

THE TOWN OF FOREST HEIGHTS
RESOLUTION 09-23

A RESOLUTION TO APPROVE A PROPOSAL AND CONTRACT WITH TRUSEAL ASPHALT MAINTENANCE, INC. (TRUSEAL) FOR FOREST HEIGHTS COMMUNITY GARDEN AREA NEW WATER SUPPLY SERVICE

Introduced by: Council President Troy Lilly

Co-Sponsor: Mayor Calvin Washington

WHEREAS, the Town Charter, § 33-63(f) authorizes the Town to forego the normal procurement process through cooperative purchasing in certain cases where another government entity has already made a competitive purchase of said item and therefore the Mayor and Council may, without soliciting bids, purchase the item in question at the bid price from the successful bidder, if the Mayor and Council determines that the bid price is competitive, and

WHEREAS, the Town Charter, § 33-63(g) further authorizes the Mayor and Council by a two-thirds vote to waive the competitive bidding requirements of said Charter section for good cause shown for sole source procurements of unique products and services, and that written findings as to the basis of such waiver shall be placed in the journal of the Council's proceedings, and

WHEREAS, the Town Ordinance Code, § 20-4(a)(6) states that upon written findings entered into the journal, the Mayor and Council may exempt the purchase of a good or service from competitive selection processes when the purchase qualifies as a sole source procurement as a result of several circumstances including: One vendor is the only one qualified or eligible or is quite obviously the most qualified or eligible to provide the good or service or the procurement is of such a specialized nature or related to a specific geographic location that only a single source, by virtue of experience, expertise, proximity, or ownership of intellectual property rights, and could most satisfactorily provide the good or service, and

WHEREAS, the Council finds that it is prudent and necessary to provide water service to the Forest Heights Community Garden, and

WHEREAS, the Charter, Section 33-66(g) (Purchases and contracts) states that the Mayor and Council by a two-thirds vote may waive the competitive bidding requirements of said section for good cause shown for sole source procurements of unique products and services provided written findings are made as to the basis of such waiver shall be placed in the journal of the Council's proceedings; and

WHEREAS, the Council finds that some of the rationale for waiving Town competitive procurement requirements are as follows: (i) the bidding process would add at least 30 days to the procurement process and the winter months and colder weather may not allow the project to

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start until winter of 2023; however, TruSeal is prepared to mobilize as soon as possible to schedule the project, (ii) TruSeal has a history of numerous successful repaving, infrastructure

projects, and stormwater related projects completed with other local Maryland Jurisdictions which they have competed for, (iii) when TruSeal has provided bids for similar projects, They have a history of submitting the lowest cost bid with quality service as recently demonstrated with projects with other local municipalities and said pricing is available to other local jurisdictions, (iv) the Town is currently in the process of completing a Draft Capital Improvement Plan (CIP) which will prioritize Town Capital and Infrastructure projects and identify funding sources tied to the Budget, and funding has been identified for this project; and

WHEREAS, the Council further finds that time is of the essence and only one named supplier can meet needs within the expedited timeframe demonstrated by staff other multiple attempts over the last year to find eligible contractors which have failed; and

WHEREAS, the Staff recommends that in order to complete the service be provided by TruSeal, Inc a business in good standing with the State and, as stated, having performed numerous contracts with the Town; and

WHEREAS, the Town wishes to enter into an agreement with TruSeal to perform the above-described repairs in the amount of \$62,650.00

NOW, THEREFORE BE IT RESOLVED that the Town Council hereby accepts the aforementioned Proposal entitled "Forest Heights Community Garden Area – New Water Supply Service" dated December 20th, 2022, and further approves and authorizes the Town to proceed with the said contract quoted at \$62,650.00 (plus a 10% contingency amount not exceeding a total project amount of \$68,915.00) with certain terms and conditions enumerated therein, prepared by TruSeal, Inc., a Maryland company that is in good standing with the State, which is attached hereto and incorporated by reference herein as Exhibit A.

AND, BE IT FURTHER RESOLVED that the Town Council hereby authorizes the finalized written contract with TruSeal, Inc. to be paid pursuant to FY23 Budget Line Item(s): 8200 (*American Rescue Plan Act Expenditures*) with any proofs of insurance and indemnifications deemed necessary by the Town Administrator to protect the Town and carry out the performance of the project described herein.

AND, BE IT FURTHER RESOLVED, that prior to the Mayor signing the approved proposal or contract and not withstanding anything in said contract to the contrary, the authorized representative of said company or firm shall provide proof of insurance indemnifying the Town, to the satisfaction of the Town Administrator, and that the Contractor shall agree by signing a release and waiver that it will provide and maintain at all times during the term of this agreement, or any other contract it has with the Town, such insurance coverage (Commercial General Liability, Business Automobile Liability, and Workers' Compensation) to adequately

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protect the Town or as otherwise required by law and that the Contractor shall cover any claim that may arise while engaged in work under any agreement with the Town.

AND, BE IT FURTHER RESOLVED that the Town Council by a two-thirds vote hereby waives the competitive bidding requirements of Section 33-66 of the Town Charter for good cause shown for sole source procurements of unique products and services.

AND, BE IT FURTHER RESOLVED that the Town Administrator and Town Treasurer shall ensure that the Annual Budget Ordinance, as amended, and any duly authorized amendatory budget resolutions, and the detailed line-item budget/quarterly financial reports are properly introduced, enumerated and amended to accommodate, validate and reflect the intent of this Resolution.

AND, BE IT FURTHER RESOLVED that the Mayor, on behalf of the Town, is hereby authorized to enter into the subject Proposal/Contract and execute any other necessary documents needed to carry out the intent of this Resolution prior to the commencement of any work; and

AND, BE IT FURTHER RESOLVED, that the Mayor shall ensure that the Chief of Police or their designee obtains and reviews for sufficiency any necessary traffic control or barricading plans in order to protect the travelling public during the course of construction described in the above approved proposal/contract;

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

PASSED this 9th day of January 2023.

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

ROLL CALL VOTE

YEA/NAY/ABSTAIN/ABSENT

LILLY

Yea

KENNEDY II

Yea

NOBLE

Yea

BARNES

NOT P

HINES

Yea

WASHINGTON

Yea

ATKINSON

ABSENT

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ATTEST:

THE TOWN OF FOREST HEIGHTS,
MARYLAND

Sherletta Hawkins
Sherletta Hawkins, Town Clerk

By: [Signature]
Calvin Washington, Mayor

By: [Signature]
Troy Lilly, Council President

CERTIFICATION

I, hereby certify, as the duly appointed Town Clerk of the Town of Forest Heights, Maryland, that on the 9 day of January 2023 with 5 Aye votes and 0 Nay (2/3rds supermajority) votes the aforesaid Resolution 09-23 passed.

Sherletta Hawkins
Sherletta Hawkins, Town Clerk

[Exhibit A -TruSeal Asphalt Maintenance, Inc.,*Proposal/Contract (dated December 20th, 2022)*]