



Date of Council Meeting: April 23, 2013

**TOWN OF LEESBURG
TOWN COUNCIL MEETING**

Subject: Authorizing the short term lease of Town property, PIN 233-20-3672, by Shirley Contracting Company, LLC (“Shirley Contracting”) for the staging of construction office trailers for the Sycolin Road Overpass Project.

Staff Contact: Renée LaFollette, PE, Director, Capital Projects
Barbara Notar, Deputy Town Attorney

Recommendation: To allow Shirley Contracting to utilize Town Property, PIN 233-20-3672 for the staging of construction office trailers needed for the construction of the VDOT Sycolin Road Overpass of the Route 7-15 Bypass Design-Build Project, by authorizing the town manager to execute a short term lease approved by the Town Attorney.

Issue: Should Town Council allow the use of Town property for the staging of construction office trailers for the VDOT Sycolin Road Overpass of the Route 7-15 Bypass Design-Build project by authorizing the town manager to execute a short term lease approved by the Town Attorney?

Fiscal Impact: None.

Background: VDOT has awarded the Sycolin Road Overpass of the Route 7-15 Bypass Design-build project to Shirley Contracting Company, LLC. In order to effectively manage the construction, a staging area for materials and construction office trailers is needed in relative close proximity to the project site. The Town owns a two acre parcel at the corner of Miller Drive and Tolbert Lane that is vacant and in reasonable proximity to the project site.

The construction of the project is to begin June 8, 2013, and Shirley Contracting has agreed to enter into an agreement with the Town of Leesburg for the use of the vacant parcel. As part of the agreement, Shirley has agreed to re-pave the access road and small parking lot at the Sycolin Pump Station adjacent to Hope Parkway, and to restore the vacant parcel to a condition acceptable by the Town. The intent for the staging area is to place a stone pad area for parking and material storage and to place 2 or 3 office trailers on the site. The restoration would include leaving the stone pad area and reseeding any other area disturbed by their use.

A Short Term Lease Agreement has been drafted by the Town Attorney’s office and has been reviewed by Shirley Contracting. Both parties are in agreement to the terms and conditions and if authorized by the Town Council, the town manager will execute the agreement to authorize Shirley Contracting to utilize the property.

Attachments: 1.) DRAFT Lease Agreement
2.) Parcel location map

SHORT TERM LEASE AGREEMENT

THIS Short Term Lease Agreement (“Agreement”), made this _____ day of _____, 2013, by and between the **TOWN OF LEESBURG, VIRGINIA**, a municipal corporation, Lessor, (hereinafter referred to as “**Town**”), and **SHIRLEY CONTRACTING COMPANY, LLC**, Leasee, (hereinafter referred to as “**Shirley Contracting**”), a Virginia limited liability company with a principal place of business located at 8435 Backlick Rd., Lorton, Virginia, and their respective permitted successors and/or assigns. The Town and Shirley Contracting are referred to jointly in this Agreement as the “Parties”.

RECITALS

WHEREAS, the Town owns an approximately 2.0 acre parcel of vacant land located at the northwest corner of Miller Dr. and Tolbert Lane, PIN 233-20-3672. The planned use for the parcel is fire and rescue facilities;

WHEREAS, Shirley Contracting, in preparation as the prime contractor for VDOT on the Sycolin Road Overpass of the Route 7-15 Bypass Design-Build Project (the “Project”), seeks a location in which to house its field office, construction trailers and other temporary facilities (the “Facilities”) necessary for its operations as prime contractor for the Project;

WHEREAS, town residents will benefit from the Project and the Town desires for Shirley Contracting to complete the Project in a timely fashion and workmanlike manner;

WHEREAS, it is mutually beneficial for the Town and Shirley Contracting for Shirley Contracting to lease the Property on a short term basis in order to locate its Facilities for the Project and the Parties desire to set forth the terms in this Agreement.

WITNESSETH

NOW, THEREFORE, in consideration and exchange for the mutual promises contained herein, the Town and Shirley Contracting agree to the following terms and conditions:

1. During construction of the Project, the Town agrees to allow Shirley Contracting to use the Property for its Facilities, said Property more specifically described as PIN 233-20-3672, recorded on January 25, 2013 as instrument number 201301250007617, and shown on the attached Exhibit A. The town’s property is hereinafter referred to as “the Property”.
2. The term of this Agreement shall commence on or about April _____, 2013. This Agreement shall terminate as set forth in paragraphs 5 and 7 below, but shall, in no event, be longer than three (3) years.
3. The Town will allow Shirley Contracting to lease the Property at no cost.
4. A sketch of the proposed site shall be submitted to town staff for approval which depicts the number, location and size of all Facilities intended to be placed on the

Property prior to entry by Shirley Contracting. This sketch will also state the general hours of operation by Shirley Contracting for its Facilities with the understanding that the hours of operation may change for reasons that include but are not limited to weather, night work activities, or weekend work. No entry shall be permitted by Shirley Contracting onto the Property until the sketch has been approved by town staff.

5. Shirley Contracting will obtain the required **Trailer Permit** from the Town of Leesburg Department of Planning Zoning, before installing its Facilities and connecting any and all utilities to service the Facilities on the Property; these utility lines shall be depicted on the sketch;
6. No later than thirty (30) days after final Project closeout and acceptance with VDOT and Federal Highways, Shirley Contracting will grade and seed any and all grassy areas used, unless otherwise directed by the Town;
7. Shirley Contracting will provide acceptable water and sanitation facilities to the trailers and submit details for Town approval;
8. No later than thirty (30) days after final Project closeout and acceptance with VDOT and Federal Highways, Shirley Contracting will mill if necessary and re-pave, in asphalt only, from Hope Parkway into the pump station site including the parking area, unless otherwise directed by the Town;
9. Shirley Contracting shall be responsible for any and all damage to the Property caused by its Facilities and shall indemnify and hold the Town, its employees and agents harmless from any and all claims by Shirley Contracting or any third party which may occur as a result of Shirley Contracting's Facilities on the Property;
9. Shirley Contracting will obtain liability insurance to insure its Facilities and operations on the Property and shall provide town staff with proof of insurance which names the Town as an additional insured. Shirley Contracting shall secure and maintain such insurance as will protect it and the Town from claims directly or indirectly arising or alleged to arise out of the operations on the Property, from claims by workers, suppliers, subcontractors, and the general public; from claims made under safe place laws, or any law with respect to protection of adjacent landowners; and from any other claims for damages to property from operations by Shirley Contracting or any subcontractor, or anyone directly or indirectly employed by either of them.
10. Shirley Contracting assumes all risks for direct and indirect damage or injury to the property or persons used or employed on or in connection with the operations on the Property contracted for, and of all damage or injury to any person or property, resulting from any action, omission, commission or operation under the Agreement, or in connection in any way whatsoever with Shirley Contracting's operations on the Property.

11. Nothing contained in this Agreement shall be deemed to waive the requirement of various codes, regulations, resolutions, and statutes regarding manner of construction, operation or maintenance of the Facilities and Shirley Contracting must obtain any and all necessary zoning and other permits from the Town and Loudoun County prior to the installation of any structures on the Property;
12. This Agreement embodies the entire agreement between the Town and Shirley Contracting. It is not to be modified or terminated except by a written agreement signed by the authorized representatives of both parties. If any provision herein is deemed invalid it shall be considered deleted here from and shall not invalidate the remaining provisions. Time shall be of the essence in the performance of all obligations by Shirley Contracting in this Agreement;
13. The authorized representatives to this Agreement are as follows:

For the Town:

John Wells, Town Manager
Town of Leesburg, Virginia
25 W. Market St.
Leesburg, VA 20176

For Shirley Contracting:

Michael E. Post, President/CEO/Manager
8435 Backlick Rd.
Lorton, VA 22079
14. The Town shall have the right to terminate this Agreement at any time and without cause. In the event the Town terminates this Agreement, Shirley Contracting will remove their Facilities within thirty (30) days of the date of termination and will not be obligated to perform the activities outlined in paragraph 7. Any termination by the Town shall be in writing and mailed by certified and regular mail to Shirley Contracting's authorized representative as set forth in paragraph 12.
15. The parties agree that this Agreement will be governed by the laws of the Commonwealth of Virginia, and shall be binding upon the Parties and their respective successors and/or assigns;
16. Upon completion of construction of the Project, and the Town's and Shirley Contracting's obligations set forth herein, this Agreement shall terminate and shall no longer be in full force and effect.

IN WITNESS WHEREOF, the parties hereto for themselves and their successors and assigns have executed this Agreement on the date and year written above.

SHIRLEY CONTRACTING

By _____

Title _____

THE TOWN OF LEESBURG

By _____

Title _____

Approved as to form:

Jeanette A. Irby, Town Attorney



Loudoun County, Virginia
www.loudoun.gov

Thursday, April 18, 2013

(map not to scale)

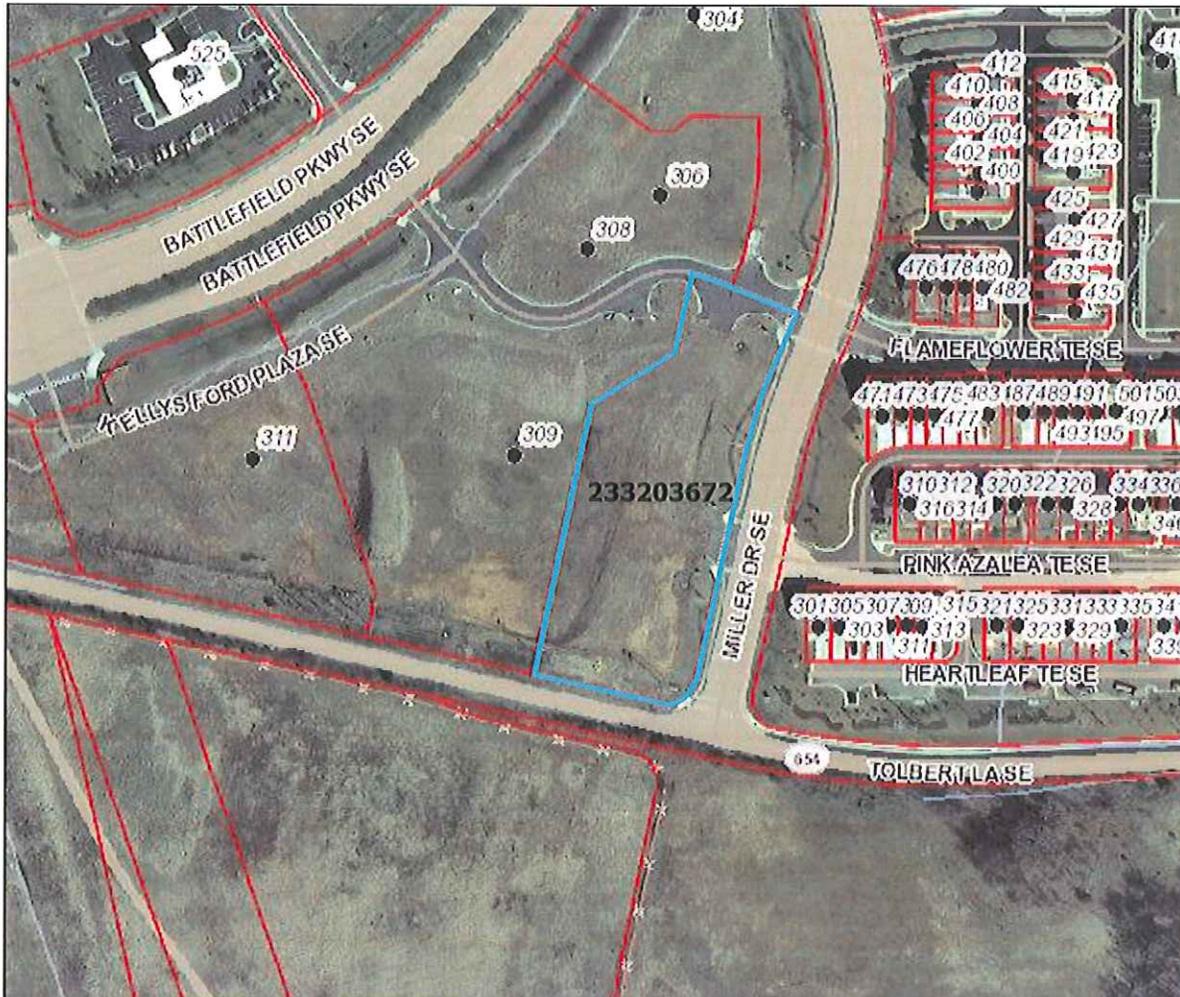


EXHIBIT 'A'

PRESENTED APRIL 23, 2013

RESOLUTION NO. 2013-

ADOPTED _____

A RESOLUTION: APPROVING A SHORT TERM LEASE OF TOWN PROPERTY, PIN 233-20-3672, BY SHIRLEY CONTRACTING COMPANY, LLC, FOR THE STAGING OF CONSTRUCTION OFFICE TRAILERS FOR THE SYCOLIN ROAD OVERPASS PROJECT

WHEREAS, VDOT has awarded the Sycolin Road Overpass of the Route 7-15 Bypass Design-Build contract to Shirley Contracting Company, LLC (“Shirley Contracting”); and

WHEREAS, the construction of the project is to begin in June 2013 with the closure of Sycolin Road on June 8, 2013; and

WHEREAS, the Shirley Contracting needs a staging and office trailer location for effective management of the construction project; and

WHEREAS, the Town of Leesburg owns a two acre, vacant parcel, PIN 233-20-3672 at the intersection of Miller Drive and Tolbert Lane; and

WHEREAS, this vacant parcel of land is in relative close proximity to the construction site; and

WHEREAS, the Town and Shirley Contracting agree that it is in the best interest of the project and the Town to enter into an lease agreement for the use of this vacant parcel for a staging area; and

WHEREAS, the Town Attorney’s office has drafted a short term lease agreement which has been reviewed by Shirley Contracting ; and

WHEREAS, in exchange for allowing Shirley Contracting to lease town property at no cost, Shirley Contracting has agreed to re-pave the access road and small parking lot at the Sycolin Pump Station ; and

A RESOLUTION: APPROVING A SHORT TERM LEASE OF TOWN PROPERTY, PIN 233-20-3672, BY SHIRLEY CONTRACTING COMPANY, LLC, FOR THE STAGING OF CONSTRUCTION OFFICE TRAILERS FOR THE SYCOLIN ROAD OVERPASS PROJECT

WHEREAS, upon completion of the project, Shirley Contracting will restore the site by leaving a stone pad area and reseeding any areas disturbed outside of the stone pad.

THEREFORE, RESOLVED by the Council of the Town of Leesburg in Virginia that:

- I. The Town Manager is authorized to execute a Lease Agreement in the form approved by the Town Attorney that will allow Shirley Contracting Company, LLC access to utilize the vacant parcel of land owned by the Town and known by PIN 233-20-3672.

PASSED this _____ day of _____, 2013.

Kristen C. Umstattd, Mayor
Town of Leesburg

ATTEST:

Clerk of Council