

RESOLUTION 59 – 13
THE TOWN OF FOREST HEIGHTS

A RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO A PROFESSIONAL SERVICES CONTRACT ON BEHALF OF THE TOWN OF FOREST HEIGHTS TO OBTAIN ENGINEERING SERVICES FOR GREEN STORMWATER INFRASTRUCTURE, ROADWAY AND ADA IMPROVEMENTS; TO AMEND THE CURRENT BUDGET; AND GENERALLY RELATED TO PROFESSIONAL SERVICES AND TOWN FINANCES

Introduced By: Mayor Jacqueline Goodall

WHEREAS, The Town intends to undertake various activities designed to improve water drainage of streets, roads, alleys and by-ways in the Town and, in connection with such undertaking (which is generally referred to by the Town as the “Forest Heights Permeable Green Streets Project”), to acquire or pay for, as applicable, necessary property rights and equipment, related site and utility improvements and related architectural, engineering, planning, design, acquisition, construction, improvement, installation, upgrading, modification, renovation, rehabilitation, reconstruction, paving, repaving, equipping, inspection, construction management, financial, administrative and legal expenses of such undertaking and related activities (including, without limitation, related curb, gutter, sidewalk and drainage facility improvements), and related costs of issuance of any financing or refinancing therefor (collectively, the “Project”); and

WHEREAS, the Town intends to obtain one or more loans through the Maryland Water Quality Financing Administration’s (“MWQFA”) revolving loan program (or another source if such funding is not available) in order to finance, reimburse or refinance all or a portion of the costs of one or more components of the Project, and to evidence such loan or loans by the issuance to MWQFA (or other applicable lender) of one or more series of tax-exempt bonds of the Town (collectively or, individually by series, the “Bonds”); and

WHEREAS, the WQFA of the Maryland Department of the Environment (“MDE”) prepared a document entitled the Intended Use Plan submitted to the U.S. Environmental Protection Agency to request the Federal Fiscal Year 2012 Capitalization Grant under the Federal Clean Water Act, to be matched with 20% of State bond/general funds, for use in the Maryland Water Quality Revolving Fund, established pursuant to Title 9, Subtitle 16 of the Environment Article of the Md. Ann. Code; and

WHEREAS, pursuant to MDE’s request, the Town Council decided by Resolution 43-12 and formally stated in writing to said Department that it intends to pursue a \$1,091,700, 20-year, State Revolving Fund Loan to fund the Green Streets Project when funding is finally approved by the Maryland Board of Public Works this year; and

WHEREAS, to be eligible for said loan, the Town did respond before August 10, 2012, and after expressing such interest, the Town engaged bond counsel to assist the Town in

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preparing its "Official Intent to Reimburse" as required by the IRS and to review the subsequent loan agreement and promissory note to be issued by the Town; and

WHEREAS, in order to be eligible for any State Revolving Fund loan money, the project must be able to clearly demonstrate the green elements of the project and document the benefits of those green elements, the Town must declare its official intent to reimburse Project expenditures from tax-exempt proceeds, it must engage bond counsel, it must have construction plans and specifications prepared by an engineer and approved by MDE, it must subject the Project to competitive bidding, and the Town must further be able to go to construction by December 2013; and

WHEREAS, State law and the Charter of the Town of Forest Heights (the "Charter"), permits said loan through the State that is to be secured by a promissory note and the Town Charter pursuant to § 33-59 limits the total amount of such bonds, notes, or other certificates of indebtedness outstanding at any one time to not exceed four per centum (4%) of the assessed valuation of all real and personal property in the Town as appears on the assessment records of Prince George's County; and

WHEREAS, the Town reasonably expects to spend Town funds on Project costs prior to issuance of the Bonds or any interim financing incurred by the Town in anticipation of the Bonds and (i) to reimburse the Town from proceeds of the Bonds for all or a portion of such moneys expended, and/or (ii) to use Bond proceeds to refinance any interim borrowing incurred by the Town that is applied to reimburse the Town for prior Project expenditures; and

WHEREAS, except for certain public ways that are under the jurisdiction of the State Roads Commission or Prince George's County, the Mayor and Council have the power pursuant to Section 33-74 of the Town Charter to establish, regulate, and change from time to time the grade lines, width, and construction materials of any Town public way or part thereof, bridges, curbs, and gutters, or to grade, lay out, construct, open, and make new public ways or to extend, improve, repair or otherwise alter public ways and gutters under its jurisdiction including but not limited to having surveys, plans, specifications, and estimates made for any of the above activities or parts thereof; and

WHEREAS, the Mayor and Council have the power pursuant to Section 33-75 of the Town Charter to establish, regulate, and change from time to time the grade lines, width, and construction materials of any sidewalk or part thereof on Town property or along any public way or part thereof, or grade lay out, construct, pave, repave, repair, extend, or otherwise alter sidewalks on Town property along any public way or part thereof; and

WHEREAS, the Town Council passed Resolution 11-13 on Jan. 16, 2013 thereby making a declaration of official intent pursuant to U.S. Treasury Regulation Section 1.150-2 regarding the Town of Forest Heights's intention to reimburse prior expenditures made in connection with the Forest Heights Permeable Green Streets Project from the proceeds of one or more obligations to be issued by the Town; and

WHEREAS, the Mayor and Council also have the power pursuant to Section 33-83 of the Town Charter to do whatever may be necessary to protect Town property and to keep all Town property in good condition; and

WHEREAS, the Charter, Section 33-63 permits the Council to forego the competitive bidding process in order to negotiate professional services contracts such as engineering services; and

WHEREAS, Pennoni Associates Inc. has previously submitted a proposal, dated August 7, 2012, to perform activities required to identify the conceptual size and location of sustainable stormwater management facilities, evaluate the possibility of roadway widening along Sachem Drive and Blackhawk Drive and evaluate placement of sidewalks along Onondaga Drive and Cree Drive whereby the final product of those activities would have been a report summarizing evaluation of the study area and recommendation of green stormwater infrastructure sites and types of facilities as well as map of areas where pavement could be added/removed and sidewalks could be constructed; and

WHEREAS, the Town is now interested in construction plans for the design of drainage and sidewalk improvements along Cree Drive, Onondaga Drive, Sachem Drive and Blackhawk Drive and coordination with MDE to get said plans approved, and in such case said engineering firm thereby recommends that it needs to revise its proposal to include preparation of more detailed design, preparation of construction drawings and coordination with MDE and/or the County to get these plans approved; and

WHEREAS, the Council has provided within the Fiscal Year 2014 Budget of the Town a Street Highway Administration project line item numbered 8000 and further entitled Street Repair Project in the amount of \$900,000 that was approved as part of the FY '14 Budget; and

WHEREAS, the Council finds that it is in the best interest of the Town to authorize the requisite expenditure by entry into an agreement with Pennoni Associates Inc. to provide certain engineering services as stated herein and in the proposal attached hereto; and

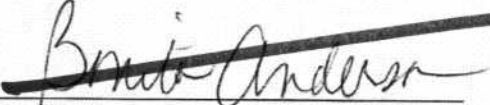
NOW THEREFORE BE IT RESOLVED, that the Town Council authorizes the Mayor to enter into a professional services contract, attached hereto as Exhibit A (Engineering Services Proposal for Green Stormwater Infrastructure, Roadway and ADA Improvements dated July 8, 2013) and incorporated by referenced herein (the "Contract"), and thereby obtain engineering services from Pennoni Associates Inc., as described herein above and in said Contract at a fee not to exceed one-hundred eighty-eight thousand dollars (\$188,000.00); and

BE IT FURTHER RESOLVED, that this Resolution shall take effect immediately upon passage.

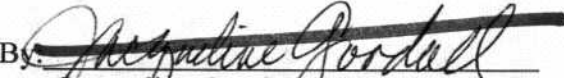
PASSED this 22nd day of July 2013.

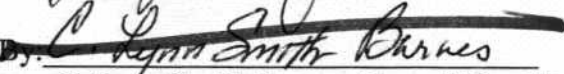
APPROVED: By Resolution of the Town Council of The Town of Forest Heights, Maryland

ATTEST:


Bonita C. Anderson, Town Clerk

THE MAYOR AND COUNCIL OF THE
TOWN OF FOREST HEIGHTS, MARYLAND

By: 
Jacqueline Goodall, Mayor

By: 
C. Lynn Smith-Barnes, Council President

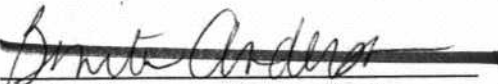
ROLL CALL VOTE

YEA/NAY/ABSTAIN/ABSENT

GOODALL	<u>YEA</u>
KENNEDY II	<u>YEA</u>
STONER	<u>YEA</u>
BARNES	<u>YEA</u>
MUHAMMAD	<u>YEA</u>
SMITH-BARNES	<u>YEA</u>
MANN	<u>YEA</u>

CERTIFICATION

I, hereby certify, as the duly appointed Town Clerk of the Town of Forest Heights, Maryland, that on the 22nd day of July 2013 with 7 Aye votes and 0 Nay, constituting a majority of at least four (4) affirmative votes, the aforesaid Resolution 59-13 passed [or, if applicable, at least five (5) affirmative votes, the aforesaid Resolution 59-13 passed to comply with Art. 23A, §2(b)(2) of Md. Ann. Code].


Bonita Anderson, Town Clerk

[Exhibit A- Pennoni Associates, Inc., Engineering Services Proposal for Green Stormwater Infrastructure, Roadway and ADA Improvements dated July 8, 2013]