



Agenda Item Executive Summary

Item Name Professional Services Agreement for Health Services Committee or Board Board

BUDGET IMPACT

Amount: N/A Budgeted N/A

List what fund N/A

EXECUTIVE SUMMARY

Professional service agreement for fiscal year 2023/24 for Food & Alcohol Service Training, Inc. (FAST) to provide health services for the portion of the Village within Cook County.

This is the first year the Village will be contracting out health services; the health inspector position will be eliminated from the Planning & Development Services Department's personnel budget.

ATTACHMENTS (PLEASE LIST)

PDS Memo, resolution, agreement

ACTION REQUESTED

- For Discussion Only
- Resolution
- Ordinance
- Motion

MOTION: I move the passage of Resolution 2023- , " A Resolution Approving the Professional Services Agreement between the Village of Bartlett and Food & Alcohol Service Training, Inc."

Staff: Kristy Stone, PDS Director

Date: May 25, 2023

PLANNING AND DEVELOPMENT SERVICES MEMORANDUM

23-17

DATE: May 25, 2023

TO: Paula Schumacher, Village Administrator

FROM: Kristy Stone, Planning & Development Services Director 

RE: **Contract with Food & Alcohol Service Training, Inc. for Health Services**

Attached is a contract for the board's review for Food & Alcohol Service Training, Inc. (FAST) to provide health services for the portions of the Village within the Cook County. Frank Bertolami is a Licensed Environmental Health Practitioner with over 33 years of experience providing food establishment audits and has been utilized as the Village's back-up health inspector. The health services contract includes food establishment risk-based inspections, special event food vendor inspections and food establishment plan reviews. Currently there are 11 low risk, 22 medium risk and 10 high risk food establishments that would require inspections by FAST. *The DuPage and Kane County Health Departments inspect all food establishments their respective county boundaries.*

This is the first year the Village will be contracting out health services; the health inspector position will be eliminated from the Planning & Development Services Department's personnel budget.

RECOMMENDATION

1. The staff recommends **approval** of the attached contract.
2. A resolution is attached for your review approving of the 1-year contract with Food & Alcohol Service Training, Inc. and the Village of Bartlett.

RESOLUTION 2023 - _____

A RESOLUTION APPROVING AN AGREEMENT
BETWEEN THE VILLAGE OF BARTLETT AND FOOD & ALCOHOL SERVICE
TRAINING, INC.

BE IT RESOLVED by the President and Board of Trustees of the Village of Bartlett, Cook, DuPage and Kane Counties, Illinois, pursuant to its home rule authority, as follows:

SECTION ONE: **APPROVAL.** The Agreement between the Village of Bartlett and Food & Alcohol Service Training, Inc., for health inspection services (the "Agreement"), a copy of which is appended hereto and expressly incorporated herein by this reference, is hereby approved.

SECTION TWO: **AUTHORIZATION.** The Village Administrator is hereby authorized and directed to sign the Agreement on behalf of the Village of Bartlett.

SECTION THREE: **SEVERABILITY.** The various provisions of this Resolution are to be considered as severable, and of any part or portion of this Resolution shall be held invalid by any Court of competent jurisdiction, such decision shall not affect the validity of the remaining provisions of this Resolution.

SECTION FOUR: **REPEAL OF PRIOR RESOLUTIONS.** All prior Ordinances and Resolutions in conflict or inconsistent herewith are hereby expressly repealed only to the extent of such conflict or inconsistency.

SECTION FIVE: **EFFECTIVE DATE.** This Resolution shall be in full force and effect upon passage and approval.

ROLL CALL VOTE:

AYES:

NAYS:

ABSENT:

PASSED:

APPROVED:

Kevin Wallace, Village President

ATTEST:

Lorna Giles, Village Clerk

CERTIFICATION

I, the undersigned, do hereby certify that I am the Village Clerk of the Village of Bartlett, Cook, DuPage and Kane Counties, Illinois, and that the foregoing is a true, complete and exact copy of Resolution 2023 - _____ enacted on June 6, 2023, and approved on June 6, 2023, as the same appears from the official records of the Village of Bartlett.

Lorna Giles, Village Clerk

PROFESSIONAL SERVICES AGREEMENT

This **AGREEMENT** is dated as of the ____ day of _____, 2023 ("**Agreement**"), and is by and between **THE VILLAGE OF BARTLETT** ("**Village**"), an Illinois home rule municipality, and **FOOD & ALCOHOL SERVICE TRAINING, INC.** ("**Contractor**")

IN CONSIDERATION OF the recitals and the mutual covenants and agreements set forth in the Agreement, and pursuant to the Village's authority, the parties agree as follows:

SECTION 1. CONTRACTOR AND SCOPE OF SERVICES.

A. Engagement of Contractor. The Village desires to engage the Contractor to perform and provide the services described in the Contractor's Scope of Services, a copy of which is attached as **Exhibit A** to this Agreement ("**Scope**"). The Contractor represents it is financially solvent, has the necessary financial resources, and is sufficiently experienced and competent to perform and complete the services set forth in the Scope ("**Services**") in accordance with the standards of practice, care, and diligence practiced by recognized companies or firms performing services of a similar nature in existence at the time of performance. The representations and certifications expressed are in addition to any other representations and certifications expressed in this Agreement, or expressed or implied by law, which are reserved to the Village.

B. Commencement; Time of Performance. The Contractor must commence the Services immediately upon receipt of written notice that this Agreement has been fully executed by the Parties ("**Commencement Date**").

C. Compensation. The Village will pay the Contractor pursuant to the fee schedule attached to this Agreement as **Exhibit B**. The Contractor must submit monthly invoices in an approved format to the Village for services rendered during that month by the Contractor in performing the Services. The Village agrees to pay the Contractor's invoices no later than the 15th day of the following month.

D. Term. The term of this Agreement will run from June 6, 2023 to April 30, 2023. Notwithstanding any other provision hereof, the Village may terminate this Agreement at any time, with or without cause, upon 7 days prior written notice to the Contractor. In the event this Agreement is terminated, the Contractor will only be paid for Services actually performed and reimbursable expenses actually incurred, if any, prior to the termination date.

SECTION 2. CONFIDENTIAL INFORMATION.

A. Confidential Information. The term "**Confidential Information**" shall mean information in the possession or under the control of the Village relating to the technical, business, or corporate affairs of the Village; Village property; user information, including, without limitation, any information pertaining to usage of the Village's computer system and information obtained from server logs or other records of electronic or machine readable form. Village Confidential Information shall not include information that can be demonstrated: (1) to have been rightfully in the possession of the Contractor from a source other than the Village prior to the time of disclosure of said information to the Contractor under this Agreement ("**Time of Disclosure**"); (2) to have been in the public domain prior to the Time of Disclosure; (3) to have become part of the public domain after the Time of Disclosure by a publication or by any other means except an unauthorized act or omission or breach of this Agreement on the part of the

Contractor or the Village; or (4) to have been supplied to the Contractor after the Time of Disclosure without restriction by a third party who is under no obligation to the Village to maintain such information in confidence.

B. No Disclosure of Confidential Information by the Contractor. The Contractor acknowledges that it may, in performing the Services for the Village under this Agreement, have access to or be directly or indirectly exposed to Confidential Information. The Contractor agrees to hold confidential all Confidential Information and will not disclose or use Confidential Information without express prior written consent of the Village. The Contractor must use reasonable measures at least as strict as those the Contractor uses to protect its own confidential information.

SECTION 3. INDEMNIFICATION; INSURANCE.

A. **Indemnification.** Contractor will indemnify, save harmless, and defend the Village against all damages, liability, claims, losses, and expenses (including attorneys' fee) that may arise, or be alleged to have arisen, out of or in connection with the Contractor's performance of, or failure to perform, the Services or any part thereof, or any failure to meet the representations and certifications set forth in this Agreement.

B. **Insurance.** The Contractor will, at its sole cost, obtain and keep in force at all times during the performance of any work referred to above, Workers Compensation and Employer's Liability Insurance, Commercial General Liability Insurance, and Automobile Insurance in at least the type and amounts as follows:

1. Commercial General Liability: \$2,000,000.00 General Aggregate

The Contractor must name the Village as an additional insured and provide Village with Certificates of Insurance and applicable policy endorsement(s), executed by a duly authorized representative of each insurer, showing compliance with the insurance requirements set forth above. Failure of Village to demand any certificate, endorsement or other evidence of full compliance with these insurance requirements or failure of Village to identify a deficiency from evidence that is provided shall not be construed as a waiver of Contractor's obligation to maintain such insurance. The Contractor agrees that the obligation to provide the insurance required by these documents is solely its responsibility and that this is a requirement which cannot be waived by any conduct, action, inaction or omission by the Village. Upon request, the Contractor will provide copies of any or all policies of insurance maintained in fulfillment hereof. Failure to maintain the required insurance may result in termination of this Contract at Village's option. Contractor represents and warrants that no employees of Contractor will perform any services under this Agreement, and that Contractor has no employees who are eligible to receive workers' compensation benefits.

SECTION 4. DEFAULT.

If it should appear at any time that the Contractor has failed or refused to prosecute, or has delayed in the prosecution of, the Services with diligence at a rate that assures completion of the Services in full compliance with the requirements of this Agreement, or has otherwise failed, refused, or delayed to perform or satisfy the Services or any other requirement of this Agreement ("***Event of Default***"), and fails to cure any such Event of Default within 10 business days after the Contractor's receipt of written notice of such Event of Default from the Village,

then the Village will have the right, without prejudice to any other remedies provided by law or equity, to pursue any one or more of the following remedies:

1. Cure by Contractor. The Village may require the Contractor, within a reasonable time, to complete or correct all or any part of the Services that are the subject of the Event of Default; and to take any or all other action necessary to bring the Contractor and the Services into compliance with this Agreement.

2. Termination of Agreement by Village. The Village may terminate this Agreement without liability for further payment of amounts due or to become due under this Agreement after the effective date of termination.

3. Withholding of Payment by Village. The Village may withhold from any payment, whether or not previously approved, or may recover from the Contractor, any and all costs, including attorneys' fees and administrative expenses, incurred by the Village as the result of any Event of Default by the Contractor or as a result of actions taken by the Village in response to any Event of Default by the Contractor.

SECTION 5. SPECIAL PROVISIONS.

A. Relationship of the Parties. The Contractor acts as an independent contractor in providing and performing the Services. Nothing in, nor done pursuant to, this Agreement shall be construed (1) to create the relationship of principal and agent, employer and employee, partners, or joint venturers between the Village and Contractor; or (2) to create any relationship between the Village and any subcontractor of the Contractor.

B. Conflict of Interest. The Contractor represents and certifies that, to the best of its knowledge, (1) no Village employee or agent is interested in the business of the Contractor or this Agreement; (2) as of the date of this Agreement neither the Contractor nor any person employed or associated with the Contractor has any interest that would conflict in any manner or degree with the performance of the obligations under this Agreement; and (3) neither the Contractor nor any person employed by or associated with the Contractor shall at any time during the term of this Agreement obtain or acquire any interest that would conflict in any manner or degree with the performance of the obligations under this Agreement.

C. No Collusion. The Contractor represents and certifies that the Contractor is not barred from contracting with a unit of state or local government as a result of (1) a delinquency in the payment of any tax administered by the Illinois Department of Revenue unless the Contractor is contesting, in accordance with the procedures established by the appropriate revenue act, its liability for the tax or the amount of the tax, as set forth in Section 11-42.1-1 *et seq.* of the Illinois Municipal Code, 65 ILCS 5/11-42.1-1 *et seq.*; or (2) a violation of either Section 33E-3 or Section 33E-4 of Article 33E of the Criminal Code of 1961, 720 ILCS 5/33E-1 *et seq.* The Contractor represents that the only persons, firms, or corporations interested in this Agreement as principals are those disclosed to the Village prior to the execution of this Agreement, and that this Agreement is made without collusion with any other person, firm, or corporation. If at any time it shall be found that the Contractor has, in procuring this Agreement, colluded with any other person, firm, or corporation, then the Contractor shall be liable to the Village for all loss or damage that the Village may suffer, and this Agreement shall, at the Village's option, be null and void.

D. Compliance With Laws. Contractor must give all notices, pay all fees, and take all other action that may be necessary to ensure that the Services are provided, performed, and completed in accordance with all required governmental permits, licenses, or other approvals and authorizations that may be required in connection with providing, performing, and completing the Services, and with all applicable statutes, ordinances, rules, and regulations. Contractor is solely liable for any fines or civil penalties that are imposed by any governmental or quasi-governmental agency or body that may arise, or be alleged to have arisen, out of or in connection with Contractor's, or its subcontractors, performance of, or failure to perform, the Services or any part thereof. Every provision of law required by law to be inserted into this Contract is deemed to be inserted.

E. Mutual Cooperation. The Village agrees to cooperate with the Contractor in the performance of the Services, including meeting with the Contractor and providing the Contractor with such information that the Village may have that may be relevant and helpful to the Contractor's performance of the Services. The Contractor agrees to cooperate with the Village in the performance of and the completion of the Services and with any other Contractors engaged by the Village.

F. Village Obligations.

1. Notice of Special Event Inspections. The Village will provide Contractor a minimum of two (2) weeks prior notice of any special event inspections, along with the special event vendor's contact information.

2. Inspection Report Forms. The Village agrees to provide Contractor with carbonless paper inspection forms to be used by the Contractor only for services provided under this Agreement.

3. Village Identification. The Village agrees to provide Contractor with documentation identifying the Contractor as an authorized agent of the Village with the authority to conduct the inspections listed in the Scope.

4. Office Support. The Village agrees to provide Contractor with meeting space at the Bartlett Village Hall, and to allow Contractor to use Village copiers for purposes relating to the services provided under this Agreement.

G. Ownership. Designs, drawings, plans, specifications, photos, reports, information, observations, calculations, notes, and any other documents, data, or information, in any form, prepared, collected, or received by the Contractor in connection with any or all of the Services to be performed under this Agreement ("**Documents**") are deemed the exclusive property of the Village. At the Village's request, or upon termination of this Agreement, the Contractor will cause the Documents to be promptly delivered to the Village.

H. Freedom of Information Act. The Contractor agrees to maintain, without charge to the Village, all records and documents for projects of the Village in compliance with the Freedom of Information Act, 5 ILCS 140/1 et seq. In addition, Contractor must produce records which are responsive to a request received by the Village under the Freedom of Information Act so that the Village may provide records to those requesting them within the time frames required. If additional time is necessary to compile records in response to a request, then Contractor must notify the Village and if possible, the Village will request an extension so as to comply with the Act. In the event that the Village is found to have not complied with the

Freedom of Information Act due to Contractor's failure to Contractor documents or otherwise appropriately respond to a request under the Act, then Contractor will indemnify and hold the Village harmless, and pay all amounts determined to be due including but not limited to fines, costs, attorneys' fees and penalties.

SECTION 6. GENERAL PROVISIONS.

A. Amendment. No amendment or modification to this Agreement shall be effective unless and until the amendment or modification is in writing, properly approved in accordance with applicable procedures, and executed.

B. Assignment. This Agreement may not be assigned by the Village or by the Contractor without the prior written consent of the other party.

C. Binding Effect. The terms of this Agreement will bind and inure to the benefit of the Parties to this Agreement and their agents, successors, and assigns.

D. Notice. All notices required or permitted to be given under this Agreement shall be in writing and shall be delivered (1) personally, (2) by a reputable overnight courier, (3) by certified mail, return receipt requested, and deposited in the U.S. Mail, postage prepaid, or (4) by email. Unless otherwise expressly provided in this Agreement, notices shall be deemed received upon the earlier of (a) actual receipt; (b) one business day after deposit with an overnight courier as evidenced by a receipt of deposit; (c) three business days following deposit in the U.S. mail, as evidenced by a return receipt; (d) time-stamp email was sent. By notice complying with the requirements of this Section, each Party shall have the right to change the address or the addressee, or both, for all future notices and communications to the other party, but no notice of a change of addressee or address shall be effective until actually received.

Notices and communications to the Village shall be addressed to, and delivered at, the following address:

Kristy Stone
Planning & Development Services Director
Village of Bartlett
228 S. Main Street
Bartlett, IL 60103
kstone@bartlett.il.gov

Notices and communications to the Contractor shall be addressed to, and delivered at, the following address:

Frank Bertolami
Food & Alcohol Service Training, Inc.
P.O. Box 226
Algonquin, IL 60102
chieftriangle@yahoo.com

E. Third Party Beneficiary. No claim as a third party beneficiary under this Agreement by any person, firm, or corporation shall be made or be valid against the Village.

F. Governing Laws. This Agreement will be governed by, construed and enforced in accordance with the internal laws, but not the conflicts of laws rules, of the State of Illinois. Venue for any dispute arising out of relating to this Agreement will be in the Circuit Courts of Cook County, Illinois.

G. Entire Agreement. This Agreement constitutes the entire agreement between the parties to this Agreement and supersedes all prior agreements and negotiations between the parties, whether written or oral relating to the subject matter of this Agreement.

H. Waiver. Neither the Village nor the Contractor shall be under any obligation to exercise any of the rights granted to them in this Agreement except as it shall determine to be in its best interest from time to time. The failure of the Village or the Contractor to exercise at any time any such rights shall not be deemed or construed as a waiver of that right, nor shall the failure void or affect the Village's or the Contractor's right to enforce such rights or any other rights.

I. Exhibits. Exhibit A and Exhibit B are attached to this Agreement, and by this reference incorporated in and made a part of, this Agreement. In the event of a conflict between the Exhibits and the text of this Agreement, the text of this Agreement shall control.

THE VILLAGE OF BARTLETT

By: _____
Village Administrator

FOOD & ALCOHOL SERVICE TRAINING, INC.

By: _____

Title: _____

EXHIBIT A

Scope of Services

1. Food & Alcohol Service Training, Inc. agrees to provide perform food establishment risk based inspections within the Cook County boundaries of the Village of Bartlett. Inspections will access the level of compliance with the Illinois Department of Public Health adopted FDA Food Code.
2. Food & Alcohol Service Training, Inc. agrees to inspect high, medium and low risk classified food establishments at the frequency determined by the Illinois Department of Public Health. (Annual inspection requirements are currently as follows: 3 for high; 2 for medium; and 1 for low)
3. Food & Alcohol Service Training, Inc. agrees to perform food establishment follow-up inspections when risk factor violations cannot be corrected immediately and food establishment complaint inspections when necessary.
4. Food & Alcohol Service Training, Inc. agrees to provide an inspection report to the food establishment upon completion of the inspection and a copy of the inspection report to the Village of Bartlett within 24 hours.
5. Food & Alcohol Service Training, Inc. agrees to perform food establishment plan reviews within 5 business days of receiving the plans.

EXHIBIT B

Fee Schedule

- Food Establishment Inspections: \$80 per inspection.
- Food Establishment Plan Reviews: \$50 per hour (1 hour minimum).
- Required Research Work/FOIA Response: \$50 per hour (1 hour minimum).
- Special Event Food Vendor Inspections: \$75 per hour (2 hour minimum).