

RESOLUTION NO. 002-19

A RESOLUTION OF THE CITY OF PORT ORCHARD, WASHINGTON, APPROVING A PERSONAL SERVICES CONTRACT WITH TRANSPORTATION SOLUTIONS, INC TO UPDATE THE CITY'S TRAFFIC IMPACT FEE STUDY AND TRANSPORTATION MODEL CALIBRATION.

WHEREAS, the City of Port Orchard is required to maintain and update its traffic impact fee calculation rate pursuant to Chapters 20.180 and 20.182 of the Port Orchard Municipal Code; and

WHEREAS, the traffic impact fee calculations require transportation engineering expertise beyond that which is possessed by the City; and

WHEREAS, the city maintains a transportation model that provides critical information related to calculating traffic impact fee rates; and

WHEREAS, the City solicited personal services proposals for this work by sending requests for proposals to three firms selected from its MRSC consultant roster (see exhibit D attached hereto); and

WHEREAS, on November 30, 2018, the attached RFP (Exhibit E) was sent to Fehr and Peers, Transpo Group USA, Inc., and Transportation Solutions, Inc. with a response deadline of December 17, 2018; and

WHEREAS, Transportation Solutions Inc. ("TSI") was the only consultant to respond to this request for proposals; and

WHEREAS, the proposal submitted by TSI demonstrates that TSI is qualified to complete the requested work; and

WHEREAS, the City wishes to use the services of TSI to update the traffic impact fee calculations and to calibrate its transportation model, since TSI exclusively developed the City's transportation model, transportation plan and traffic impact fee, and has extensive familiarity with the City's traffic modeling requirements and procedures, now, therefore;

THE CITY COUNCIL OF THE CITY OF PORT ORCHARD, WASHINGTON, HEREBY RESOLVES AS FOLLOWS:

THAT: The Mayor is authorized to execute the personal services contract (attached hereto as Exhibits A, B and C) between the City and Transportation Services, Inc., attached hereto, in an amount not to exceed \$25,000.

PASSED by the City Council of the City of Port Orchard, SIGNED by the Mayor and attested by the City Clerk in authentication of such passage this 19th day of February 2019.



Robert Putaansuu, Mayor



ATTEST:



Brandy Rinearson, MMC, City Clerk

CITY OF PORT ORCHARD PERSONAL SERVICES AGREEMENT

THIS Agreement is made effective as of the 12th day of February 2019, by and between the City of Port Orchard, a municipal corporation, organized under the laws of the State of Washington, whose address is:

CITY OF PORT ORCHARD, WASHINGTON (hereinafter the "CITY")
216 Prospect Street
Port Orchard, Washington 98366

Contact: Mayor Robert Putaansuu Phone: 360.876.4407 Fax: 360.895.9029

and Transportation Solutions, Inc., a corporation, organized under the laws of the State of Washington, doing business at:

8250 165th Ave NE #100 (hereinafter the "CONSULTANT")
Redmond, WA 98052

Contact: Victor Salemann Phone: 425-883-4134 Email: victors@tsinw.com

for personal services in connection with the following Project:

Transportation Impact Fee Update and Transportation Model Calibration

TERMS AND CONDITIONS

1. Services by Consultant.

A. The Consultant shall perform the services described in the Scope of Work attached to this Agreement as Exhibit "B." The services performed by the Consultant shall not exceed the Scope of Work without prior written authorization from the City.

B. The City may from time to time require changes or modifications in the Scope of Work. Such changes, including any decrease or increase in the amount of compensation, shall be agreed to by the parties and incorporated in written amendments to the Agreement.

2. Schedule of Work.

A. The Consultant shall perform the services described in the Scope of Work in accordance with the tasks identified within Exhibit "B" and the terms of this Agreement. If delays beyond the Consultant's reasonable control occur, the parties will negotiate in good faith to determine whether an extension is appropriate.

B. The Consultant is authorized to proceed with services upon receipt of a written Notice to Proceed.

3. **Terms.** This Agreement shall commence on February 13, 2019 ("Commencement Date") and shall terminate on December 31, 2019, unless extended or terminated in writing as provided

City of Port Orchard and Transportation Solutions, Inc.

Public Works Project No. N/A

Personal Services Agreement Contract No. 023-19

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herein. **The City reserves the right to offer two (2) one-year extensions prior to contract expiration to retain the selected company's services.**

4. Compensation.

- LUMP SUM. Compensation for these services shall be a Lump Sum of \$ _____.
- TIME AND MATERIALS NOT TO EXCEED. Compensation for these services shall not exceed \$25,000.00 without written authorization and will be based on the list of billing rates and reimbursable expenses attached hereto as Exhibit "C."
- TIME AND MATERIALS. Compensation for these services shall be on a time and materials basis according to the list of billing rates and reimbursable expenses attached hereto as Exhibit "_____."
- OTHER. _____

5. Payment.

A. The Consultant shall maintain time and expense records and provide them to the City monthly after services have been performed, along with monthly invoices in a format acceptable to the City for work performed to the date of the invoice.

B. All invoices shall be paid by City warrant within thirty (30) days of receipt of a proper invoice. If the City objects to all or any portion of any invoice, it shall so notify the Consultant of the same within fifteen (15) days from the date of receipt and shall pay that portion of the invoice not in dispute, and the parties shall immediately make every effort to settle the disputed portion.

C. The Consultant shall keep cost records and accounts pertaining to this Agreement available for inspection by City representatives for three (3) years after final payment unless a longer period is required by a third-party agreement. Copies shall be made available on request.

D. On the effective date of this Agreement (or shortly thereafter), the Consultant shall comply with all federal and state laws applicable to independent contractors, including, but not limited to, the maintenance of a separate set of books and records that reflect all items of income and expenses of the Consultant's business, pursuant to Revised Code of Washington (RCW) 51.08.195, as required by law, to show that the services performed by the Consultant under this Agreement shall not give rise to an employer-employee relationship between the parties, which is subject to Title 51 RCW, Industrial Insurance.

E. If the services rendered do not meet the requirements of the Agreement, the Consultant will correct or modify the work to comply with the Agreement. The City may withhold payment for such work until the work meets the requirements of the Agreement.

6. Discrimination and Compliance with Laws

A. The Consultant agrees not to discriminate against any employee or applicant for employment or any other person in the performance of this Agreement because of race, creed, color, national origin, marital status, sex, age, disability, or other circumstance prohibited by federal, state, or local law or ordinance, except for a bona fide occupational qualification.

B. Even though the Consultant is an independent contractor with the authority to control and direct the performance and details of the work authorized under this Agreement, the work must meet the approval of the City and shall be subject to the City's general right of inspection to secure the satisfactory completion thereof. The Consultant agrees to comply with all federal, state and municipal laws, rules and regulations that are now effective or become applicable within the term(s) of this Agreement to the Consultant's business, equipment and personnel engaged in operations covered by this Agreement or accruing out of the performance of such operations.

C. The Consultant shall obtain a City of Port Orchard business license prior to commencing work pursuant to a written Notice to Proceed.

D. Violation of this Paragraph 6 shall be a material breach of this Agreement and grounds for cancellation, termination, or suspension of the Agreement by the City, in whole or in part, and may result in ineligibility for further work for the City.

7. Relationship of Parties. The parties intend that an independent contractor-client relationship will be created by this Agreement. As the Consultant is customarily engaged in an independently established trade which encompasses the specific service provided to the City hereunder, no agent, employee, representative or sub-consultant of the Consultant shall be or shall be deemed to be the employee, agent, representative or sub-consultant of the City. In the performance of the work, the Consultant is an independent contractor with the ability to control and direct the performance and details of the work, the City being interested only in the results obtained under this Agreement. None of the benefits provided by the City to its employees, including but not limited to compensation, insurance, and unemployment insurance, are available from the City to the employees, agents, representatives or sub-consultants of the Consultant. The Consultant will be solely and entirely responsible for its acts and for the acts of its agents, employees, representatives and sub-consultants during the performance of this Agreement. The City may, during the term of this Agreement, engage other independent contractors to perform the same or similar work that the Consultant performs hereunder.

8. Suspension and Termination of Agreement

A. Termination without cause. This Agreement may be terminated by the City at any time for public convenience, for the Consultant's insolvency or bankruptcy, or the Consultant's assignment for the benefit of creditors.

B. Termination with cause. This Agreement may be terminated upon the default of the Consultant and the failure of the Consultant to cure such default within a reasonable time after receiving written notice of the default.