

VILLAGE OF LOMBARD
REQUEST FOR BOARD OF TRUSTEES ACTION
For Inclusion on Board Agenda


Resolution or Ordinance (Blue) Waiver of First Requested
 Recommendations of Boards, Commissions & Committees (Green)
 Other Business (Pink)

TO : PRESIDENT AND BOARD OF TRUSTEES

FROM: Scott R. Niehaus, Village Manager

DATE : December 18, 2023 **(BOT) Date:** January 4, 2024

SUBJECT: Approval of Building Plan Review and Inspection Consultant Services – B&F Construction Code Services

SUBMITTED BY: William J. Heniff, Director of Community Development 

BACKGROUND/POLICY IMPLICATIONS:

The Community Development Department generally utilizes a blend of in-house and third-party services to meet the building plan review and permit inspection demands required as part of the the construction approval process. In the past, B&F Construction Code Services, Inc. provided such services to meet demand.

Staff seeks concurrence from the Village Board for approval of a contractual services agreement with B&F for the remainder of 2023 and the 2024 calendar year. B&F has competently performed assigned inspection activities and approval of the this request would help ensure that the processes would remain unaffected. The agreement is based upon an hourly need basis.


Staff recommends that the Village Board of Trustees authorize the signature of the Village Manager on the attached agreement with B & F Construction Code Services, Inc. to perform selected plan review and inspection activities.

Fiscal Impact/Funding Source:
Review (as necessary)

Finance Director _____ Date _____
Village Manager _____ Date _____

MEMORANDUM

TO: Scott R. Niehaus, Village Manager

FROM: William J. Heniff, AICP, Director of Community Development 

MEETING DATE: January 4, 2024

SUBJECT: **Approval of Building Consultant Services –
B&F Construction Code Services**

The Community Development Department utilizes a combination of in-house staff and professional consultant services to cover selection inspection and plan review activities required as part of the construction approval process. This approach has allowed the Village to have supplemental services available to meet customer demand. To meet anticipated plan review and inspection workload in 2024 and to address a couple of pending invoices pertaining to the 2023 calendar year and construction season, the amount the Village will exceed the \$20,000 staff approval limit established within Village Finance Policies.

Staff seeks concurrence from the Village Board for approval of a contractual services agreement with B&F Construction Code Services. B&F has performed such work in the past and approval of this request will help ensure that selected plan review and inspection services will remain unaffected. The agreement is based on an hourly need basis and the rates noted below have been held to the past several years, as follows:

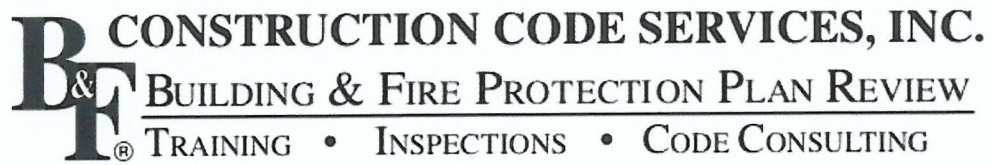
- Building Permit Inspection Services: \$80.00 per hour.
- Plan Review Services: \$150.00 per hour.

Such services are provided only on an as-needed basis, and are a function of plan review fees and building inspection fees issued for development project. As such, the collected permit fees covers most of these fees that are charged to the Village.

Staff is seeking concurrence from the Village Board for approval of contractual services with B&F Construction Code Services for the remaining months of 2023 and the 2024 calendar year. B&F has competently performed assigned inspection activities and approval of the request would help ensure that the inspection processes would remain unaffected through the forthcoming year.

RECOMMENDATION:

Staff recommends that the Village Board of Trustees waive formal bidding and approve utilization of B&F Construction Code Services to perform building plan review and inspection activities on behalf of the Village for the remainder of the 2023 year and for the 2024 calendar year.



Village of Lombard, IL

INSPECTION AND PLAN REVIEW PROPOSAL

December 15, 2023

SUBMITTED TO:

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

**PROFESSIONAL SERVICE AGREEMENT BUILDING INSPECTIONS
AND PLAN REVIEWS**

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

GENERAL CONTRACT TERMS AND CONDITIONS

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.

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 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.

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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 Labor 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.).

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 Commissioner.

COMPANY staff will report to the Building Commissioner 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: Ron Yarbrough, Operations Supervisor, 847-428-7010,
ryarbrough@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 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.

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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 plan reviews will provide the services under this AGREEMENT. The schedule will be as agreed upon between the two parties.

Plan Review Schedule: See Attached

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 inspections shall be performed by 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.

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.

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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.

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 B & F Construction Code Services, Inc. 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 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.

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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.

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, 42U.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.

INVOICES 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.

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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.

Accepted By	_____	Accepted By	_____
Please Print	_____	Please Print	_____
Title	_____	Title	_____
Date	_____	Date	_____

B & F Construction Code Services, Inc.

Accepted By	<u><i>Ron Yarbrough</i></u>
Please Print	<u>Ron Yarbrough</u>
Title	<u>Operations Supervisor</u>
Date	<u>December 15, 2023</u>