



Sent via e-mail to qdeene.nagasawa@soundtransit.org

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February 29, 2024

Re.: Public Records Request (F000030-011624)

Dear Ms. Nagasawa:

Please accept this response of INIT Innovations In Transportation, Inc. ("INIT") to your e-mail received in our office on January 31, 2024 from Sound Transit ("ST") regarding the above referenced public records request for the disclosure of Contract RP 0119-17 – System Integrator for next gen ORCA (Contract) including change orders (1-15), as well as certain emails produced relating to virtual card(s).

In addition to the exemptions provided to ST relating to previous public records requests pertaining to the Contract and change orders 1-3, INIT believes and represents that other portions of the records sought are also exempt from public disclosure under Washington State law as trade secrets pursuant to RCW 42.56.270(11) and RCW 42.56.070(1), see also RCW 19.108.010 (4)(a-b) (The Public Records Act – PRA).

The PRA prevents disclosure if the information requested falls into a specific PRA exemption or if there is "another statute which exempts or prohibits disclosure of specific information or records." RCW 42.56.070, see also RCW 42.56.270. The records sought here can be exempted from disclosure



under the financial, commercial, and proprietary information exception under the PRA in RCW 42.56.270 as well as the Uniform Trade Secrets Act (“UTSA”) codified in RCW 19.108.

INIT has identified for redactions documents to be protected as Trade Secrets, such as unit pricing/solution description or design/system description or design/scope of contracts/system, product description or design, changes, or modifications in the scope of work/contract changes which have not yet been implemented (commercial terms and other confidential features), Security Features, Information Covered under an NDA.

Furthermore, INIT has also identified documents with signatures since this we believe these to constitute confidential information protected by public policy/protected personal information in accordance with RCW.42.56.230(3), *see also* RCW 42.56.070(1) and 5 U.S.C. Section 552(b)(6).

Trade Secrets:

The documents at issue qualify as trade secrets under the UTSA. The UTSA defines a trade secret as information, including a formula, program, method, or process that: “(a) Derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use; and (b) is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.” RCW 19.108.010(4).

Therefore, solution description/system description/scope of contracts/system, product description, contract changes which have not yet been implemented are the very essence of what constitutes a trade secret under the UTSA. INIT’s unit pricing should also be considered trade secrets under UTSA, since INIT has taken reasonable measures to ensure confidentiality and such pricing information derives independent economic value. Revealing such information would allow our



competitors to infer and predict the extent we price our products and may jeopardize future contracts with an agency.

INIT has also identified documents which we believe contain trade secrets/security features (which may cause third parties to access/easier access ST systems) should be kept out to not only to protect ST but also to protect the public. *See e.g.* RCW 42.56.270(11) ("unique method of conducting business") and RCW 42.56.070(1)/RCW 19.108.010(4)(a-b) (security features have independent economic value and security features are under protection to maintain secrecy).

Furthermore, we have identified documents constituting trade secrets/information covered under an NDA. INIT has business relationships with various parties on the Contract. Such information we believe constitutes trade secrets under the UTSA and the information is covered under the NDA demonstrating that the information was the subject of efforts to maintain its secrecy. Thus, not only would it have independent economic value under RCW 19.108.010(4)(a), but it is also provided protection under RCW 19.108.010(4)(b).

Thus, if these records identified as trade secrets are released unredacted, it would cause substantial and irreparable competitive harm to INIT's business. Confidentiality of trade secrets in Washington is protected as a mechanism to support business interests to preserve competitive advantage, which in turn, serves the public interest.

Signatures/Confidential Information. INIT believes that redacting signatures on documents is a prudent measure to balance individual privacy rights with broader public policy goals. It may prevent identify theft, safeguard sensitive information, and align with legal and regulatory requirements, ultimately contributing to a more secure and transparent society. Thus, INIT has redacted signatures since we believe it constitutes confidential information protected by public



policy/protected personal information in accordance with RCW.42.56.230(3), *see also* RCW 42.56.070(1) and 5 U.S.C. Section 552(b)(6).

Therefore, we ask that the **portions identified and redacted in the records provided** be exempt from disclosure.

Please let me know if you have any questions or concerns or if you need any further information relating to this matter. If you intend to release in unredacted form any portion of the records claimed by INIT to be subject to exemption from disclosure, we ask that you promptly provide us with such notice so that we may take appropriate measures to protect our trade secrets and other confidential information.

With kind regards,

Katharina Brekke Powers

Katharina Brekke Powers
General Counsel

(Filed with our redacted documents)