

Professional Services Agreement #BW0611E

This Agreement for Professional Services (the "Agreement") is by and between Champaign County, Illinois, an incorporated body politic in the State of Illinois, with its principle office at Brookens Administrative Center, 1776 E. Washington, Urbana, IL 61802141 (hereinafter the "Client"), and Bellwether, LLC with its principle office at 3006 Gill Street, Suite E, Bloomington, Illinois 61704 (hereinafter the "Consultant").

WHEREAS, Client finds that the Consultant is willing to perform certain work hereinafter described in accordance with the provisions of this Agreement; and

WHEREAS, Client finds that the Consultant is qualified to perform the work, all relevant factors considered, and that such performance will be in the furtherance of Client's business.

NOW THEREFORE, in consideration of the mutual covenants set forth herein and intending to be legally bound, the parties here to agree as follows:

1. **SERVICES** – The Consultant shall provide the following ("Service(s)") to Client: (Client signifying by initially each chosen service)
 - 1.1. () Consultant shall perform a Comprehensive Fee Review of the County Clerk Office, County Recorder Office and Sheriff's Department and provide a fact based report of potential fee changes for client review.
 - 1.2. () Consultant shall construct a Cost Allocation Plan for Champaign County relative to the Clerk, Recorder and Sheriff offices and provide a fact based report for client review.
2. **PAYMENT, INVOICING, AND TERMS**
 - 2.1. Payment for Comprehensive Fee Review Services: Consultant shall be paid a fee of Fifteen Thousand Dollars (\$15,000) for serviced described in section 1.1 above.
 - 2.1.1. A payment of Ten Thousand Dollars (\$10,000) is due at the time of execution of this agreement with a payment of Five Thousand Dollars (\$5,000) invoiced at project completion.
 - 2.2. Payment for Cost Allocation Plan: Consultant shall be paid a fee of Seven Thousand Five Hundred Dollars (\$7,500) due at the time of execution of this agreement.
3. **TERM; TERMINATION**
 - 3.1. The initial term of this Agreement is the duration of the projects anticipated to be no more than 10 weeks from time of execution of this agreement.
4. **CHANGES**
 - 4.1. Client may, with the approval of the Consultant, issue written directions within the general scope of any Services to be ordered. Such changes (the "Change Order") may be for additional work or the Consultant may be directed to change the direction of the work covered by the Agreement or any Change Order, but no change will be allowed unless agreed to by the Consultant in writing.

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5. STANDARD CARE

5.1. The Consultant warrants that Services shall be performed by personnel possessing competency consistent with applicable industry standards. No other representation, express or implied, and no warranty or guarantee are included or intended in this Agreement, or in any report, opinion, deliverable, work product, document or otherwise. Furthermore, no guarantee is made as to the efficacy or value of any services performed or software developed. THIS SECTION SETS FORTH THE ONLY WARRANTIES PROVIDED BY THE CONSULTANT CONCERNING THE SERVICES AND RELATED WORK PRODUCT. THIS WARRANTY IS MADE EXPRESSLY IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION ANY IMPLIED WARRANTIES OF FITNESS FOR A PARTICULAR PURPOSE, MERCHANTABILITY, NON-INFRINGEMENT, TITLE OR OTHERWISE.

6. CONFIDENTIALITY AND NON-DISCLOSURE

6.1. During the term of this agreement there may be disclosed certain trade secrets of Client; said trade secrets consisting of but not necessarily limited to:

6.1.1. Technical information: Methods, processes, formulae, compositions, systems, techniques, inventions, machines, computer programs and research projects.

6.1.2. Business information: Customer lists, pricing data, sources of supply, financial data and marketing, production, or merchandising systems or plans.

6.2. Consultant does agree that it shall not during, or at any time after the termination of this agreement with Client, disclose or divulge to others including future employees, any trade secrets, confidential information, or any other proprietary data of Client in violation of this agreement.

6.3. Upon the termination of this agreement Consultant shall:

6.3.1. Return or destroy all Client documents and property of the Client, including but not necessarily limited to: drawings, blueprints, reports, manuals, correspondence, customer lists, computer programs, and all other materials and all copies of thereof.

6.4. This section, Confidentiality and Non-Disclosure, shall be binding on Consultant including past employees, current employees, future employees, contractors, associates and successors in interest, and shall inure to the benefit of Client, its successors and assigns.

7. LIABILITY

7.1. Limitation: The Consultant's liability, including but not limited to Client's claims of contributions and indemnification related to third party claims arising out of services rendered by the Consultant, and for any losses, injury or damages to persons or properties or work performed arising out of or in connection with this Agreement and for any other claim, shall be limited to the lesser of (i) Five-Thousand dollars (\$5,000) or (ii) payment received by the Consultant from Client for the particular service provided giving rise to the claim. Notwithstanding anything to the contrary in this Agreement, the Consultant shall not be liable for any special, indirect, consequential, lost profits, or punitive damages. Client agrees to limit the Consultant's liability to Client and any other third party for any damage on account of any error, omission or negligence to a sum not to exceed the lesser of (i) Five-Thousand dollars (\$5,000) or (ii) the payment received by the Consultant for the particular service provided giving rise to the claim. The limitation of

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liability set forth herein is for any and all matters for which the Consultant may otherwise have liability arising out of or in connection with this Agreement, whether the claim arises in contract, tort, statute, or otherwise.

7.2. Remedy: Client's exclusive remedy for any claim arising out of or related to this Agreement will be for the Consultant, upon receipt of written notice, either (i) to use commercially reasonable efforts to cure, at its expense, the matter that gave rise to the claim for which the Consultant is at fault, or (ii) return to Client the fees paid by Client to the Consultant for the particular service provided that gives rise to the claim, subject to the limitation contained in section 5.1. Client agrees that it will not allege that this remedy fails its essential purpose.

7.3. Survival: Articles 2, 4, 5, and 6 survive the expiration or termination of this Agreement for any reason.

8. MISCELLANEOUS

8.1. Severability: Should any part of this Agreement for any reason be declared invalid, such decision shall not affect the validity of any remaining provisions, which remaining provisions shall remain in full force and effect as if this Agreement had been executed with the invalid portion thereof eliminated, and it is hereby declared the intention of the parties that they would have executed the remaining portion of the Agreement without including any such part, parts, or portions which may, for any reason, be hereafter declared invalid. Any provisions shall nevertheless remain in full force and effect in all other circumstances.

8.2. Modification and Waiver: Waiver of breach of this Agreement by either part shall not be considered a waiver of any other subsequent breach.

8.3. Independent Contractor: The Consultant is an independent contractor of Client.

8.4. Notices: Client shall give the Consultant written notice within one hundred eighty (180) days of obtaining knowledge of the occurrence of any claim or cause of action which Client believes that it has, or may seek to assert or allege, against the Consultant, whether such claim is based in law or equity, arising under or related to this Agreement or to the transactions contemplated hereby, or any act or omission to act by the Consultant with respect hereto. If Client fails to give such notice to the Consultant with regard to any such claim or cause of action and shall not have brought legal action for such claim or cause of action within said time period, Client shall be deemed to have waived, and shall be forever barred from bringing or asserting such claim or cause of action in any suit, action or proceeding in any court or before any governmental agency or authority or any arbitrator. All notices or other communications hereunder shall be in writing, sent by courier or the fastest possible means, provided that recipient receives a manually signed copy and the transmission method is scheduled to deliver within 48 hours, and shall be deemed given when delivered to the address specified below or such other address as may be specified in a written notice in accordance with this Section. Any Party may, by notice given in accordance with this Section to the other parties, designate another address or person or entity for receipt of notices hereunder.

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- 8.5. Assignment:** The Agreement will automatically assign or transfer from Client to Successor as a result of business structure change if the intent of the Client business is substantially the same. This Agreement is not assignable or transferable by Consultant without the written consent of Client, which consent shall not be unreasonably withheld or delayed.
- 8.6. Disputes:** The Consultant and Client recognize that disputes arising under this Agreement are best resolved at the working level by the parties directly involved. Both parties are encouraged to be imaginative in designing mechanism and procedures to resolve disputes at this level. Such efforts shall include the referral of any remaining issues in dispute to higher authority within each participating party's organization for resolution. Failing resolution of conflicts at the organizational level, the Consultant and Client agree that any remaining conflicts arising out of or relating to this Contract shall be submitted to nonbinding mediation unless the Consultant and Client mutually agree otherwise. If the dispute is not resolved through non-binding mediation, then the parties may take other appropriate action subject to the other terms of this Agreement.
- 8.7. Section Headings:** Title and headings of sections of this Agreement are for convenience of reference only and shall not affect the construction of any provision of this Agreement.
- 8.8. Representation; Counterparts:** Each person executing this Agreement on behalf of a party hereto represents and warrants that such person is duly and validly authorized to do so on behalf of such party, with full right and authority to execute this Agreement and to bind such party with respect to all of its obligations hereunder. This Agreement may be executed by (original or faxed signature) in counterparts, each of which shall be deemed an original, but all of which taken together shall constitute but one and the same instrument.
- 8.9. Residuals:** Nothing in the Agreement or elsewhere will prohibit or limit the Consultant's ownership and use of ideas, concepts, know-how, methods, models, data, techniques, skill knowledge and experience that were used, developed or gained in connection with the Agreement. The Consultant and Client shall each have the right to use all work product generated under this Agreement.
- 8.10. Nonsolicitation of Employees or Sub Contractors:** During and for one(1) year after the term of this Agreement, Client will not solicit the employment of, or employ the Consultant's personnel or Sub Contractors without the Consultant's prior written consent.
- 8.11. Cooperation:** Client will cooperate with the Consultant in taking actions and executing document, as appropriate, to achieve the objectives of this Agreement. Client agrees that the Consultant's performance is dependent on Client's timely and effective cooperation with the Consultant. Accordingly, Client acknowledges that any delay by Client may result in the Consultant being released from an obligation or scheduled deadline or in Client having to pay extra fees for the Consultant's agreement to meet specific obligation or deadline despite of delay.
- 8.12. Governing Law and Construction:** This Agreement will be governed by and construed in accordance with the laws of Illinois, without regard to the principles of conflicts of law. The language of this Agreement shall be deemed to be the result of negotiation among the parties and shall not be construed strictly for or against any party.


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- 8.13. Entire Agreement; Survival:** This Agreement, including any Exhibits, states the entire Agreement between the parties and supersedes all previous contracts, proposals, oral or written, and all other communications between the parties regarding the subject matter hereof, and supersedes any and all prior understandings, representations, warranties, agreements or contracts (oral or written) between Client and the Consultant regarding the subject matter hereof. This Agreement may only be amended by an agreement in writing executed by the parties hereto.
- 8.14. Force Majeure:** The Consultant shall not be responsible for delays or failures (including any delay by the Consultant to make progress in the prosecution of any Services) if such delay arises out of causes beyond its control. Such causes may include, but are not restricted to, acts of God or of public enemy, fires, floods, epidemics, riots, quarantine restrictions, strikes, freight embargoes, earthquakes, electrical outages, computer or communications failures, and severe weather, and acts of omissions of subcontractors or third parties.
- 8.15. Use By Third Parties:** Work performed by the Consultant pursuant to this Agreement are only for the purpose intended and may be misleading if used in another context. Client agrees not to use any documents produced under this Agreement for anything other than the intended purpose without the Consultant's written permission. This Agreement shall, therefore, not create any rights or benefits to parties other than to Client and the Consultant.

IN WITNESS WHEREOF, The parties hereto have executed this Agreement.

Champaign County Illinois

CONSULTANT

By: 
Printed: AARON RURTZ
Date: 06/24/13

By: 
Printed: Bruce DeLashmit
Date: 6/11/2013

Notice To:

Champaign County, Illinois
Brookens Administrative Center
1776 E. Washington
Urbana, IL 61802141

Notice To:

Bellwether, LLC
3006 Gill Street, Suite E
Bloomington, IL 61704