

## **Village of Lombard, IL**

### **INSPECTION PROPOSAL**

**January 25, 2021**

**SUBMITTED TO:**

Keith Steiskal  
Building Official  
Village of Lombard  
255 E. Wilson Avenue  
Lombard, IL. 60148

## PROFESSIONAL SERVICE AGREEMENT BUILDING INSPECTIONS

THIS AGREEMENT is between the Village of Lombard (hereafter "CLIENT") and B&F Construction Code Services, INC. (hereafter "COMPANY").

### **Term of Agreement:**

This AGREEMENT shall be effective on the date that the last signatory executes this AGREEMENT, and shall terminate one year from the effective date, unless this AGREEMENT is terminated earlier by the CLIENT, or COMPANY, or by mutual agreement, or the parties agree, in writing, to extend the Term. At least 30 days written notice shall be given in the event of early termination.

### **Project Understanding:**

Upon contract approval and notice-to-proceed, COMPANY will provide CLIENT with COMPANY staff to perform Building Inspections. COMPANY staff will report directly to the Village of Lombard Village Hall daily as determined by CLIENT. "Building inspections" shall be defined as the examination of a building, structure, or site that is under construction for which a permit has been issued.

### **Standard of Care:**

Services provided by COMPANY under this AGREEMENT will be performed in a manner consistent with that degree of care and skill ordinarily exercised by members of the same profession currently practicing at the same time and in the same or similar locality.

### **Basic Services:**

Building Inspections (Residential, Commercial and Industrial) with Company staff reporting to the CLIENT on an as needed basis based on demand reporting to the existing Building Official. COMPANY staff will report to the Building Official and CLIENT Staff and will adhere to the CLIENT'S reporting, software usage, equipment standards, personnel assignments, training and policy compliance.

COMPANY staff will be International Code Council (ICC) certified and/or be State Licensed and have more than 2 years of experience and knowledge in their specific field of service.

COMPANY staff will work in compliance with the CLIENT'S policies and adopted building codes, ordinances and amendments.

COMPANY will work and coordinate with the CLIENT'S software system, if available.

COMPANY will attend training on CLIENT policies including, but not limited to software, procedures, and CLIENT Code requirements as needed. The CLIENT shall compensate the COMPANY for said training at the same rate of pay for inspections.

COMPANY point of contact: Seth Sommer, Director of Quality Control, 847-428-7010,  
[ssommer@bfccs.org](mailto:ssommer@bfccs.org)

### **Entire Agreement:**

This AGREEMENT, and its attachments, constitutes the entire understanding between CLIENT and COMPANY relating to professional Building Inspection Services. Any prior or contemporaneous agreements, promises, negotiations, or representations not expressly set

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forth herein are of no effect. Subsequent modifications or amendments to this AGREEMENT shall be in writing and signed by the parties to this AGREEMENT.

**Additional Included Services:**

- A. As directed by CLIENT, COMPANY staff will provide on-site and off-site (via telephone and email) consultation to assist residents, business owners, developers, contractors and design professionals as required.
- B. COMPANY staff will provide the services during the CLIENT'S normal business hours or as directed by CLIENT and will include:
- Excellent customer service to the public as an extension of CLIENT staff.
  - On-site and off-site problem solving and working closely with property owners through occupancy as directed by CLIENT.
  - Proficiently communicate with permit applicants and contractors to provide clear and concise direction as determined by CLIENT.
  - Participate with other departments and staff as needed and as directed by CLIENT.
  - Incorporate and update inspection reports utilizing the CLIENT'S computer software system and/or processes.
- C. The inspectors shall have proper inspection equipment to conduct inspections as required. Equipment shall include a clipboard, flashlight, tape measure and other equipment as determined to provide a quality inspection. Each inspector shall utilize COMPANY inspection forms or forms, or electronically, or as acceptable to the CLIENT. The inspector shall utilize a COMPANY vehicle to conduct inspections.

**Schedule:**

The COMPANY shall provide adequate personnel necessary to complete the inspections and provide the services under this AGREEMENT. The schedule will be as agreed upon between the two parties.

COMPANY inspectors are available as follows:

Eight (8) hours a day during normal business hours from Monday through Thursday and Fridays after 9:30 AM, excluding holidays.

The building inspections will be performed by an ICC certified inspector and all plumbing inspectors shall be performed an Illinois Licensed Plumbing Inspector.

Building inspections (Building, Mechanical, Electrical, Plumbing and Energy) shall be billed at the rate of Eighty Dollars (\$80.00) per hour for a building inspector and One Hundred and Fifty Dollars (\$150.00) per hour for Senior Administrative staff. Travel time of forty five (45) minutes shall be added to the daily time for each inspector working less than an eight hour day.

The inspector will not perform other types of inspections or services outside his/her area of qualification. The COMPANY shall perform the inspections and provide the services with its own personnel and under the management, supervision and control of its own organization, and shall not be authorized to use any subcontractors to perform any inspections or provide any services under this AGREEMENT.

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If any of COMPANY'S personnel fails to provide the inspections or perform the services in a manner satisfactory to the CLIENT and consistent with commonly accepted industry standards and professional practices, the COMPANY shall immediately, upon notice from the CLIENT, remove and replace such personnel.

The COMPANY states that it is financially solvent, has the financial resources necessary, has sufficient experience and competence, and has the necessary capital, facilities, organization and staff necessary to provide, perform and complete the inspections and services under this AGREEMENT.

**Relationship of the Parties:**

The COMPANY'S role, and the role of its employees, with respect to the performance of the inspections and services under this AGREEMENT, is solely that of an independent contractor. The following terms and conditions are operative and applicable to the parties under this AGREEMENT:

- A. Non-Exclusive Contractual AGREEMENT. The COMPANY and its employees are retained under a non-exclusive contractual arrangement to perform the inspections and services only for the limited purposes set forth in this AGREEMENT. No provision of this AGREEMENT or subsequent conduct between the Parties shall be construed to create a relationship between the Parties as that of "employer-employee," "principal and agent," "partners" or "participants in a joint venture."
- B. No Authority to Bind. The COMPANY and its employees shall have no authority or right to enter into any contract or incur any debt or liability of any nature in the name of, or on behalf of, the CLIENT.
- C. Not Employees of the CLIENT. The COMPANY and its employees serve only as independent contractors of the CLIENT, and not as employees of the CLIENT, for all purposes, including, but not limited to, the application of the Fair Labor Standards Act minimum wage and overtime payments, including any similar Illinois wage laws, the Federal Insurance Contribution Act, the Social Security Act, the Federal Unemployment Tax Act, the Illinois Unemployment Insurance Act (820 ILCS 405/1, et seq.), and the Illinois Worker's Compensation and Occupational Diseases Act (820 ILCS 305/1, et seq.). Therefore, neither federal nor state nor local income tax nor payroll tax of any kind, nor any other withholding, shall be withheld or paid by the CLIENT on behalf of the COMPANY. Nothing in this AGREEMENT shall be construed as the CLIENT requiring or acquiring or incurring any liability for Worker's Compensation, FICA, withholding tax, unemployment compensation or any other payment which would be required to be paid by the CLIENT if the CLIENT and the COMPANY, and its employees were engaged in an "employer-employee" relationship.
- D. Payment of Taxes. The COMPANY and its employees are responsible, pursuant to applicable law, for payment of any income and employment taxes or any other taxes of any kind arising from their receipt of compensation under this AGREEMENT.

**Insurance:**

At all times during the term of this AGREEMENT, the COMPANY shall procure and maintain, at its sole cost and expense, at least the following types and amounts of insurance coverage:

- A. Commercial General Liability with limits no less than \$1,000,000 per occurrence and \$2,000,000 in the aggregate, which policy will include contractual liability coverage insuring the activities of the COMPANY under this AGREEMENT;
- B. Worker's compensation with limits no less than the minimum amount required by applicable law;
- C. Commercial Automobile Liability with limits of no less than \$1,000,000 per occurrence;
- D. Professional Liability with no less than \$1,000,000 per occurrence and \$2,000,000 in the aggregate;
- E. All required insurance policies shall (i) be issued by insurance companies acceptable to the CLIENT; and (ii) name the CLIENT as additional insureds.

**Invoices and Payment:**

The COMPANY shall submit an invoice to the CLIENT on a monthly basis to the CLIENT Representative at his/her business address that details the services provided. Each invoice must be accompanied by billable time entry reports, receipts, vouchers and other documents as necessary to reasonably establish the COMPANY'S right to payment under the AGREEMENT as stated in the invoice. In addition, each invoice must include employee classifications and employee designations (e.g., initials), rates per hour, and hours worked by each employee classification. The CLIENT agrees to make payments to the COMPANY in compliance with the Local Government Prompt Payment Act, 50 ILCS 505/1, et seq.

**Indemnification:**

To the fullest extent permitted by law, the COMPANY shall defend, hold harmless and indemnify the CLIENT and its employees, officers, agents and insurers from and against any and all injury, death, loss, property damage, judgments, liens, claims, suits, liabilities, actions, causes of action, demands, expenses, costs or other liabilities of any character (including reasonable attorney fees and litigation costs) to the extent arising in whole or in part, relating to or resulting from the performance under this AGREEMENT by the COMPANY and/or its employees, including but not limited to: (a) failure to comply with, or violation of, any federal, state or local law, statute, regulation, rule, ordinance, order or governmental directive; (b) negligent acts, omissions or willful misconduct; and (c) failure to comply with the terms, conditions, representations or warranties contained in this AGREEMENT. In connection with any such liabilities, the CLIENT shall have the right to defense counsel of its choice and the COMPANY shall be solely liable for all reasonable costs, fees and expenses of such defense. Any insurance policies required to be maintained pursuant to this AGREEMENT shall in no way limit the extent of the COMPANY'S responsibility to indemnify as herein provided. The terms of this indemnity shall survive the suspension, expiration or termination of this AGREEMENT.

Kotecki Waiver. The COMPANY agrees to assume the entire liability for all personal injury claims suffered by its own employees and waives any limitation of liability defense based upon the Worker's Compensation Act and cases decided thereunder. The COMPANY agrees to indemnify and defend CLIENT and its employees, officers, agents and insurers from and against all such loss, expense, damage or injury, including reasonable attorney fees, which they may sustain as a result of personal injury claims by the COMPANY'S employees.

**Contract Rider:**

See attached Rider titled "2021 Contract Rider."

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The CLIENT shall agree not to hire an employee of COMPANY for a period of one (1) year after the individual is no longer employed by the COMPANY. This provision shall not apply if the CLIENT and COMPANY have not had an agreement for more than one (1) year.

Upon acceptance, signatures of acceptance are required by at least two (2) authorized CLIENT officials.

<b>Accepted By</b>	<u></u>	<b>Accepted By</b>	_____
<b>Please Print</b>	<u>Scott Niehaus</u>	<b>Please Print</b>	_____
<b>Title</b>	<u>Village Manager</u>	<b>Title</b>	_____
<b>Date</b>	<u>February 4, 2021</u>	<b>Date</b>	_____

**B & F Construction Code Services, Inc.**

<b>Accepted By</b>	<u></u>
<b>Please Print</b>	<u>SETH SOMMER</u>
<b>Title</b>	<u>DELEGATOR</u>
<b>Date</b>	<u>1/25/2021</u>

**GENERAL CONTRACT TERMS AND CONDITIONS**

**SUSPENSION OF SERVICES**

The VILLAGE may, at any time, by written order to B&F Construction Code Services, Inc (“B&F”) require B&F to stop all, or any part, of the services required by this Agreement. Upon receipt of such an order B&F shall immediately comply with its terms and take all steps to minimize the occurrence of costs allocable to the services covered by the order. The VILLAGE will pay for costs associated with suspension provided they are deemed reasonable by the VILLAGE.

**TERMINATION OF AGREEMENT**

The VILLAGE reserves the right to terminate the whole or any part of this Agreement, upon ten (10) calendar days written notice to B&F. The VILLAGE further reserves the right to cancel the whole or any part of the Agreement if B&F fails to perform any of the provisions in the Agreement or fails to make delivery within the time stated. B&F will not be liable to perform if situations arise by reason of strikes, acts of God or the public enemy, acts of the VILLAGE, fires or floods.

Upon such termination, B&F shall cause to be delivered to the VILLAGE all surveys, reports, permits, agreements, calculations, drawings, specifications, partially and completed estimates and data, as well as products of computer aided drafting, design and writing that have been paid for by the VILLAGE. Costs of termination incurred by B&F before the termination date will be reimbursed by the VILLAGE only, if prior to the effective termination date, the VILLAGE receives from B&F a list of actions necessary to accomplish termination and the VILLAGE agrees in writing that those actions be taken.

**RELATIONSHIP BETWEEN B&F AND VILLAGE**

B&F and its authorized representatives (collectively “B&F”) are retained by the VILLAGE only for the purposes and to the extent set forth in this Agreement, and B&F’s relationship to the VILLAGE shall, during the term of this Agreement and period of its services hereunder, be that of an independent contractor. B&F shall be free to dispose of such portion of its entire time, energy and skill during regular business hours when they are not obligated to devote time and services hereunder to the VILLAGE, in such manner as B&F sees fit and to such persons, firms or corporations as B&F deems advisable. It is acknowledged that at all times the B&F is separate and independent from the VILLAGE and that B&F will utilize a high level of skill necessary to perform the services under this Agreement.

Not Employees. B&F and its authorized representatives (collectively “B&F”) shall not be considered as having an employee status, nor shall the VILLAGE withhold any sums for the payment of income taxes or FICA taxes, nor shall B&F be entitled to participate in any plans, arrangements or distributions by the VILLAGE pertaining to or in connection with any pension or retirement plans, or any other benefits for the regular full-time or part-time employees of the VILLAGE. As an independent contractor, it is the responsibility of the B&F to file all necessary

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tax returns (federal, state, county and local) and to pay all income tax, social security, and any and all other taxes due as an independent contractor in its profession. As an independent contractor, the B&F agrees that it is ineligible to file a claim for unemployment compensation benefits or for workers compensation benefits against the VILLAGE and agrees not to file such claims in the event this Agreement is terminated. B&F agrees to assume all risk of death, illness and injury relative to performing all services under this Agreement. B&F understands and agrees that, as an independent contractor, it is not an employee of the VILLAGE for any purposes of any kind and all state, federal and county laws or regulations that apply to or provide benefits or protections to employees do not apply to it, including, but not limited to, the application of the Fair Labors Standards Act minimum wage and overtime payments, Federal Insurance Contribution Act, the Social Security Act, the Federal Unemployment Tax Act and the Worker's Compensation Act (820 ILCS 305/1, *et seq.*).

### **INVOICING AND PAYMENT**

This Agreement is for the delivery of the services outlined in the Agreement. B&F shall submit invoices in duplicate not more than once each month, such statements shall be inclusive of a detailed breakdown of all charges incurred. The invoice shall detail personnel name, title, rate of pay, hours charged and task worked. All direct costs shall be itemized consistent with the various categories itemized in the proposal. Invoices shall be based on actual hours of performance. The VILLAGE agrees to make payments and to pay interest on unpaid balances under the provisions of the Local Government Prompt Payment Act.

### **CHANGES**

The VILLAGE reserves the right by written amendment to make changes in the requirements, amounts of work and work schedule to be performed under the Agreement. B&F and the VILLAGE shall negotiate appropriate adjustments acceptable to both parties to accommodate any changes.

### **INSURANCE**

(A) During the term of the Agreement, B&F shall provide the following types of insurance in not less than the specified amounts:

1. Comprehensive General Liability - \$1,000,000.00 per occurrence;
2. Auto Liability - Combined Single Limit Amount of \$1,000,000.00 on any TEG owned, and/or hired, and/or non-owned motor vehicles engaged in operations within the scope of this Agreement;
3. Workers Compensation - Statutory; Employers Liability \$1,000,000.00 (the policy shall include a 'waiver of subrogation');
4. Umbrella Coverage - \$3,000,000.00 (this shall apply to General Liability, Auto Liability and Professional Liability, except if the amount for Professional Liability



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exceeds these combined limits, then Umbrella Coverage does not need to apply to Professional Liability); and

5. Professional Liability - \$2,000,000.00.

(B) B&F shall furnish to the VILLAGE satisfactory proof of coverage of the above insurance requirements, by a reliable company or companies, before commencing any work. Such proof shall consist of certificates executed by the respective insurance companies and filed with the VILLAGE. Said certificates shall contain a clause to the effect that, for the duration of the Agreement, the insurance policy shall be canceled, expire or changed so as to the amount of coverage only after written notification 30 days in advance to the VILLAGE. In addition, said certificates shall list the VILLAGE and its officers, agents and employees as additional insureds on all required insurance policies except the policy for professional liability.

(C) B&F shall require sub-consultants, if any, not protected under B&F'S policies, to take out and maintain insurance of the same nature in amounts, and under the same terms, as required of B&F.

### **INDEMNIFICATION**

B&F shall indemnify, defend and save harmless the Village of Lombard, its officers, agents, employees, representatives and assigns, from lawsuits, actions, costs (including attorneys' fees), claims or liabilities of any character brought because of any injuries or damages received or sustained by any person, persons, or property on account of negligent act or omission or any willful misconduct of said B&F, its officers, agents and/or employees arising out of, or in performance of any of the provisions of the Agreement, including, without limitation, any claims or amounts recovered for any infringements of patent, trademark or copyright; or from any claims or amounts arising or recovered under the "Worker's Compensation Act" or any other law, ordinance, order or decree. In connection with any such claims, lawsuits, actions or liabilities, the Village of Lombard, its officers, agents, employees, representatives and their assigns shall have the right to defense counsel of their choice. B&F shall be solely liable for all costs of such defense and for all expenses, fees, judgments, settlements and all other costs arising out of such claims, lawsuits, actions or liabilities.

### **COMPLIANCE WITH LAWS**

B&F shall, at all times, observe and comply with all laws, ordinances and regulations of the Federal, State, local and VILLAGE governments, which may in any manner affect the preparation of proposals or the performance of the Agreement.

### **COMPLIANCE WITH OSHA STANDARDS**

B&F shall comply with all applicable requirements and standards as specified by the Occupational Safety and Health Act for duration of the Agreement.

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**NON-DISCRIMINATION**

a. B&F shall, as a party to a public contract:

1. Refrain from unlawful discrimination in employment and undertake affirmative action to assure equality of employment opportunity and eliminate the effects of past discrimination;

2. By submission of this Proposal, the CONSULTANT certifies that it is an "equal opportunity employer" as defined by Section 2000(e) of Chapter 21, Title 42, U.S. Code Annotated and Executive Orders #11246 and #11375 (42 U.S.C., Section 2000 (e)); Exec. Order No. 11246, 30 F.R. 12319 (1965); Exec. Order No. 11375, 32 F.R. 14303 (1967) which are incorporated herein by reference. The Equal Opportunity Clause, Section 6.1 of the Rules and Regulations of the Department of Human Rights of the State of Illinois, is a material part of any contract awarded on the basis of this Proposal.

b. It is unlawful to discriminate on the basis of race, color, sex, national origin, ancestry, age, marital status, physical or mental handicap or unfavorable discharge for military service. CONSULTANT shall comply with standards set forth in Title VII of the Civil Rights Act of 1964, 42 U.S.C. S2000 et seq. and The Human Rights Act of the State of Illinois (775 ILCS 5/1 - 101).

**FORCE MAJEURE**

The VILLAGE shall not be liable for any fault or delay caused by any contingency beyond their control including but not limited to acts of God, wars, strikes, walkouts, fires, natural calamities, or demands or requirements of other governmental agencies.


**VENUE**

The parties hereto agree that for purposes of any lawsuit(s) between them concerning the Agreement, its enforcement, or the subject matter thereof, venue shall be in DuPage County, Illinois, and the laws of the State of Illinois shall govern the cause of action.

Upon acceptance, signatures of acceptance are required by at least two (2) authorized CLIENT officials.

<b>Accepted By</b>	<u></u>	<b>Accepted By</b>	_____
<b>Please Print</b>	<u>Scott Niehaus</u>	<b>Please Print</b>	_____
<b>Title</b>	<u>Village Manager</u>	<b>Title</b>	_____
<b>Date</b>	<u>February 4, 2021</u>	<b>Date</b>	_____

**B & F Construction Code Services, Inc.**

<b>Accepted By</b>	<u></u>
<b>Please Print</b>	<u>SETH SOMMER</u>
<b>Title</b>	<u>DIRECTOR</u>
<b>Date</b>	<u>1/25/2021</u>