

THE TOWN OF FOREST HEIGHTS
RESOLUTION 06-23

A RESOLUTION TO APPROVE A PROPOSAL AND CONTRACT WITH TRUSEAL ASPHALT MAINTENANCE, INC. (TRUSEAL) FOR ROADWAY MAINTENANCE, SPEED BUMP REMOVAL, AND SPEED HUMP INSTALLATION

Introduced by: Mayor Calvin Washington

WHEREAS, the Charter, Section 33-73 (Public ways, control) states that the Town of Forest Heights (the "Town") shall have control of all public ways in the Town except such as may be under the jurisdiction of the State Roads Commission of Maryland or Prince George's County and that subject to the laws of the State of Maryland and this Charter, the Town may do whatever it deems necessary to establish, operate, and maintain in good condition the public ways of the Town; and

WHEREAS, the Town has undertaken various activities in the past designed to improve water drainage of streets, roadway safety, roadways, alleys and by-ways in the Town, which began with the preparation of the Drainage Assessment and Inspection Report and the Pedestrian Facilities Assessment and Transition Plan prepared by Pennoni Associates Inc. on January 22, 2011 (the "Report"); and, this was an undertaking generally referred to by the Town as the "Forest Heights Permeable Green Streets Project;" and

WHEREAS, the Mayor and staff reports that for years speeding, and traffic safety have been priority projects for the town, and based on resident input, complaints, and reports from the Town's Police Department traffic safety is paramount; and

WHEREAS, the Mayor and staff further reports that one major contributing factor is that the speed humps and speed bumps are in disrepair, roadways are in disrepair, and traffic control devices are in disrepair and lack uniformity consistent with the Manual for Uniformed Traffic Control therefore, in response to the problem, the administration has asked TruSeal to provide a proposal to address the matter and their solution described in its proposal, attached hereto as Exhibit A, involves constructing new speed humps, patching roadways, and replacing speed bumps in the residential areas 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 start until next year; 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

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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) This project is a public safety issue or, at the least a potential "infrastructure hazard" that could expose the Town to legal liability since street maintenance is considered under Maryland law to be a proprietary interest without the typical governmental immunities, (v) 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; 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 \$89,275.00

NOW, THEREFORE BE IT RESOLVED that the Town Council hereby accepts the aforementioned Proposal entitled "Forest Heights Community Development – Traffic Speed Humps" dated December 14th, 2022, and further approves and authorizes the Town to proceed with the said contract quoted at \$89,275.00 (plus a 10% contingency amount not exceeding a total project amount of \$98,202.50) 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 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.

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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 7th 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

N/P

HINES

Yea

WASHINGTON

Yea

ATKINSON

Absent

ATTEST:

THE TOWN OF FOREST HEIGHTS,
MARYLAND

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Sherletta Hawkins
Sherletta Hawkins, Town Clerk

By: Calvin Washington
Calvin Washington, Mayor

By: Troy Lilly
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 06-23 passed.

Sherletta Hawkins
Sherletta Hawkins, Town Clerk

[Exhibit A -TruSeal Asphalt Maintenance, Inc., Proposal/Contract (dated December 14th, 2022)]