



**TOWN OF BOWLING GREEN
TOWN COUNCIL MEETING**

A G E N D A

**Thursday, August 17, 2023
6:00 PM**

**RECONVENE AUGUST 3RD MEETING OF THE BOWLING GREEN TOWN COUNCIL AND
ESTABLISHMENT OF QUORUM:**

1. Amendments to the Agenda

UNFINISHED BUSINESS:

NEW BUSINESS:

2. Service Agreement with Matern Staffing
3. 2023 Harvest Festival

INFORMATIONAL ITEMS:

CLOSED SESSION:

4. The purpose of the meeting is to interview for the position of Town Manager and Town Attorney. Council will go into Closed Session in Accordance with Section 2.2-3711(A)(1) of the code of Virginia to interview and consider prospective candidates for employment.

RECONVENE IN OPEN SESSION:

ADJOURNMENT:



**TOWN OF BOWLING GREEN
TOWN COUNCIL MEETING
AGENDA ITEM REPORT**

AGENDA ITEM: Service Agreement with Matern Staffing

ITEM TYPE: Action Item

PURPOSE OF ITEM: Decision - By Motion

PRESENTER: Arthur Wholey, Council Member

PHONE: (804) 633-6212

BACKGROUND / SUMMARY:

To review the service agreement presented by Matern Staffing and to approve moving forward with agreement.

ATTACHMENTS:

REQUESTED ACTION:

Approve/deny

This Staffing Services Agreement ("Agreement") is entered into between Matern Staffing, Inc. ("Matern Staffing") and The Town of Bowling Green ("Client").

1. Matern Staffing Duties and Responsibilities. Matern Staffing will (a) recruit, screen, interview, hire, and assign employees ("Associates") to perform work consistent with the job description provided by Client to Matern Staffing, under Client's direction and supervision, and as further specified in Exhibit A, attached hereto and fully incorporated herein by reference; (b) pay Associates' wages and offer Associates the benefits that Matern Staffing offers to them; (c) pay, withhold, and transmit payroll taxes; provide unemployment insurance and workers' compensation benefits; and handle unemployment and workers' compensation claims involving Associates; (d) comply with all applicable federal, state and local laws; (e) promptly provide Client with details of any work-related injury suffered by an Associate of which Matern Staffing has actual knowledge; and (f) comply with all provisions of the Patient Protection and Affordable Care Act applicable to Matern Staffing.

As the common law employer, Matern Staffing shall have the right to physically inspect the worksite and work processes; to review and address, unilaterally or in coordination with Client, Associate work performance issues; and to enforce Matern Staffing's employment policies relating to Associate conduct at Client's worksite.

2. Client Duties and Responsibilities. Client will (a) adequately instruct, direct, assist, and supervise Associates performing its work and be responsible for its business operations, products, services, and intellectual property; (b) properly supervise, control, and safeguard its premises, processes and systems, and not permit Associates to operate any vehicle or mobile equipment, work at heights of any level (including from a ladder or step ladder), work with or be exposed to hazardous materials, have access to unattended premises, cash, checks, keys, credit cards, merchandise, confidential or trade secret information, negotiable instruments, or other valuables without Matern Staffing's prior written approval or as strictly required by the job description provided by Client to Matern Staffing; (c) provide Associates with a safe worksite and appropriate information, training, and safety equipment with respect to any hazardous substances or conditions to which Associates may be exposed at the worksite and cover the cost of any safety or personal protective equipment, special badges, location-specific garments or uniforms; (d) not change an Associate's job duties without Matern Staffing's prior written approval; (e) comply with all applicable federal, state and local laws; (f) promptly provide Matern Staffing with details of any work-related injury suffered by an Associate of which Client has actual knowledge and (g) exclude Associates from Client's benefit plans, policies, and practices, and not make any offer or promise relating to Associates' compensation or benefits.
3. Payment Terms and Bill Rates. Client will pay Matern Staffing at the bill rates set forth in Exhibit A. Matern Staffing will invoice Client weekly and Client agrees to pay all undisputed invoices upon receipt. Invoices will be supported by the pertinent time sheets or other agreed system for documenting time worked by Associates. Client's signature or other agreed method of approval of the work time submitted for Associates certifies that the documented hours are correct and authorizes Matern Staffing to invoice Client for the subject hours. If Client disputes any portion of a Matern Staffing invoice, Client will pay the undisputed portion while the parties work to resolve the disputed portion. Client agrees to pay a late fee of 2.5% per month on any unpaid balances after 30 days of the date of the subject invoice. In the event Client fails to pay an undisputed invoice after 90 days of the date of the subject invoice, Matern Staffing reserves the right to end all work assignments of any then-working Associates at Client's facility and immediately terminate this Agreement. Any invoice not disputed within 30 days of the date of the invoice shall be deemed accepted by Client.

Associates are presumed to be nonexempt from laws requiring premium pay for overtime hours worked in each workweek. Client shall notify Matern Staffing of any applicable prevailing wage or fringe benefits for work performed by Associates on any government contract.

Client agrees to pay any new or increased labor costs associated with Associates assigned to Client that Matern Staffing is legally required to pay (e.g. wages, benefits, payroll taxes, workers' compensation rates, social program contributions, or changes lined to benefit levels) until such time as the parties agree upon new bill rates.

4. Direct Hire Services. In the event Client requests Matern Staffing to recruit and refer candidates for direct hire by Client (a "Direct Hire Candidate") and Client hires a referred Direct Hire Candidate within 12 months of Matern Staffing's referral of said individual to Client, Client agrees to pay a placement fee in an amount equal to 20% of the Direct Hire Candidate's first year total estimated compensation. Matern Staffing will invoice Client on the Direct Hire Candidate's first day of employment with Client. In the event that a Direct Hire Candidate's employment with Client terminates for any reason other than a reduction in force, downsizing, or position elimination within the first 90 days of the Direct Hire Candidate's employment start date, Matern Staffing agrees to refill the position for no additional fee. In the event Matern Staffing is unable to refill the position within 30 days, Client may opt to receive a refund of the fee paid for the subject Direct Hire

Candidate. This replacement guarantee is contingent upon Client's compliance with the payment terms set forth in Paragraph 3.

Client agrees that in order to protect the privacy of each Direct Hire Candidate, it will not disclose or disseminate to any third party the resume or personal information about a Direct Hire Candidate or their job search and further agrees it will not contact a Direct Hire Candidate's current employer without the prior written authorization of that candidate.

5. Conversion of Associate to Client Employee. If Client uses the services of any Associate as its direct employee, as an independent contractor, or through any other person or firm prior to the subject Associate's completion of 500 hours on assignment to Client through Matern Staffing, Client must notify Matern Staffing and either (a) continue the Associate's assignment through Matern Staffing until such time as he or she has completed 500 hours of consecutive work hours on assignment to Client; or (b) pay Matern Staffing the applicable conversion fee specified in Exhibit A.
6. Associate Guarantee. In the event that Client is dissatisfied with the services performed by an Associate and notifies Matern Staffing within the first 4 hours of the subject Associate's assignment, Client will not be charged for the first 4 hours of work performed by the subject Associate.
7. Confidential Information. Both parties may receive information that is proprietary or confidential to the other party. Both parties agree to hold such information in strict confidence and not to disclose such information to third parties or to use such information for any purpose whatsoever other than performing under this Agreement or as required or permitted by law. No knowledge, possession or use of Client's confidential information will be imputed to Matern Staffing as a result of Associates' access to such information. For any information received by a party about the other party's employees, Associates, or contractors, the receiving party agrees to respect, and safeguard said personal information using commercially reasonable means and in accordance with applicable law.
8. Equal Opportunity Employers. Each party represents that it is an equal opportunity employer in full compliance with all equal employment laws, rules, and regulations. Each party agrees that it shall not unlawfully harass, discriminate against or retaliate against any individual based on a category protected by applicable federal, state or local law. Further, each party agrees that it shall not request the other party to engage in or tolerate such unlawful discrimination, harassment, or retaliation. In the event of a complaint regarding unlawful discrimination, harassment or retaliation involving an Associate, the parties agree to cooperate in the prompt and reasonable investigation of the same.
9. Indemnification. To the extent permitted by law, Matern Staffing will defend, indemnify, and hold Client and its parent, subsidiaries, directors, officers, agents, representatives, and employees harmless from all claims, costs, losses, and liabilities (including reasonable attorneys' fees) to the extent caused by Matern Staffing's breach of this Agreement; its failure to discharge its duties and responsibilities set forth in this Agreement; or the negligence, gross negligence, or willful misconduct of Matern Staffing or Matern Staffing's officers, internal employees, or authorized agents in the discharge of those duties and responsibilities. To the extent permitted by law, Client will defend, indemnify, and hold Matern Staffing and its parent, subsidiaries, directors, officers, agents, representatives, and employees harmless from all claims, costs, losses, and liabilities (including reasonable attorneys' fees) to the extent caused by Client's breach of this Agreement; its failure to discharge its duties and responsibilities set forth in this Agreement; or the negligence, gross negligence, or willful misconduct of Client or Client's officers, employees, or authorized agents in the discharge of those duties and responsibilities.

Client agrees that Matern Staffing does not warrant or guarantee any work performed by Associates and Matern Staffing will not be liable for any loss or damage resulting from the performance or non-performance of the work or acts or omissions of Associates working under Client's supervision and direction.

Neither party shall be liable for or be required to indemnify the other party for any incidental, consequential, exemplary, special, punitive, or lost profit damages that arise in connection with this Agreement, regardless of the form of action (whether in contract, tort, negligence, strict liability, or otherwise) and regardless of how characterized, even if such party has been advised of the possibility of such damages. In no event shall Matern Staffing's liability exceed, in the aggregate, the amounts paid by Client to Matern Staffing hereunder in the 12-month period immediately preceding the event giving rise to the liability. As a condition precedent to indemnification, the party seeking indemnification will inform the other party within 10 business days after it receives notice of any claim, loss, liability, or demand for which it seeks indemnification

from the other party; and the party seeking indemnification will cooperate in the investigation and defense of any such matter. The provisions of this paragraph set forth the complete agreement between the parties with respect to indemnification and each party waives its right to assert any common law indemnification or contribution claim against the other party.

10. Insurance. Each party agrees to maintain, during the term of this Agreement, commercial general liability insurance coverage with limits not less than \$5,000,000 for each occurrence and excess coverage with limits not less than

\$5,000,000 per occurrence. Matern Staffing further agrees to maintain statutory workers' compensation insurance covering each Associate in the amounts required by applicable law.

- 11. Bankruptcy. In the event Client files a bankruptcy petition or becomes subject to an involuntary bankruptcy petition, it shall promptly seek entry of an order from the presiding U.S. Bankruptcy Court (a) assuming this Agreement; (b) authorizing payment to Matern Staffing as part of any employee wage motion filed; or (c) naming Matern Staffing as a critical vendor and authorizing payment of Matern Staffing's pre-petition invoices. Failure to comply with this section shall serve as grounds for Matern Staffing's immediate suspension of all services and termination of this Agreement.
- 12. Non-Solicitation. During the term of this Agreement and for the 12-month period following its termination, Client agrees not to directly or indirectly solicit, recruit, or hire internal Matern Staffing employees associated with providing staffing services to Client on behalf of Matern Staffing pursuant to this Agreement. In the event Client solicits, recruits, or hires such a Matern Staffing employee in violation of this paragraph, Client agrees to pay Matern Staffing a fee equal to the subject employee's Matern Staffing annual gross salary (or annual salary equivalent) as a placement fee. This paragraph does not apply to the conversion of Associates and does not apply to restrict Client from hiring a Matern Staffing employee who answers a general advertisement or who otherwise voluntarily applies for employment with Client without having been personally solicited or recruited by Client.
- 13. Additional Terms. This Agreement will remain in effect until terminated by either party by giving 30 days advance notice to the non-terminating party. Provisions of this Agreement, which by their terms extend beyond the termination of this Agreement, will remain effective after termination. No provision of this Agreement may be modified or waived unless agreed to in writing and signed by the parties. This Agreement supersedes all prior agreements or understandings between the parties. The provisions of this Agreement shall inure to the benefit of and be binding upon the parties and their respective representatives, successors, and assigns. Matern Staffing shall be entitled to transfer this Agreement and/or assign its obligations, rights and benefits, in whole or in part, to any affiliate of Matern Staffing or to any party who acquires all or substantially all of the assets of Matern Staffing. Neither party shall be responsible for failure or delay in performance of this Agreement due to labor disputes, strikes, fire, riot, war, epidemics, terrorism, acts of God or any other causes beyond the control of the nonperforming party. This Agreement will be governed by and construed in accordance with the laws of the Commonwealth of Virginia, without reference to any conflicts of law principles thereof and the parties each agree to venue exclusively in the state and federal courts of the Commonwealth of Virginia in the event of a dispute. In the event any term or provision of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the Agreement shall remain in full force and effect.

SO AGREED.

CLIENT

MATERN STAFFING, INC.

Authorized Signature

Date

Teresa West

Authorized Signature

August 11, 2023

Date

Printed Name: _____
Title: _____

Printed Name: Teresa West
Title: Director of Staffing

This Exhibit A is fully incorporated into and made a part of the Staffing Services Agreement between Client and Matern Staffing.

Bill Rates. Matern Staffing shall invoice, and Client agrees to pay, based upon the following bill rate table. The bill rate shall be equal to the hourly pay rate for each subject Associate *plus* the corresponding markup percentage in the table below *multiplied* by the number of hours worked by the subject Associate in the applicable workweek.

		4
Administrative	45%	55%

Conversion Fees.

Associate Hours Worked	Conversion Fee Percentage of Associate's projected annual salary (or salary equivalent) as a direct Client employee
0 – 200	20%
201 – 320	15%
321 – 549	10%
550+	No Fee

Client Servicing/Screening Requirements.

Screen / Service	Required (check yes or no)	If Yes, Detail Specifications	Cost
Drug Screen	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> In-house 5-panel (\$25 each) <input type="checkbox"/> In-house 10-panel (\$45 each) <input type="checkbox"/> 3 rd party 5-panel (\$50 each) <input type="checkbox"/> 3 rd party 10-panel (\$75 each)	Matern Staffing to invoice Client the cost of the selected drug screen.
Criminal Background Check	<input type="checkbox"/> Yes <input type="checkbox"/> No	[specify type of BG screen]	Matern Staffing to invoice Client the cost of \$50 per criminal background check (plus all additional fees assessed by any country, state or county to retrieve and provide the required background report data).
Additional Servicing Requirements	<input type="checkbox"/> Yes <input type="checkbox"/> No		[specify cost allocation of additional requirements]

Matern Staffing shall not conduct any criminal background checks unless specifically requested by Client. In evaluating a candidate's criminal conviction history, Matern Staffing shall comply with all applicable federal, state and local laws. In establishing its acceptable criminal conviction criteria, Client agrees it shall consider the nature and gravity of the offense, the amount of time that has passed since the convictions, and the nature and duties of the assignment to be performed by the candidate at Client's worksite. Any Client requested background checks shall be conducted by Matern Staffing through Matern Staffing's preferred third-party vendor(s).

Would you like to offer benefits to your long-term temporary employees at a direct cost fee?

Vacation, Holiday, Bonus Pay	<input type="checkbox"/> Yes <input type="checkbox"/> No	[specify any additional requirements]	Direct cost + Burden = 1.25%
-------------------------------------	--	---------------------------------------	------------------------------



**TOWN OF BOWLING GREEN
TOWN COUNCIL MEETING
AGENDA ITEM REPORT**

AGENDA ITEM: 2023 Harvest Festival
ITEM TYPE: Action Item
PURPOSE OF ITEM: Decision - By Motion
PRESENTER: Trish Chenault, Deputy Treasurer/Clerk
PHONE: (804) 633-6212

BACKGROUND / SUMMARY:

Requesting approval for Lisa Stevens to be in charge of the kid's section along with the food/craft vendors for the 2023 Harvest Festival. This does not include the car show. Her fee would increase from \$1,500 to \$3,000 to handle both sections.

ATTACHMENTS:

REQUESTED ACTION:

Approve/deny