



Proposal for Qualified Purchasing Agent (QPA) Services

Introduction

Provision of Qualified Purchasing Agent (QPA) services to manage and process procurement efficiently and accurately for Pennington Borough. Pitts & Sons, LLC ("PS Consulting") has professionals with over a decade of experience in finance and purchasing professional services in the private and public sectors. PS Consulting has a specialization in governmental municipalities and agencies.

Qualified Purchasing Agent Services Solution

PS Consulting will provide remote QPA services that will assist the municipality with their procurement needs.

Scope

The following is the scope of work proposed:

1. Appointment as a Qualified Purchasing Agent for the Municipality
2. Increase of quote and bid threshold as per NJSA 40A:11-3
3. Review and assist with purchasing policies and controls as needed
4. Answer procurement questions as needed
5. Review of RFP/RFQs as needed

Compensation

The following is the compensation of work proposed:

1. The annual compensation for services is \$5,000 dollars or \$416.67 per month.
2. Any work outside the scope in the aforementioned "Scope" section, such as bid work will be billed at \$70.00/hour and not to exceed \$1,500 (authorization by Administrator and/or Clerk will be required prior to any outside scope work).

Operation

1. QPA will work remotely
2. Hours of operation:
 - a. Monday – Friday 7:00 a.m. - 8:00 a.m. and 4:30 p.m. – 9:00 p.m.
 - b. Weekends: 8:00 a.m. - 4:30 p.m.
3. Required meetings will be conducted via telephone, zoom or other virtual meeting platform.
4. If access to any Municipal finance/procurement system is needed, the Client will provide VPN access for QPA to have remote access.

Term

The term of this Agreement shall commence upon the final execution of the Agreement by the duly authorized representatives of both Parties, and shall continue until March 6, 2024 (the "Term") unless terminated sooner by either party for any reason by written notification.



Notices

X. Legal Notice. All notices required or permitted under this Agreement shall be in writing and shall be deemed delivered when delivered via email.

XI. Return of Records. Upon termination of this Agreement, PS Consulting shall deliver all records, notes, and data of any nature that are in PS Consulting's possession or under PS Consulting's control and that are of the Client's property or relate to Client's business.

XII. Waiver of Contractual Right. The failure of either party to enforce any provision of this Agreement shall not be construed as a waiver or limitation of that party's right to subsequently enforce and compel strict compliance with every provision of this Agreement.

XIII. Independent Contractor Status. PS Consulting, under the code of the Internal Revenue (IRS), is an independent contractor and neither PS Consulting's employees or contract personnel are, or shall be deemed, the Client's employees. In its capacity as an independent contractor, PS Consulting agrees and represents:

- a.) PS Consulting has the right to perform Services for others during the term of this Agreement;
- b.) PS Consulting has the sole right to control and direct the means, manner, and method by which the Services required under this Agreement will be performed; PS Consulting shall select the routes taken, starting and ending times, days of work, and order the work that performed;
- c.) PS Consulting has the right to hire assistant(s) as subcontractors or to use employees to provide the Services under this Agreement.
- d.) Neither PS Consulting nor PS Consulting's employees or personnel shall be required to wear any uniforms provided by the Client;
- e.) The Services required by this Agreement shall be performed by PS Consulting, PS Consulting's employees or personnel, and the Client will not hire, supervise, or pay assistants to help PS Consulting;
- f.) Neither PS Consulting nor PS Consulting's employees or personnel shall receive any training from the Client for the professional skills necessary to perform the Services required by this Agreement; and
- g.) Neither PS Consulting nor PS Consulting's employees or personnel shall be required by the Client to devote full-time to the performance of the Services required by this Agreement.

XIV. State and Federal Licenses. PS Consulting represents and warrants that all employees and personnel associated shall comply with federal, state, and local laws requiring any required licenses, permits, and certificates necessary to perform the Services under this Agreement.

XV. Payment of Taxes. Under this Agreement, the Client shall not be responsible for:

- a.) Withholding FICA, Medicare, Social Security, or any other Federal or State withholding taxes from PS Consulting's payments to employees or personnel or make payments on behalf of PS Consulting;

b.) Making Federal and/or State unemployment compensation contributions on PS Consulting's behalf; and

c.) Making payments of taxes incurred while performing the Services under this Agreement, including all applicable income taxes and, if PS Consulting is not a business entity, all applicable self-employment taxes. Upon demand, PS Consulting shall provide the Client with proof that such payments have been made.

XVI. Indemnification. PS Consulting shall release, defend, indemnify, and hold harmless Client and its officers, agents, and employees from all suits, actions, or claims of any character, name, or description including reasonable PS Consulting fees, brought on account of any injuries or damage, or loss (real or alleged) received or sustained by any person, persons, or property, arising out of services provided under this Agreement or PS Consulting's failure to perform or comply with any requirements of this Agreement including, but not limited to any claims for personal injury, property damage, or infringement of copyright, patent, or other proprietary rights. Client reserves the right to retain whatever funds which would be due to PS Consulting under this Agreement until such suits, action or actions, claim or claims for injuries or damages as aforesaid shall have been settled and satisfactory evidence to that effect furnished.

XVII. Confidentiality & Proprietary Information. PS Consulting acknowledges that it will be necessary for the Client to disclose certain confidential and proprietary information to PS Consulting in order for PS Consulting to perform their duties under this Agreement. PS Consulting acknowledges that disclosure to a third (3rd) party or misuse of this proprietary or confidential information would irreparably harm the Client. Accordingly, PS Consulting will not disclose or use, either during or after the term of this Agreement, any proprietary or confidential information of the Client without the Client's prior written permission except to the extent necessary to perform the Services on the Client's behalf.

Proprietary or confidential information includes, but is not limited to:

a.) The written, printed, graphic, or electronically recorded materials furnished by Client for PS Consulting to use;

b.) Any written or tangible information stamped "confidential," "proprietary," or with a similar legend, or any information that Client makes reasonable efforts to maintain the secrecy of, business or marketing plans or strategies, customer lists, operating procedures, trade secrets, design formulas, know-how and processes, computer programs and inventories, discoveries and improvements of any kind, sales projections, and pricing information; and

c.) Information belonging to customers and suppliers of the Client about whom PS Consulting gained knowledge as a result of PS Consulting's Services to the Client.

Upon termination of PS Consulting's Services to the Client, or at the Client's request, PS Consulting shall deliver all materials to the Client in PS Consulting's possession relating to the Client's business. PS Consulting acknowledges any breach or threatened breach of confidentiality under this Agreement will result in irreparable harm to the Client for which damages would be an inadequate remedy. Therefore,

the Client shall be entitled to equitable relief, including an injunction, in the event of such breach or threatened breach of confidentiality. Such equitable relief shall be in addition to the Client's rights and remedies otherwise available at law.

Furthermore, proprietary information, under this Agreement, shall include:

- a.) The product of all work performed under this Agreement ("Work Product"), including without limitation all notes, reports, documentation, drawings, computer programs, inventions, creations, works, devices, models, works-in-progress and deliverables, will be the sole property of the Client, and PS Consulting hereby assigns to the Client all right, title, and interest therein, including, but not limited to, all audiovisual, literary, moral rights and other copyrights, patent rights, trade secret rights, and other proprietary rights therein. PS Consulting retains no right to use the Work Product and agrees not to challenge the validity of the Client's ownership in the Work Product;
- b.) PS Consulting hereby assigns to the Client all right, title, and interest in any and all photographic images and videos or audio recordings made by the Client during PS Consulting's work for them, including, but not limited to, any royalties, proceeds, or other benefits derived from such photographs or recordings; and
- c.) The Client will be entitled to use PS Consulting's name and/or likeness in advertising and other materials.

XVIII. Assignment and Delegation. PS Consulting may assign rights and may delegate duties under this Agreement to other individuals or entities acting as a subcontractor ("Subcontractor"). PS Consulting recognizes that they shall be liable for all work performed by the Subcontractor and shall hold the Client harmless of any liability in connection with their performed work.

PS Consulting shall be responsible for any confidential or proprietary information that is shared with the Subcontractor in accordance with this section. If any such information is shared by the Subcontractor to third (3rd) parties, PS Consulting shall be made liable.

XIX. Governing Law. This Agreement shall be governed under the laws in the State of New Jersey.

XX. Severability. This Agreement shall remain in effect in the event a section or provision is unenforceable or invalid. All remaining sections and provisions shall be deemed legally binding unless a court rules that any such provision or section is invalid or unenforceable, thus, limiting the effect of another provision or section. In such case, the affected provision or section shall be enforced as so limited.

XXI. Entire Agreement. This Agreement, along with any attachments or addendums, represents the entire agreement between the parties. Therefore, this Agreement supersedes any prior agreements, promises, conditions, or understandings between the Client and PS Consulting. This Agreement may be modified or amended if the amendment is made in writing and is signed by both parties.



Michael W. Pitts Jr., CPA, CMFO, CTC, QPA, SBA
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IN WITNESS WHEREOF, the Parties hereto have executed this Agreement on the dates written hereunder.

PS Consulting's Signature _____

Date _____

Print Name _____

Client's Signature _____

Date _____

Print Name _____