.6 Entire Agreement. This Agreement represents the entire Agreement between the parties and there are no other promises or conditions in any other Agreement whether oral or written. This Agreement supersedes any prior written or oral agreements between the parties and may not be modified except in writing acknowledged by both parties.

§ 8.7 Counterparts. This Agreement may be executed in counterparts (including facsimile signatures), each of which shall be deemed to be an original and both of which shall constitute one and the same Agreement.

§ 8.8 Authority to Execute Agreement. The Owner and Architect each hereby warrant and represent that their respective signatures set forth below have been and are on the date of this Agreement duly authorized by all necessary and appropriate corporate and/or governmental action to execute this Agreement.

§ 8.9 Non-Appropriation. In the event Owner is in default under the Agreement because funds are not appropriated for a fiscal period subsequent to the one in which the Agreement was entered into which are sufficient to satisfy all or part of the County's obligations under this Agreement during said fiscal period, the County agrees to provide prompt written notice of said occurrence to Architect. In the event of a default due to non-appropriation of funds, either party has the right to terminate the Agreement upon providing thirty (30) days written notice to the other party. No additional payments, penalties and/or early termination charges shall be required upon termination of the Agreement.

§ 8.10 All services to be undertaken by Architect shall be carried out by competent and properly trained personnel of Architect and to standards of professional practice, care, and diligence practiced by consulting firms performing services of similar nature.

§ 8.11 Force Majeure. Neither party will be responsible to the other for damage, loss, injury, or interruption of work if the damage, loss, injury, or interruption of work is caused solely by conditions that are beyond the reasonable control of the parties, and without the intentional misconduct or negligence, of that party (hereinafter referred to as a "force majeure event"). To the extent not within the control of either party, such force majeure events include: acts of God, acts of any governmental authorities, fire, explosions or other casualties, vandalism, and riots or war. A party claiming a force majeure event ("the claiming party") shall promptly notify the other party in writing, describing the nature and estimated duration of the claiming party's inability to perform due to the force majeure event. The cause of such inability to perform will be remedied by the claiming party with all reasonable dispatch.

§ 8.12 Indemnification. Architect shall indemnify, hold harmless and defend with counsel of Owner's own choosing, Owner, its officials, officers, employees, including their past, present, and future board members, elected officials and agents from and against all liability, claims, suits, causes of action, demands, proceedings, set-offs, liens, attachments, debts, expenses, judgments, or other liabilities including costs, reasonable fees and expense of defense, arising from any loss, damage, injury, death, or loss or damage to property, of whatsoever kind or nature as well as for any breach of any covenant in the Contract or ancillary documents and any breach by Architect of any representations or warranties made within the contract documents (collectively, the "Claims"), to the extent such Claims result from the performance of this contract by Architect or those Claims are due to any act or omission, neglect, willful acts, errors, omissions or misconduct of Architect in its performance under this Agreement.

Nothing contained herein shall be construed as prohibiting the Owner, its officials, directors, officers, agents and employees, from defending through the selection and use of their own agents, attorneys and experts, any claims, suits, demands, proceedings and actions brought against them. Pursuant to Illinois law, 55 ILCS 5/3-9005, any attorney representing the Owner, under this paragraph, must be approved by the Kendall County State's Attorney and shall be appointed a Special Assistant State's Attorney. The Owner's participation in its defense shall not remove Architect's duty to indemnify, defend, and hold the Owner harmless, as set forth above.

The Owner does not waive its defenses or immunities under the Local Government and Governmental Employees Tort Immunity Act (745 ILCS 10/1 et seq.) by reason of indemnification or insurance. Indemnification shall survive the termination of this Agreement.

§ 8.13 Waiver. Owner and/or Architect's waiver of any term, condition, or covenant or breach of any term, condition, or covenant, shall not constitute a waiver of any other term, condition, or covenant, or the breach thereof.

§ 8.14 Independent Contractor Relationship. It is understood and agreed that Architect is an independent contractor and is not an employee of, partner of, agent of, or in a joint venture with Owner. Architect understands and agrees that Architect is solely responsible for paying all wages, benefits and any other compensation due and owing to Architect's officers, employees, and agents for the performance of services set forth in the Agreement. Architect further understands and agrees that Architect is solely responsible for making all required payroll deductions and other tax and wage withholdings pursuant to state and federal law for Architect's officers, employees and/or agents who perform services as set forth in the Agreement. Architect also acknowledges its obligation to obtain appropriate insurance coverage for the benefit of Architect, Architect's officers, employees and agents and agrees that Owner is not responsible for providing any insurance coverage for the benefit of Architect, Architect's officers, employees and agents. Architect hereby agrees to defend with counsel of Owner's own choosing, indemnify and waive any right to recover alleged damages, penalties, interest, fees (including attorneys' fees), and/or costs from Owner, its board members, officials, employees, insurers, and agents for any alleged injuries that Architect, its officers, employees and/or agents may sustain while performing services under the Agreement.

§ 8.15 Background Checks/Security. Architect shall exercise general and overall control of its officers, employees and/or agents. Architect agrees that no one shall be assigned to perform work at Owner's facilities on behalf of Architect, Architect's consultants, subcontractors and their respective officers, employees, agents and assigns unless Architect has completed a criminal background investigation for each individual to be performing work at the site. In the event that the individual's criminal background investigation reveals that the individual has a conviction record that has not been sealed, expunged or impounded under Section 5.2 of the Criminal Identification Act, Architect agrees that the individual shall not be assigned to perform work on or at Owner's facilities absent prior written consent from Owner. Owner, at any time, for any reason and in Owner's sole discretion, may require

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Architect and/or Architect's consultants, and/or subcontractors to remove any individual from performing any further work under this Agreement.

ARTICLE 9 SCOPE OF THE AGREEMENT

§ 9.1 This Agreement represents the entire and integrated agreement between the Owner and the Architect and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both Owner and Architect.

§ 9.2 This Agreement is comprised of the following documents listed below:

- 1 AIA Document B102-2007, Standard Form Agreement Between Owner and Architect
- 2 ~~AIA Document E201-2007, Digital Data Protocol Exhibit, if completed, or the following:~~

- 3 Other documents:
(List other documents, including the Architect's scope of services document, hereby incorporated into the Agreement.)

Attachment A - Architectural Services Proposal (Scope of Services)

Attachment B - Places of Service

Attachment C - Site Data

This Agreement entered into as of the day and year first written above.

OWNER



(Signature)

Scott Gryder, Kendall County Board Chairman
Kendall County
111 W. Fox Street
Yorkville, Illinois 60560
(Printed name and title)

ARCHITECT



(Signature)

David A. Healy, President
Healy, Bender & Associates, Inc.
4040 Helene Avenue
Naperville, Illinois 60564
(Printed name and title)



David G. Patton, Vice-President
Healy, Bender & Associates, Inc.
4040 Helene Avenue
Naperville, Illinois 60564

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**ATTACHMENT A
SCOPE OF SERVICE**

HEALY, BENDER & ASSOCIATES, INC.
A R C H I T E C T S P L A N N E R S

4940 HELENE AVENUE, NAPERVILLE, IL 60564

TEL 630.904.4300 FAX 630.904.1515
www.healybender.com

PRINCIPALS
DAVIDA HEALY
CLIFFORDA BENDER
DAVID G. PATTON

SENIOR ARCHITECTS
SCOTT R. ANDERLE
JACOB A. BEEN
SCOTTA RHEL
JUDY A. WOODLEY

Architectural Services Proposal
Kendall County
Page 2 of 5

Part I Analysis – County Office Building (111 West Fox Street)

These services are based on the notion of analyzing continued administrative functions through at least 2030 at the County Office Building located at 111 West Fox Street.

Anticipated scope of Architectural Services:

1. Provide up to (2) two full day on-site programming sessions and building walk-throughs with key representatives from each department housed at the County Office Building. Programming sessions are designed to gather input and feedback on current use, functionality, along with identifying 10 to 15 year projected space needs. Programming sessions will involve the review and discussion of any existing Capital Improvement Plan(s) the County wishes to use as reference.
2. Document existing facility advantages, shortcomings, and problem areas as determined by building occupants, County representatives, and those made by our professional observations.
3. Review and diagram programming, functionality and projected needs against existing conditions.
4. Provide security planning services including an analysis of existing security operations, methods, and technology already in-place. Provide recommendations to improve overall building security dovetailed with considerations made during programming (items 1 through 3 above). Our security planning services will be provided in conjunction with Moyer Associates, Inc. of Northbrook, Illinois. Moyer Associates is a professional organization engaged in the planning and design of facilities for all levels of government. Moyer staff bring diverse planning, programming, architectural, interiors, security and systems technology backgrounds that are applied to judicial, public safety, educational, civic and other facility types. Frederic D. Moyer, FAIA has played a pivotal role nationally and internationally in developing contemporary approaches to Justice Facility planning and design. Dennis Kimmie of Kimmie & Associates, Inc. the security consultant utilized for the courthouse building expansion, was a former employee of Moyer Associates.
5. Prepare a written report documenting findings and recommendations determined from the services provided in items 1 through 4 above. The report will provide an observation and analysis with recommendations for building and security improvements. The observation and analysis report will include a review of key physical factors such as site and building layout and how these play critical roles in measuring building security.
6. The written report will diagram proposed modifications and improvements.
7. Provide an Opinion of Probable Cost (cost estimate).

The report and plan diagrams will be made available as electronic PDFs.

Compensation:

For Part I Analysis – County Office Building (111 West Fox Street), we will provide architectural services as outlined above for a Lump Sum fee of \$22,500.

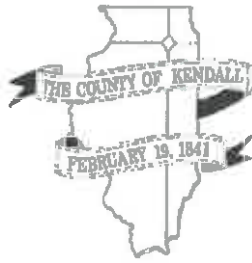
**ATTACHMENT B
PLACES OF SERVICE**

Services performed under this agreement shall be at the following locations:

**County Office Building
111 W. Fox Street
Yorkville, IL 60560**

**ATTACHMENT C
SITE DATA**





DEPARTMENT OF PLANNING, BUILDING & ZONING

111 West Fox Street • Room 204

Yorkville, IL • 60560

(630) 553-4141

Fax (630) 553-4179

MEMORANDUM

To: Kendall County Committee of the Whole
From: Matthew H. Asselmeier, AICP, Senior Planner
Date: April 9, 2019
Re: Amended Petition 17-28 Proposed Text Amendments to Sections 7.01.D.32, 7.01.D.33 and 10.03.B.4 of the Kendall County Zoning Ordinance Pertaining to Regulations of Outdoor Target Practice or Shooting Ranges (Not Including Private Shooting in Your Own Yard)

At their meeting on April 9, 2019, the Kendall County Planning Building and Zoning Committee voted to amend the proposed gun range zoning regulations. A red noted version of the proposal is attached. The information in red is different from the current regulations and **NOT** the various versions of the proposal that were previously proposed.

The Kendall County Zoning Board of Appeals held a public rehearing on the proposal on April 1, 2019. Zero (0) members of the public testified in favor of the proposal and twelve (12) members of the public testified in opposition to the proposal.

The Kendall County Zoning Board of Appeals unanimously recommended approval of the proposal with the following recommendations. Please note, unless the Planning, Building and Zoning Committee concurred with a recommendation of the Kendall County Zoning Board of Appeals, the recommendations of the Kendall County Zoning Board of Appeals are **NOT** included in the attached proposal.

1. Bonds for site remediation should be required; specific amounts set by the County Board.
2. In Section b, the National Rifle Association Standards should be the 2012 standards.
3. In Section c, greater clarification of shooting angles in relation to downrange safety areas should be clarified.
4. In Section d.5.d, the downrange safety area requirement should be modified and not waived if baffling and berming is provided.
5. In Section f, the firing line should be one thousand five hundred feet (1,500') instead of one thousand feet (1,000') from residential dwellings and property lines of schools, daycares, places of worship and airstrips.
6. In Section h, the range safety officer should be present during operational hours instead of at all times.
7. Any required signs should be bilingual.
8. The hours of operation should be set by the County Board. However, gun ranges should not be operational after thirty (30) minutes from sunset.
9. In Section n, the requirement that berming could be substituted for fencing was deleted.
10. Typos in Sections v and x should be corrected.
11. The consensus was that Section x, regarding requiring the Zoning Board of Appeals to state reason(s) why a variance was denied, was not needed.

The proposal was sent to the townships on April 2, 2019. To date, no townships have submitted written comments on the proposal.

COW Memo
April 9, 2019

If you have any questions prior to the meeting on this topic, please let me know.

Thanks,

MHA

ENC: Proposed Text Amendment

Red Are Comments in Relation to Existing Regulations
Regular Text is Current Proposal

Amendment to 7.01.D.32 (Special Uses in A-1)

Outdoor Commercial Sporting Activities including but not limited to swimming facilities and motocross sports. Appropriate regulations for lighting noise and hours of operation shall be included in the conditions. Outdoor commercial sporting activities shall exclude outdoor target practice athletic fields with lights, paintball facilities and riding stables; including but not limited to polo clubs, and similar uses. **(This is a special use only in A-1; (This section is the same as existing regulations).**

Amendment to 7.01.D.33 (Special Uses in A-1) and 10.03.B.4 (Special Uses in M-3)

Outdoor Target Practice or Shooting Ranges (not including private shooting on your own yard) with the following conditions **(The term "Range" is added after "Shooting")**..:

- a. At the time of application for a special use permit, petitioners desiring to operate an outdoor target practice or shooting range shall submit copies of all of the studies and plans suggested in the 2012 NRA Range Source Book including, but not limited to, a safety plan, a business plan, a public relations plan, a maintenance plan, a noise plan, an environmental stewardship plan, and a closure plan. Two (2) copies of the 2012 NRA Range Source Book shall be available for public access in the Kendall County Planning, Building and Zoning Department. One (1) of the copies of the NRA Range Source Book shall be made available for rent to members of the public.
 1. The above-referenced plans shall contain information as suggested by the National Rifle Association.
 2. Included in the above documents, the petitioner shall submit a detailed written narrative describing the proposed use. The narrative shall, at a minimum, describe the type of range (i.e. public, private, or government), the type(s) of firearms and targets expected to be used and the proposed days and hours of operation.
 3. The safety plan shall describe the duties and qualifications of the range supervisors.
 4. In at least one (1) of the required studies or plans, a hazardous waste plan addressing lead management shall be included. The lead management plan shall conform to either the requirements of the National Rifle Association's standards, the standards of the National Shooting Sports Foundations standards, or the United States Environmental Protection Agency's best management practices standards.
 5. In addition to the above requirements, the petitioner shall submit a water and drainage plan; this plan must be approved by the Kendall County Planning, Building and Zoning Office.
 6. Any changes to the above-required studies and plans shall be promptly forwarded to the Kendall County Planning, Building and Zoning Department.
 7. A bond shall be provided for site remediation. The specific dollar amount of the bond shall be determined by the County Board. **(All of this section is new with the exception of requiring a lead management plan and approval of a water and drainage plan by the Department).**

- b. Range layout requires conformity with the 2012 National Rifle Association Range Source Book standards with regard to layout and dimensions. The petitioner shall submit a site capacity a calculation and a detailed site plan showing the layout and design of the proposed shooting range, including all required setbacks and landscaping and the existing and proposed structures, their floor areas and impervious surfaces. The scale of the site plan shall be no greater than one inch equals one hundred feet (1"=100'). **(All of this section is new with the exception of the general requirement that range layout conforms to NRA standards).**
- c. The site plan for the proposed outdoor target practice of shooting range must show either sufficient berm height with sufficient downrange safety area or baffling that prevents projectiles from leaving the site.
 1. The safety area shall conform to 2012 NRA Range Source Book for the shape and width. The safety area shall have signs posted at intervals stated in the special use permit warning of the potential danger from stray bullets.
 2. For the purposes of this regulation, the term "downrange safety area" shall mean the area away from the launching site towards the target. In case of shooting ranges where targets are not stationary, appropriate baffling shall be provided. **(Current regulations only require berming based on surrounding land use and type(s) of firearms to be used; berming must also meet the standards in NRA Source Book).**
- d. Public ranges designed for the use of handguns and rifles shall provide berms at least twenty feet (20') high and six feet (6') thick at the top for ranges three hundred feet (300') in length, made of soft earth or other material that is unlikely to cause ricochets, and containing no large rocks. For every thirty (30') feet of firing line distance over twenty feet (20'), the berm height shall increase by ten feet (10') in height as an example Berms shall be located as follows:
 1. Shotgun ranges – No berming required.
 2. Ranges for handguns and rifles
 - a. Target placement not to exceed twenty feet (20') from the backstop.
 - b. Lateral not closer than thirty feet (30') from the firing line.
 3. All required berms shall be constructed prior to the commencement of operations and shall be maintained for the duration of the special use permit.
 4. In addition to berms, appropriate baffling may be installed over the firing line creating a "no blue sky" to prevent projectiles from overshooting the berm.
 5. The range shall be located on site where an uninhabited downrange safety area is available. The required length of the safety area shall be as follows:
 - a. Shotgun ranges – one thousand five hundred feet (1500'), provided that shot size is limited to #4 or smaller.
 - b. Ranges for handguns and rifles not more powerful than .22 long rifle – seven thousand feet (7,000').
 - c. Ranges for rifles more powerful than a .22 long rifle – thirteen thousand five hundred feet (13,500').
 - d. The downrange safety area requirement for handgun and rifle ranges may be waived if the firing line is provided with overhead baffling, berming, or a combination thereof, meeting the standards of the 2012 National Rifle Association's Source Book or appropriate baffling may be installed over the firing

line creating a “no blue sky” to prevent projectiles from overshooting the berm. **(All of this section is new; see comments from letter c above).**

- e. The range, including the safety area, must be under the control of the operator of the range, by ownership or lease. **(All of this section is new)**
- f. The firing line must be at least one thousand feet (1,000’) from existing residential dwellings and property lines of schools, daycares, places of worship, airstrips, and residential zoned properties. **(Clarifies the measuring point as the firing line; clarifies dwelling as “residential”; add property line requirement for residentially zoned properties).**
- g. The outdoor target practice or shooting range must have a sign that lists allowed firearm types based on the special use permit, rules of operation; hearing and vision protection required. **(This section is the same as the existing regulation; slight alteration in verbiage).**
- h. At least one (1) designated range safety officer must be present during operational hours when discharging of firearms is taking place. A “range safety officer” means a person who is certified under the National Rifle Association’s Range Safety Officer Program or other equivalent state or nationally-recognized range safety officer certification program as approved by the County Board, for the type of shooting being supervised. The range safety officer shall enforce all range rules. **(Defines the number of range safety officers; specifies the type of certification program; defines the duties of the range safety officer).**
- i. At least one (1) range flag flown, a sign, cone, or red light lit at all times that firing is taking place. **(Allows cones to be used when firing is taking place).**
- j. Everyone on the firing line is required to wear hearing protection and safety glasses. **(Unlike g above and the current regulations; this section specifies that hearing protection and safety glasses must be worn on the firing line).**
- k. The range shall provide public bathroom facilities. **(This section is new).**
- l. The range shall require a minimum parcel size of twenty (20) acres. **(Raised from 5 acres).**
- m. Hours and days of operation shall be specified in the special use permit and determined by the County Board. **(This section is the same as existing regulations)**
- n. Access must be controlled by a gated entrance. The range proper shall be gated and fenced in a manner so to prohibit entrance on the property by members of the public and shall have signs posted at one hundred foot (100’) intervals warning members of the public of the danger. Berming may substitute for fencing. **(The existing regulations require access via a lockable gate; language regarding signage and berming substitution are new).**
- o. Must meet the existing setbacks of the zoning district. **(This section is implied in the existing regulations).**

- p. No alcohol, marijuana, or other illicit drugs allowed. **(The prohibition of marijuana and other illicit drugs was added).**
- q. No projectiles shall leave the boundaries of the site. **(This section is the same as the existing regulations).**
- r. The outdoor target practice or shooting range allowed by this special use permit shall provide the Kendall County Planning, Building and Zoning Department proof of accident and liability insurance prior to the commencement of operations; the insurance shall be at a level standard and customary for outdoor target practice or shooting range. An insurance policy meeting the above requirements must be maintained during the duration of the special use permit and the special use permit holder shall supply a copy of the insurance policy to the Kendall County Planning, Building and Zoning Department annually on or before February 1st of each year. **(This section is new).**
- s. All applicable Federal, State and County rules and regulations shall be adhered to. **(This section is the same as the existing regulations and merges the requirements that the gun range follows Health Department Regulations, signage regulations, lighting regulations, and not allowing discharge of lead shot into wetlands).**
- t. Must adhere to the Performance standards of Section 10.01.F of the Zoning Ordinance (Not more than sixty percent (60%) of the area of the lot may be covered by buildings or structures, including accessory buildings). **(This section is the same as existing regulations).**
- u. Notwithstanding the hours of operations set in the special use permit, the range shall abide by the following noise regulations, so as not to exceed allowable residential noise in accordance with the following:
 - 1. **Day Hours:** No person shall cause or allow the emission of sound during daytime hours (7:00 A.M. to 10:00 P.M.) from any noise source to any receiving residential use which exceeds sixty (60) dBA when measured at any point within such receiving residential land; provided, however, that point of measurement shall be on the property line of the complainant.
 - 2. **Night Hours:** No person shall cause or allow the emission of sound during nighttime hours (10:00 P.M. to 7:00 A.M.) from any noise source to any receiving residential use which exceeds fifty-five (55) dBA when measured at any point within such receiving residential land; provided, however, that point of measurement shall be on the property line of the complainant.
 - 3. **EXEMPTION: Powered Equipment:** Powered equipment, such as lawn mowers, small lawn and garden tools, riding tractors, and snow removal equipment which is necessary for the maintenance of property is exempted from the noise regulations between the hours of seven o'clock (7:00) A.M. and ten o'clock (10:00) P.M. **(This section is new).**
- v. Outdoor target practice and public or private shooting ranges in existence prior to the date of the adoption of this ordinance (insert date) shall be exempt from this sub-section of the Zoning Ordinance, but they shall follow the restrictions on their respective special use permits. **(This section is new).**

COW Memo
April 9, 2019

- w. Outdoor target practice and shooting ranges open to the public established after the date of this ordinance (**insert date**) must comply with the above regulations or secure applicable variance(s).
(This section is new).

Any completed application submitted prior to date of adoption of this ordinance shall follow the application procedures, requirements, and restrictions in effect on the date that the completed application was submitted.
(This section is new).

Matt Asselmeier

From: Brad Blocker <bblocker@gablocker.com>
Sent: Wednesday, April 10, 2019 8:49 AM
To: Matt Asselmeier
Subject: petition 17- 28

On April 9th 2019 , 6:00pm ,the Na-Au-Say Township Planning Commission met . An Agenda item discussed was Petition 17-28 regarding text amendments to outdoor commercial gun ranges . After some Public comments against the amendment and further discussion the Planning Commission voted unanimously to not support the proposed amendment .

On April 9th , 2019 7:00 pm ,at the Na-Au-Say Township Monthly Meeting ,Agenda item Petition 17-28 was discussed. After hearing Public comments and reviewing the Plan Commission's recommendations , the Township Trustees voted unanimously to not support the proposed amendment .

At this time I would like to give this notice as Na-Au-Say Township's written objection to proposed amendment 17-28 .

The discussions all seemed to be that there is some positive direction and good policy in this amendment . But honestly there was lots of confusion as to what the actual amendment was . There were so many recommended changes to the amended - amendment that it was unknown what was in and what was out . Adding to the concerns was the fact that the County met on April 8th and was still discussing recommended changes , some of the Trustees and public attended this meeting .Information being discussed regarding the recommended changes was not consistent with the Amendment as presented to Na-Au-Say Township for approval by the County on April 2nd . At this point the amendment is not supported but a final draft with more clarity is encouraged to be presented for review on a future date .

Feel free to contact me with any question or concerns.

Brad

Bradley A. Blocker
Supervisor

Na-Au-Say Township
"Headwaters of the aux-sable"

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