



## COORDINATING COMMITTEE

**PUR-1480**  
**REQUEST FOR PROPOSALS**  
**REGARDING QUALIFICATIONS AND EXPERIENCE**  
**AND PRICE PROPOSALS FOR**  
**THE DESIGN, CREATION AND CONSTRUCTION OF**  
**CARVED WOODEN PLAYGROUND STRUCTURES**

The Board of County Commissioners (BCC) of Washington County, Maryland is requesting Qualifications and Experience and Price Proposal Submittals from qualified Artists to assist with the **Design, Creation and Construction of Carved Wooden Playground Structures** in Marty Snook Park in Washington County.

The Washington County Coordinating Committee will evaluate responses to this request. The Artist selected for this project shall create, carve and assist with the construction of a children's natural playground. It is the intent of Washington County to enter into multiple contracts for these services. Contract award will be in accordance with the final rankings of the qualifications and experience proposals. The County will open the price proposal from the Artist that submits the highest to the lowest ranking Qualifications and Experience proposal to select a Primary and Stand-by contractors. If the price proposal from the highest rated Artist is most advantageous to the Count, a contract may be awarded.

The format for submittals, information regarding the scope of work, and the selection criteria used by the Committee is available from the Washington County website: <https://www.washco-md.net> by accessing the **"Services/Bids-Purchasing/Open Bid Invitations"**. Inquiries should be directed to Rick F. Curry, CPPO - Purchasing Director, Washington County Purchasing Department, Washington County Administration Complex, 100 West Washington Street, Third Floor, Room 3200, Hagerstown, Maryland, 21740-4748, telephone 240-313-2330.

Due to the Coronavirus (COVID-19) pandemic Washington County Purchasing has canceled all face-to-face meetings. **A Pre-Proposal Teleconference will be held on Thursday, October 1, 2020 at 10:00 A.M. (EDT/EST).** All interested proposers wishing to take part in the meeting shall call 240-313-2330 to receive instructions. Teleconferencing is not required but is strongly encouraged. It is the Applicant's responsibility to become familiar with all information necessary to prepare a proposal.

Interested Artists shall submit one (1) original, five (5) copies and six (6) flash drives of their Qualifications and Experience information, enclosed in a sealed opaque envelope marked **"Q & E – Design, Creation and Construction of Carved Wooden Playground Structures"**, and one (1) original, five (5) copies and six (6) flash drives of their Price Proposals on the provided forms in a separately sealed opaque envelope marked **"Price Proposal – Design, Creation and Construction of Carved Wooden Playground Structures"** to the Office of Rick F. Curry, CPPO - Purchasing Director, Washington County

Purchasing Department, Washington County Administration Complex, 100 West Washington Street, Third Floor, Room 3200, Hagerstown, Maryland 21740, no later than **4:00 P.M. (EDT/EST), Wednesday, October 21, 2020**. The Washington County Coordinating Committee will evaluate the submittals. Failure to comply with providing the required information for the Committee's review may result in disqualification.

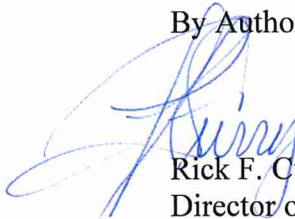
**NOTE: Washington County government has limited access to the Washington County Administration Complex at 100 West Washington Street, Hagerstown, Maryland until further notice. All Proposers shall allow ample time for delivery of their Proposal packets. Delivery of proposal packets via-courier service or United States Postal Service (USPS) will be accepted. Those bidders who wish to deliver their proposal packets in person will need to call 240-313-2330 to receive instructions.**

Inquiries regarding this request should be directed to **Rick F. Curry, CPPO - Purchasing Director at 240-313-2330**. The Board of County Commissioners of Washington County reserves the right to accept or reject any and/or all proposals and to waive formalities, informalities, and technicalities therein. The Board reserves the right to contact a Bidder for clarifications and may, at its sole discretion, allow a Bidder to correct any and all formalities, informalities, and technicalities in the best interest of Washington County.

Washington County shall make positive efforts to utilize Disadvantaged Business Enterprises for its supplies and services and shall allow these sources the maximum feasible opportunity to compete for contracts. The County Commissioners of Washington County do not discriminate on the basis of race, color, national origin, sex, religion, age or disability in employment or the provision of services. Individuals requiring special accommodations are requested to contact 240-313-2330 Voice, TDD Dial 711 to make arrangements no later than seven (7) calendar days before the Pre-Proposal Teleconference.

The Board of County Commissioners of Washington County, Maryland also reserves the right to reject the proposal of a firm who has previously failed to perform properly or complete on time contracts of a similar nature or a proposal of an organization which investigation shows is not in a position to perform the contract.

By Authority of:



Rick F. Curry, CPPO,  
Director of Purchasing





## COORDINATING COMMITTEE

**PUR-1480  
REQUEST FOR PROPOSALS  
REGARDING QUALIFICATIONS AND EXPERIENCE  
AND PRICE PROPOSALS FOR  
THE DESIGN, CREATION AND CONSTRUCTION OF  
CARVED WOODEN PLAYGROUND STRUCTURES**

**September 24, 2020**

Qualified Artists are hereby invited to submit a proposal to provide services for the project.

The County reserves the right to award a Primary and Stand-by contract to the responsive, responsible proposer with the highest to the lowest ranking, resulting in a Primary and multiple Stand-by contracts. The Contractor with the highest-ranking overall score will be the Primary Contractor (if the proposal is most advantageous to the County). If the highest-ranking proposer cannot provide the services, the Contractor with the next highest-ranking proposal will be contacted to provide the requested services, and so forth. During the course of the contract should the highest responsive, responsible proposer, be incapable of providing the services, the County will call upon the subsequent next highest-ranking responsive, responsible propose. The County will take such action on a case-by-case basis only after contacting the highest-ranking responsive, responsible proposer first and only when necessary to provide service to complete the projects. Such action shall not diminish the responsibilities of either successful proposer to satisfy their contract. Stand-by Contractor will have two (2) hours to respond to service request before a request is made to the next subsequent Contractor.

- A. Washington County is planning to construct a Natural Playground Area at Marty Snook Park in Hagerstown, MD to create an intentionally designed space that integrates the natural landscape and components into a place for structured and unstructured play and learning. The space shall provide an opportunity for children to connect with nature and allow both physical and creative play. Elements of the natural play space should encourage physically challenging adventure activities such as climbing, balancing, and offer a variety of options for different ages and abilities. The space shall challenge and stimulate fantasy and imagination with both active and creative play. The existing landscape, trees, rocks and features should incorporate into the exploration of the space. Special designated areas should offer opportunity to explore constructed and natural spaces
- B. Washington County is seeking an Artist to assist with the creation of the Natural Playground Area with a special focus and ability to create original chain saw carved playground elements that can be built and incorporated into the space. The Artist will collaborate with the County to design, create and construct the features of the playground.

- C. The site location has numerous felled ash trees and several dead standing perimeter trees killed by the emerald ash borer. The intent of the project is to reuse existing wood elements on hand and to supplement as needed with suitable white oak, walnut, and black locust logs and lumber to create the play elements. The County shall be responsible for the direct costs associated with securing and providing the materials for the project. The County will provide technical expertise in the development of the design, drawings, foundations, and will assist with the erection of the structures and construction of the play area. The Artist shall have the material and equipment resources to carve, saw, cut, plane and process the wood for the erection of the structures.
- D. The Artist will be paid an hourly rate for services. A not-to-exceed limit will be established for the project and direction will be provided by the County for the extent of the scope of work as described in Section II. A list of anticipated priorities for the project are provided, however, the final scope of work will be a collaboration between the Artist and County and is not fully known at this time. There are no guarantees as to the minimum value of this contract; however, the maximum value will not exceed \$50,000.
- E. The County will consider proposals from Artists capable of providing all services defined herein as well as, a team that is capable of providing the services outlined herein. Proposals from Artists or a team of Artists not capable of performing all the services outlined herein shall be deemed non-responsive, non- responsible. When teams propose and are awarded assignments under this contract, the hourly rates of the various job classifications shall apply to all team members working on the project.

## **II. SCOPE OF WORK**

### **A. Schematic Design:**

- 1. For consideration in defining the scope of work, the following structures and elements shall be considered; however, the Artist may not be limited to this list as other original structures, creations and elements may be proposed. Structures should incorporate play elements.

#### **Sample Structure Element List:**

- a) Giant Spider with log balance beam web
- b) Dragon with climbing wall wings
- c) Giant mountain troll with torso cage/and or net
- d) Carved stump house, gnomes, and mushrooms
- e) Original log and bench seating
- f) Teepee and fort building area
- g) Storage for loose parts, logs, natural play elements
- h) Entrance and other signage
- i) Additional fantasy and whimsical play elements and carvings

2. The Artist shall collaborate with the County on preparing a schematic design for the site layout, location, and concept and space requirements for each play element. A cost estimate for each element shall be prepared and a priority list and schedule established with involvement from the County. The Artist will be paid on an hourly basis for the work and a not to exceed contract limit will be established by the County for the work. The County shall be responsible for clearing and preparing the site. The County will prepare any site plan construction drawings needed for the project.

B. Design:

1. The Artist shall collaborate with the County on developing the construction drawings for each play structure. Individual standalone carvings and elements will not require a drawing. The drawings shall be used to estimate the materials needed for the project, foundation design requirements, and show the basis of construction. They are not intended to be fully detailed as site specific modifications are anticipated to account for the variety in the building materials.
2. The structures should be durable and able to withstand climbing, pulling, pushing, and the natural elements.
3. The structures must be designed and constructed to meet the US Consumer Product Safety Commission Standards for Public Playground Safety. Consideration shall be given to eliminating the identified playground hazards in the design of the structures such as but not limited to fall risks, entanglement and impalement, entrapment, sharp points, corners and edges, suspended and tripping hazards.

C. Construction:

1. The Artist shall mobilize and perform carvings of the necessary elements needed for the playground structures and space. The County will pay for and furnish the necessary wood, lumber, and hardware for the construction of the structures. The Artist shall be responsible for sawing, processing and performing field modifications as needed to the material for structure erection. The County will provide at least one (1) qualified facility maintenance worker at all times and more as needed to assist with the construction and erection of the structures. The County will provide an equipment operator, backhoe, skid steer and/or any heavy equipment needed for the construction of the structures. The hours of Washington County staff assistance are Monday-Friday 7 am to 3:30 pm. Special permission is needed from the County to work beyond the specified hours.
2. Structures may need to be modified as needed to accommodate material imperfections, unforeseen design challenges, or to reduce safety hazards. All wood surfaces and edges should be sanded, hazardous projections eliminated and a thorough review of the structure by a Washington County Employee who is a Certified Playground Safety Inspector (CPSI). Any safety issues must be addressed.

3. The Artist agrees to participate in at least one (1) public relations and community outreach event. The Artist agrees to provide a live demonstration of their work that may occur outside the normal Monday to Friday work hours. The Artist agrees to collaborate with non-profit organizations that at times may contribute to the project and agrees to be an overall ambassador for the project and work being completed.
  4. The County will be responsible for installing the safety surfacing for the space.
- D. Post Construction:
1. The Artist shall be responsible for demobilizing from the site and cleaning up
  2. The Artist shall be responsible for addressing any punch list items or maintenance concerns associated with the construction for up to a one (1) year period.
- E. Future project tasks may be added to this contract on an as needed case-by-case basis as the need arises for up to a two (2) year period following project award. Award of assignments will be based paid for at the Contract hourly rates.

### III. LIQUIDATED DAMAGES

- A. Liquidated damages of one hundred dollars (\$100.00) per calendar day may be assessed, at the County's discretion, against the Artist for failure to meet the schedule established. It is imperative that the Division of Public Works be contacted immediately should circumstances beyond the Artist's control adversely affect their ability to meet the established schedule. All schedule modifications will require written approval from the County. Liquidated Damages will not automatically apply to all project assignments. The County will designate if liquidated damages apply to an assignment at the time of communicating the scope of services.

As a requirement contract with no guaranteed minimum value, failure to meet the established schedule(s) is cause to minimize or terminate the work performed under this contract.

### IV. COMPENSATION

- A. The Artist will be compensated on an hourly basis with an established not-to-exceed cost for the project.
- B. Once the Notice to Proceed (NTP) is issued, the Artist shall proceed with project invoicing the County on a monthly basis based on the actual man-hours charged to the project. Submitted along with the invoice shall be a breakdown of all man-hours charged and a description of project progress. **Failure to include this information with the invoice will result in rejection of the invoice.**
- C. Hourly fees will include tools, equipment, travel, and any incidentals necessary to complete required tasks. No compensation will be provided for mileage other than the man-hours used for travel.

## V. **INSURANCE REQUIRED**

- A. The successful Artist must show, prior to the execution of the Agreement, evidence of appropriate insurance as outlined in the Washington County's Policy of *Insurance Requirements for Independent Contractors*, Attachment B.

## VI. **PROPOSAL SUBMITTALS**

- A. This solicitation is issued pursuant to the implementation of Section 5 of the Washington County Procurement Policy Manual relative to Requests for Proposals (RFP) – Professional/Technical Services Selection that can be viewed at: <https://www.washco-md.net/wp-content/uploads/ProcurementPolicyManual2013FinalDraftrevised3-5-2020.pdf> No proposal preparation expense will be paid by the County in response to this solicitation. All work shall be done in accordance with Washington County Standards and those of any State or Federal agencies having jurisdiction.
- B. The Committee shall be comprised of the Director of Division of Public Works (Committee Chairman Designee), Deputy Director of Public Works Buildings, Grounds and Facilities, Deputy Director of Public Works Parks and Recreation, Parks Supervisor, and the County Director of Purchasing. All work shall be done in accordance with Washington County Standards and those of any State or Federal agencies having jurisdiction.
- C. **Two separate proposals shall be submitted. One shall be the Qualifications and Experience (Q & E) of the Artist or Artist team. The other shall be the Price Proposal. The Price Proposal will be opened only if the firm is considered the highest scored responsible, qualified and responsive bidder to this request after detailed review of the Q & E by the Coordinating Committee.**
- D. As a minimum, the **Qualification and Experience (Q&E)** proposal shall include the following:
1. A written narrative describing the Artist's collaborative approach and creativity in the project. Sketches, images and photos may be submitted to convey the Artist's vision.
  2. A project portfolio demonstrating the Artist's ability to complete the scope of work.
  3. List of completed works, photos, and references from working on municipal and public projects.
  4. An estimated schedule to complete the project and representative scope of work. An Artist may submit past representative work with actual durations to supplement and substantiate their estimates.
  5. List of available project equipment, tools, and lumber processing equipment for the project.

6. Conclusion, remarks, and/or supplemental information pertinent to this request.
- E. As a minimum, the **Price Proposal** shall include the following:
1. The Proposal Form contained herein, Attachment A.
  2. The proposal must be accompanied by a fully executed Non-Collusion/Anti-Bribery Affidavit (Attachment D) executed by the Artist, or in case the Artist is a corporation, by the appropriate legal and duly authorized representative of the proposing corporation, on the form provided.
  3. Completed Price Matrix (Attachment E) provided herein.
  4. Conclusions, remarks and/or supplemental information pertinent to this request.
- F. Any proposal may be withdrawn prior to the date and time set herein as the deadline for receipt of submittals. Any submittals not withdrawn prior to the deadline will constitute an irrevocable offer.
- G. The County will have up to ninety (90) calendar days to review all Qualification and Experience Proposals. The Price Proposals of those submittals determined to be unacceptable to the Coordinating Committee will be returned to the Artist, unopened.
- H. Proposals received prior to the deadline will be opened in confidence. Proposals received after the deadline will be rejected and returned unopened.
- I. The Contract will be awarded to the Artist(s) offering the proposal considered most advantageous to the County. It is anticipated that the contract award will be made within ninety (90) calendar days after the receipt of proposals. Failure to meet this award schedule will in no way invalidate the proposals or any of the conditions contained in this RFP.
- J. Proposals must include the full name and address of proposed. Signature shall indicate his or her title and/or authority to bind the firm in a contract.
- K. Proposals may not be altered or amended after they are opened.

## **VII. METHOD OF AWARD AND TERMINATION**

- A. The County will evaluate the proposals from all Artists. The County will open the price proposal from the highest ranked responsive-responsible Artist. If the price proposal is acceptable, the contract will be awarded. If the price proposal is not acceptable, then the County will open the next highest ranked responsive-responsible bid until a suitable offer is received.
- B. The price from the Price Matrix (Attachment E) will be used by the County to determine the estimated price proposal. The price matrix has been prepared for the purpose of price comparison only. The actual contract hours and distribution of hours will be depended on the work completed.



- C. The successful Artist will be required to enter into the contract agreement with the County, Attachment G. This form shall be used. No modification will be permitted.

### **VIII. CRITERIA USED TO DETERMINE QUALIFICATIONS**

The following criteria may be considered when evaluating the qualifications and experience of the Artists who have submitted proposals. This list is in general and not specific nor limited to these items:

- A. Quality and completeness of the proposal document submitted (1 -10 pts.)
- B. Completeness and creativity in the concept of the project (1- 10 pts.)
- C. Demonstrated ability to perform the project in portfolio of representative work (1 – 10 pts.)
- D. Demonstrated experience in working with municipal and public projects (1 – 5 pts.) 1 pt. for each project, no more than 5 pts. Possible.
- E. Ability to meet expected project schedule and completion time (1 – 5pts.)
- F. Satisfies equipment and material needed to perform task (1 -5 pts.)
- G. Geographical relationship to Washington County, MD (1 - 10 pts.) Washington County 10pts., 0-30 miles 8 pts., 30 -90 miles 6 pts., 90-250 miles 4 pts., 250-500 miles 2pts., 500+ miles 0 pts.

### **IX. RESERVATIONS**

The County reserves the right to request clarification of information submitted or to request additional information about any proposal as it may reasonably require. The County reserves the right to require interviews. The County reserves the right to reject any or all proposals, to waive technicalities and to take whatever action is in the best interest of the County. The County reserves the right to not hold discussion after award of the contract.

Nothing in this RFP nor the contract between the County and the successfully awarded Artist(s) shall prohibit the County from retaining the services of other Artists for similar scoped project assignments.

### **X. PRE-PROPOSAL CONFERENCE**

Due to the Coronavirus (COVID-19) pandemic Washington County Government has limited face-to-face meetings. A Pre-Proposal Teleconference will be held at **10:00 A.M., (EDT/EST) on Thursday, October 1, 2020. All interested proposers wishing to take part in the meeting shall call 240-3133-2330 to receive instructions.** While teleconferencing is not required, it is strongly encouraged.

## **XI. INTERPRETATIONS, DISCREPANCIES AND OMISSIONS**

It is the Proposer's responsibility to become familiar with all information provided in this package and any other information considered necessary to make a proposal. Should any Proposer find discrepancies in, or omissions from, the documents or be in doubt of their meaning, he should immediately request in writing an interpretation from: Rick F. Curry, CPPO, Purchasing Director, Washington County Purchasing Department, Washington County Administration Complex, 100 West Washington Street, Room 3200, Hagerstown, Maryland 21740, **FAX: 240-313-2331**; or send questions in Microsoft Word platform via email to: [purchasingquestions@washco-md.net](mailto:purchasingquestions@washco-md.net)

All necessary interpretations will be issued to all Proposers in the form of addenda to this solicitation, and such addenda shall become part of the contract documents. Requests received after **4:00 P.M. (EDT/EST), Thursday, October 8, 2020** may not be considered. Every interpretation made by the County will be made in the form of an addendum.

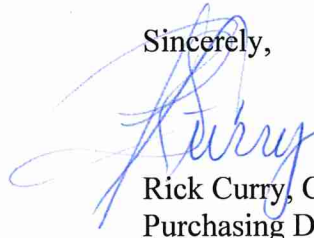
## **XII. TERMS AND CONDITIONS**

- A. The County reserves the right to reject any or all proposals or to award the contract to the next recommended Artist if the successful Artist does not execute a contract within fifteen (15) calendar days after notice of award of the contract.
- B. Any agreement or contract resulting from the acceptance of the proposal shall be on forms approved by the County and shall contain, as a minimum, applicable provisions of the request for proposal. The County reserves the right to reject any agreement that does not conform to the request for proposal and any County requirements for agreements and contracts.
- C. The Artist shall not assign any interest in the contract and shall not transfer any interest in the same without prior written consent of the Washington County Director of Public Works.
- D. No reports, information or data given to or prepared by the Artist under the contract shall be made available to any individual or organization by the Artist without the prior written approval of the Washington County Director of Public Works.
- E. By submitting a proposal, the Artist agrees that he/she is satisfied, as a result of his/her own investigations of the conditions set forth in this request, that he/she fully understands his/her obligations.
- F. Artists should give specific attention to the identification of those portions of their proposals that they deem to be confidential, proprietary information or trade secrets and provide any justification why such materials, upon request, should not be disclosed by Washington County under the Access to Public Records Act, State Government Article, Title 10, Subtitle 6, Annotated Code of Maryland.
- G. Effective October 1, 1993, in compliance with Section 1-106 (b) (3) of the Code of the Public Local Laws of Washington County, Maryland, "If a bidder has not paid all taxes owed to the County or a municipal corporation in the County, the County Commissioners may reject the bidder's bid."

- H. **Political Contribution Disclosure:** The Bidder shall comply with Article 33, Sections 14-101 through 14-104 of the Annotated Code of Maryland, which requires that every person that enters into contracts, leases, or other agreements with the State, a county, or any incorporated municipality, or their agencies during a calendar year in which the person receives in the aggregate \$100,000 or more, shall file with the State Administrative Board of Election Laws a statement disclosing contributions in excess of \$500 made during the reporting period to a candidate for elective office in any primary or general election. The statement shall be filed with the State Administrative Board of Election Laws: (1) before a purchase or execution of a lease or contract by the State, a county, an incorporated municipality or their agencies, and shall cover the preceding two (2) calendar years; and (2) if the contribution is made after the execution of a lease or contract, then twice a year, throughout the contract term, on: (a) February 5, to cover the 6-month period ending January 31; and (b) August 5, to cover the 6-month period ending July 31.
- I. **Intergovernmental Purchasing:** The following Agencies/Jurisdictions shall be able to purchase, if applicable, directly from contracts resulting from this Invitation to Bid (ITB): Washington County Board of Education and all of its public schools, Hagerstown Community College, Municipalities of Washington County, and public or quasi-public agencies that receive County money and are exempt from taxation under Section 501(c)(3) of the Internal Revenue Code, i.e, Washington County Volunteer Fire and Rescue Companies. While this ITB is prepared on behalf of the County, it is intended to apply for the benefit of the above-named agencies/jurisdictions as though they were expressly named throughout the document. Each of these agencies/ jurisdictions may purchase from the successful Bidder under the same terms and conditions of the contract with the County, in accordance with each agencies/jurisdiction's respective laws and regulations, or an agency may choose not to procure from the successful Bidder at the agency's sole discretion. If one of the above-named agencies/jurisdictions elects to purchase under the contract, the price shall be determined by using unit costs and other pertinent costs provided in the offer. Any special discounts unique to a particular agency/jurisdiction shall be stated. Bidder shall also submit the attached "Provisions for Other Agencies" form, if included in this bid.
- J. **Registration with Maryland Department of Assessments and Taxation:** Prior to contracting, private corporations must either be incorporated in the State of Maryland or registered with the Maryland Department of Assessments and Taxation as a foreign corporation and must be in good standing. Proof of such standing is required prior to the start of the contracting process and shall remain in good standing during the contract period. The website for the State Department of Assessments and Taxation is: <http://dat.maryland.gov/Pages/sdatforms.aspx#BNE>, email address is [charterhelp@helpdat.state.md.us](mailto:charterhelp@helpdat.state.md.us) the phone numbers for the State Department of Assessments and taxation are: (410) 767-1340 or (888) 246-5941.

All interested Artists should send one (1) original, five (5) copies and six (6) flash drives of the Qualifications and Experience Proposal enclosed in a sealed opaque envelope marked **"Q & E – Division of Public Works Carved Wooden Playground Structures "** and one (1) original, five (5) copies and six (6) flash drives of the Price Proposal in a separately sealed opaque envelope marked **"Price Proposal – Division of Public Works Carved Wooden Playground Structures"** no later than **4:00 P.M. (EDST), Wednesday, October 21, 2020**. Submittals are due in the office of Rick F. Curry, CPPO, Purchasing Director, Washington County Purchasing Department, Washington County Administration Complex, 100 West Washington Street, Room 3200, Hagerstown, MD 21740.

Sincerely,



Rick Curry, CPPO  
Purchasing Director  
WASHINGTON COUNTY  
COORDINATING COMMITTEE

RFC/ljt

Attachments (6)

cc: Coordinating Committee Members



### **Summary of Attachments**

- A Services Requirements Contract – Price Proposal Form
- B Insurance Requirements for Independent Contractors
- C Government-Wide Debarment and suspension Affidavit
- D Non-Collusion / Anti-Bribery Affidavit
- E Price Matrix
- F Agreement by and Between Board of County Commissioners of Washington County, Maryland and the Artist (Sample)

**PUR-1480  
PRICE PROPOSAL FORM  
BOARD OF COUNTY COMMISSIONERS  
OF WASHINGTON COUNTY, MARYLAND**

**CARVED WOODEN PLAYGROUND STRUCTURES**

Business Name: \_\_\_\_\_  
\_\_\_\_\_

Hereby agrees to provide the requested services as defined in the proposal, attachments thereto, and

Addenda No. \_\_\_\_\_ dated \_\_\_\_\_, No. \_\_\_\_\_ dated \_\_\_\_\_, No. \_\_\_\_\_ dated \_\_\_\_\_, No. \_\_\_\_\_ dated \_\_\_\_\_, No. \_\_\_\_\_ dated \_\_\_\_\_, No. \_\_\_\_\_ dated \_\_\_\_\_ for the following amounts, (Amount shall be shown in both words and figures. In case of discrepancy, the amount shown in words will govern.):

A. Artist (Design) – Hourly Rate:

Standard Rate: \_\_\_\_\_ (\_\_\_\_\_) (Written) (Figures)

B. Artist (Carving / Construction) – Hourly Rate:

Standard Rate: \_\_\_\_\_ (\_\_\_\_\_) (Written) (Figures)

C. Artist (Onsite Sawmill Pricing) – Hourly Rate:

Standard Rate: \_\_\_\_\_ (\_\_\_\_\_) (Written) (Figures)

**CONDITIONS OF THE PROPOSAL:** It shall be understood that by submission of this proposal, the Contractor agrees to all of the conditions of the Request for Proposals (RFP) dated **September 24, 2020** and any Addenda issued thereto and referenced above.

**CONTRACTOR MUST SIGN HERE**

By signing here, the firm does hereby attest that they have read fully the instructions, conditions and general provisions and understands them.

Firm Name: \_\_\_\_\_

Address: \_\_\_\_\_

Signature of Officer of Firm: \_\_\_\_\_

Name and Title Printed: \_\_\_\_\_

Telephone No.: \_\_\_\_\_ Fax No.: \_\_\_\_\_

E-Mail Address: \_\_\_\_\_

Date: \_\_\_\_\_ Federal Employer's Identification No.: \_\_\_\_\_

Remarks / Exceptions: (If no exceptions are taken, state NONE): \_\_\_\_\_

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***For Informational Purposes Only:*** Has your firm been certified by the State of Maryland as a Minority Business Enterprise? (Please check below)

\_\_\_\_\_ Yes \_\_\_\_\_ No

**POLICY TITLE:** Insurance Requirements for Independent Contractors

**ADOPTION DATE:** August 29, 1989

**EFFECTIVE DATE:** September 1, 1989

**FILING INSTRUCTIONS:**

**I. PURPOSE**

To protect Washington County against liability, loss or expense due to damaged property, injury to or death of any person or persons and for care and loss of services arising in any way, out of, or in connection with or resulting from the work or service performed on behalf of Washington County.

**II. ACTION**

The following should be inserted in all Independent Contractor Contracts:

"The Contractor shall procure and maintain at his sole expense and until final acceptance of the work by the County, insurance as hereinafter enumerated in policies written by insurance companies admitted in the State of Maryland, have A.M. Best rating of A- or better or its equivalent, and acceptable to the County."

1. **Workers Compensation:** The Contractor agrees to comply with Workers Compensation laws of the State of Maryland and to maintain a Workers Compensation and Employers Liability Policy.

Minimum Limits Required:

Workers Compensation - Statutory  
Employers Liability - \$100,000 (Each Accident)  
\$500,000 (Disease - Policy Limit)  
\$100,000 (Disease - Each Employee)

2. **Comprehensive General Liability Insurance:** The Contractor shall provide Comprehensive General Liability including Products and Completed Operations.

Minimum Limits Required:

\$1,000,000 combined single limit for Bodily Injury and Property Damage.

Such insurance shall protect the County, its agents, elected and appointed officials, commission members and employees, and name Washington County on the policy as additional insured against liability, loss or expense due to damaged property (including loss of use), injury to or death of any person or persons and for care and loss of services arising in any way, out of, or in connection with or resulting from the work of service performed on behalf of Washington County.



2. **Comprehensive General Liability Insurance** (continued)

The Contractor is ultimately responsible that Subcontractors, if subcontracting is authorized, procure and maintain at their sole expense and until final acceptance of the work by the County, insurance as hereinafter enumerated in policies written by insurance companies admitted in the State of Maryland, have A.M. Best rating of A- or better or its equivalent, and acceptable to the County.

3. **Business Automobile Liability:** The Contractor shall provide Business Auto Liability including coverage for all leased, owned, non-owned and hired vehicles.

Minimum Limits Required:

\$1,000,000 combined single limit for Bodily Injury or Property Damage.

**Certificate(s) of Insurance:** The Contractor shall provide certificates of insurance requiring a 30-day notice of cancellation to the Insurance Department, Board of County Commissioners of Washington County prior to the start of the applicable project.

Approval of the insurance by the County shall not in any way relieve or decrease the liability of the Contractor. It is expressly understood that the County does not in any way represent that the specified limits of liability or coverage or policy forms are sufficient or adequate to protect the interest or liabilities of the Contractor.

All responsibility for payment of any sums resulting from any deductible provisions, corridor, or self-insured retention conditions of the policy or policies shall remain with the Contractor.

**General Indemnity:** The Contractor shall indemnify, defend and save harmless the Board of County Commissioners of Washington County, its appointed or elected officials, commission members, employees and agents for any and all suits, legal actions, administrative proceedings, claims, demands, damages, liabilities, interest, attorneys fees, costs and expenses of whatsoever kind of nature, whether arising before or after final acceptance and in any manner directly or indirectly caused, occasioned or contributed to in whole or in part by reason of any act, error or omission, fault or negligence whether active or passive by the Contractor, or any one acting under its direction, control or on its behalf in connection with or incident to its performance of the Contract.

Revision Date: August 27, 1991

Effective Date: August 27, 1991

Revision Date: March 4, 1997

Effective Date: March 4, 1997

## GOVERNMENT-WIDE DEBARMENT AND SUSPENSION

**Background and Applicability:**

In conjunction with the Office of Management and Budget and other affected Federal agencies, DOT published an update to 49 CFR Part 29 on November 26, 2003. This government-wide regulation implements Executive Order 12549, *Debarment and Suspension*, Executive Order 12689, *Debarment and Suspension*, and 31 U.S.C. 6101 note (Section 2455, Public Law 103-355, 108 Stat. 3327).

The provisions of Part 29 apply to all grantee contracts and subcontracts at any level expected to equal or exceed \$25,000 as well as any contract or subcontract (at any level) for Federally required auditing services, 49 CFR 29.220(b). This represents a change from prior practice in that the dollar threshold for application of these rules has been lowered from \$100,000 to \$25,000. These are contracts and subcontracts referred to in the regulation as "covered transactions."

Grantees, Contractors, and Subcontractors (at any level) that enter into covered transactions are required to verify that the entity (as well as its principals and affiliates) they propose to contract or subcontract with is not excluded or disqualified. They do this by (a) Checking the Excluded Parties List System, (b) Collecting a certification from that person, or (c) Adding a clause or condition to the contract or subcontract. This represents a change from prior practice in that certification is still acceptable but is no longer required, 49 CFR 29.300.

Grantees, Contractors, and Subcontractors who enter into covered transactions also must require the entities they contract with to comply with 49 CFR 29, Subpart C and include this requirement in their own subsequent covered transactions (i.e., the requirement flows down to subcontracts at all levels).

This contract is a covered transaction for purposes of 49 CFR Part 29. As such, the Contractor is required to verify that none of the Contractor, its principals, as defined at 49 CFR 29.995, or affiliates, as defined at 49 CFR 29.905, are excluded or disqualified as defined at 49 CFR 29.940 and 29.945.

The Contractor is required to comply with 49 CFR 29, Subpart C and must include the requirement to comply with 49 CFR 29, Subpart C in any lower tier covered transaction it enters into.

By signing and submitting its bid or proposal, the Bidder or proposer certifies as follows: The certification in this clause is a material representation of fact relied upon by the *County*. If it is later determined that the Bidder or proposer knowingly rendered an erroneous certification, in addition to remedies available to the *County*, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.

The Bidder agrees to comply with the requirements of 49 CFR 29, Subpart C while this offer is valid and throughout the period of any contract that may arise from this offer.

The Bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

Company Name: \_\_\_\_\_

Signature of Contractor's Authorized Official: \_\_\_\_\_

Printed Name of Contractor's Authorized Official: \_\_\_\_\_

Printed Title of Contractor's Authorized Official: \_\_\_\_\_

Date: \_\_\_\_\_

*Government-Wide Debarment and Suspension – Attachment C*

**Design, Create & Construct Playground Structures**

**PUR-1480**

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**WASHINGTON COUNTY, MARYLAND  
PURCHASING DEPARTMENT AFFIDAVIT  
AFFIDAVIT**

(Must be completed, signed, and submitted with the Price Proposal.)

Contractor \_\_\_\_\_

Address \_\_\_\_\_

Telephone \_\_\_\_\_ Proposal Number **(PUR-1480)**

I, \_\_\_\_\_ the undersigned, \_\_\_\_\_ of the above named  
(Print Signer's Name) (Print Office Held)

Contractor does declare and affirm this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, that I hold the aforementioned office in the above-  
(Month) (Year)

named Contractor and I affirm the following:

***AFFIDAVIT I***

The Contractor, his Agent, servants and/or employees, have not in any way colluded with anyone for and on behalf of the Contractor or themselves, to obtain information that would give the Contractor an unfair advantage over others, nor have they colluded with anyone for and on behalf of the Contractor, or themselves, to gain any favoritism in the award of the contract herein.

***AFFIDAVIT II***

No officer or employee of Washington County, whether elected or appointed, has in any manner whatsoever, any interest in or has received prior hereto or will receive subsequent hereto any benefit, monetary or material, or consideration from the profits or emoluments of this contract, job, work or service for the County, and that no officer or employee has accepted or received or will receive in the future a service or thing of value, directly or indirectly, upon more favorable terms than those granted to the public generally, nor has any such officer or employee of the County received or will receive, directly or indirectly, any part of any fee, commission or other compensation paid or payable to the County in connection with this contract, job, work, or service for the County, excepting, however, the receipt of dividends on corporation stock.

***AFFIDAVIT III***

Neither I, nor the Contractor, nor any officer, director, or partners, or any of its employees who are directly involved in obtaining contracts with Washington County have been convicted of bribery, attempted bribery, or conspiracy to bribe under the laws of any state or of the federal government or has engaged in conduct since July 1, 1977, which would constitute bribery, attempted bribery, or conspiracy to bribe under the laws of any state or the federal government.

***AFFIDAVIT IV***

Neither I, nor the Contractor, nor any of our agents, partners, or employees who are directly involved in obtaining contracts with Washington County have been convicted within the past twelve (12) months of discrimination against any employee or applicant for employment, nor have we engaged in unlawful employment practices as set forth in Section 16 of Article 49B of the Annotated Code of Maryland or, of Sections 703 and 704 of Title VII of the Civil Rights Act of 1964.

I do solemnly declare and affirm under the penalties of perjury that the contents of the foregoing affidavits are true and correct to the best of my knowledge, information and belief.

\_\_\_\_\_  
DATE

\_\_\_\_\_  
SIGNATURE

\_\_\_\_\_  
COMPANY NAME PRINTED

\_\_\_\_\_  
PRINTED NAME

\_\_\_\_\_  
TITLE

<b>PRICE MATRIX</b>			
<b>Job Classification</b>	<b>Hourly Rate from Proposal Form <sup>[1]  [4]</sup></b>	<b>Number of Hours for Respective Classification <sup>[2]</sup></b>	<b>Price Extended (rate x hours)</b>
Artist (Design)		40	\$
Artist (Carving / Construction)		240	\$
Artist (Onsite Sawmill Processing)		16	\$
<b>Total Proposal Value <sup>[3]</sup></b>			\$

1. Hourly rate as written on the proposal form Attachment "A". In the event of a transposing or computation error on this form the hourly rate indicated on the Proposal Form (Attachment A) applied to the designated number of hours per job classification will be the prevailing price.

2. Estimation of the number of hours used for deriving a lowest cost proposal. These values in no way indicate or should be construed to indicate a minimum number of actual billable hours anticipated in this contract. These values are for the sole purpose of estimating and comparing price proposals.

3. A zero (\$0) or blank hourly rate for any job classification will be considered non-responsive.



**PUR-1480  
(PRIMARY / STAND-BY) AGREEMENT**

**BY AND BETWEEN  
BOARD OF COUNTY COMMISSIONERS OF  
WASHINGTON COUNTY, MARYLAND**

**AND**

**I. PARTIES**

This *(Primary/Stand-By)* Agreement (the "Agreement") is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_ by and between **Board of County Commissioners of Washington County, Maryland**, a body corporate and politic and a political subdivision of the State of Maryland, (the "County") and the firm of \_\_\_\_\_, a \_\_\_\_\_ corporation (the "Artist").

***(Note: This Paragraph shall be included in the Primary Agreement)***

The Consultant agrees and acknowledges that this Agreement is the Primary Agreement relating to the County's Request for Proposal (PUR-1480) dated September 24, 2020, and Consultant will perform all services requested. The Consultant is fully aware that the County has contemporaneously entered into a Stand-By Agreement with \_\_\_\_\_ in the event Consultant is unable to perform any of the services requested at any time.

***(Note: This Paragraph shall be included in the Stand-by Agreement)***

The Consultant agrees and acknowledges that this Agreement is a stand-by agreement and not the primary agreement relating to the County's Request for Proposal (PUR-1480) dated September 24, 2020. The Consultant is fully aware that the County has contemporaneously entered into an agreement with \_\_\_\_\_ who will perform all services contemplated under PUR-1480. In the event \_\_\_\_\_ is unable to perform any of the services requested at any time, then the Consultant agrees that it will perform the services requested.

**II. WORK EFFORT**

A. The Artist hereby agrees to undertake the work efforts, generally and specifically defined within the Washington County Request for Proposal dated September 24, 2020 and all addenda (collectively the "RFP") and the Artist's "Proposal" dated \_\_\_\_\_ (the "Proposal"), the contents of said "RFP" and "Proposal" are incorporated herein by reference, and to adhere to, comply with and respond to all performance requirements, conditions, restrictions and provisions stated therein. If there is a conflict or discrepancy between the RFP and the Proposal, then the terms, conditions and provisions of the RFP shall control, prevail, and supersede the terms and conditions of the Proposal.

B. The Artist agrees to comply with all applicable Federal, State and local laws in the conduct of the work hereunder.

*Agreement – Attachment F*

**Design, Create & Construct Playground Structures**

**PUR-1480**

Washington County, Maryland

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### III. SCHEDULE

The Artist may commence work within seven (7) days upon receipt of written Notice to Proceed from the County, such notice being contingent upon the execution of this Agreement by the County and the Artist. The work shall be completed in an expeditious manner and in such sequence as agreed upon between the Artist and the County and as set forth in the accepted Project schedule as contained in the "RFP."

Failure to maintain the scheduled level of effort as proposed and prescribed and/or deviation from the aforesaid schedule without prior approval of the County shall constitute a ground for issuance of a Termination Notice in accordance with Section IV of this Agreement, except in cases in which the County agrees in writing that circumstances beyond the control of the Artist shall warrant alteration, adjustment or deviation from the schedule.

### IV. TERMINATION

The County may, upon written notice to the Artist, terminate the performance or work under this Agreement, in whole or part, in accordance with the following criteria:

- A.1 Except as provided in A.2 below, if the Artist shall default in performance of this Agreement in accordance with its terms and fails to cure the default within a period of ten (10) days after receipt from the County of a notice specifying the default, the County may terminate the Agreement.
- A.2 If the Artist fails to provide an approved replacement as required by the "RFP" within one (1) working day of the departure of the individual being replaced, the County shall have the right to terminate the Agreement, immediately, without notice or opportunity to cure.
- B. If the County shall determine, in its sole discretion, that termination is in the best interest of the County, the County may terminate this Agreement, in whole or in part, at any time during the term of this Agreement. Any termination shall be affected by delivery to the Artist of a Notice of Termination specifying the extent to which performance of work is terminated and the effective date of such termination. If this Agreement is terminated as provided for in this paragraph, the Artist shall be entitled to compensation only for satisfactory work completed up to the effective date of termination.

If after termination of this Agreement or any part thereof for default under "A.1" or "A.2" above it is determined that the Artist was not in default pursuant to "A.1" or "A.2", or that failure to perform satisfactorily is due to causes beyond the control and without fault or negligence on the part of the Artist, the Notice of Termination shall be deemed to have been issued under subparagraph "B" above, and the rights and obligations of the parties involved shall be governed and resolved accordingly.

Upon receipt of a Notice of Termination and except as otherwise directed by the County, the Artist shall stop work under this Agreement on the date and to the extent specified in the Notice of Termination; shall take all necessary or appropriate steps to limit disbursements and minimize costs; and will furnish a report, as of the date of receipt of notice of suspension or termination, of the status of all activities conducted under the terms of this Agreement, including the work effort, funds, results accomplished, conclusions resulting there from and such other matters as the County may require.

*Agreement – Attachment F*

**Design, Create & Construct Playground Structures**

**PUR-1480**

Washington County, Maryland

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Notwithstanding the above, the Artist shall not be relieved of liability to the County for damages sustained by virtue of any breach of this Agreement by the Artist. The County may withhold any payments to the Artist for the purpose of set-off until such time as the exact amount of damages due to the County from the Artist is determined.

## **V. DISPUTES**

Except as otherwise provided in this Agreement, any dispute concerning a question of fact arising under this Agreement which is not disposed of by agreement between the Artist and County shall be decided by the County Administrator, who shall reduce his decision to writing and mail or otherwise furnish a copy thereof to the Artist. Either party may appeal the decision of the County Administrator to any court of competent jurisdiction under the rules for judicial review of agency decisions.

## **VI. AUDITS**

- A. The Artist shall maintain books, records, documents and other evidence directly pertinent to the performance under this Agreement and any Federal, State or local law, rule or regulation, in accordance with accepted professional practice and appropriate accounting procedures and practices. The County, or any of its duly authorized representatives, shall have access to such books, records, documents and other evidence for the purpose of inspection, audit and copying. The Artist will provide proper facilities for such access and inspection.
- B. Audits conducted pursuant to this provision shall be in accordance with generally accepted auditing standards and established procedures and guidelines of the American Institute of Certified Public Accountants. The Artist agrees to the disclosure of all information and reports resulting from access to records pursuant to subparagraph (A) above. Where the audit concerns the Artist, the auditing agency will afford the Artist an opportunity for an audit exit conference and an opportunity to comment on the pertinent portions of the draft audit report. The final audit report will include the pertinent written comments, if any, of the audited parties.
- C. Records under subparagraph (A) above shall be maintained and made available during performance under this Agreement and until three (3) years from the date of final completion of the project contemplated herein. In addition, those records which relate to any dispute or litigation, or the settlement of claims arising out of such performance, or costs or items to which an audit exception has been taken, shall be maintained and made available until three (3) years after the date of resolution of such dispute, litigation, claim or exception.

## **VII. DEFECTIVE WORK**

The performance of services or County acceptance shall not relieve the Artist from the obligation to correct any defective work, whether previously or subsequently noted, and all incomplete, inaccurate or defective work shall be remedied by the Artist on demand, within a reasonable time, and at no cost to the County. "Defective work" may be requested to be repaired up to a period up to twelve (12) months after the substantial completion of the project by the Artist.

## VIII. CHANGES

The County may, from time to time, require changes in the scope of the services of the Artist to be performed hereunder. Any such change, including any increase or decrease in the amount of the compensation to the Artist, shall be incorporated in a written change order to this Agreement and payment or adjustment effected as set forth in Section XIV of this Agreement.

## IX. WAIVERS

The failure of the parties to enforce, at any time, the provisions of this Agreement or to exercise any option that may be provided herein shall in no way be construed to be a waiver of such provisions nor in any way to affect the validity of this Agreement or any part thereof or the right of the parties to enforce thereafter each and every provision.

## X. COUNTY FURNISHED DATA

All information, data, reports, records, and maps as exist and identified by the Artist, available to the County without significant cost, and necessary for the work, shall be furnished to the Artist without charge by the County. The County shall cooperate with the Artist in every reasonable manner in carrying out the planning work, providing, however, that the needs of the Artist for such support are made known to the County in advance of such need.

### DATA RELEASE

The type and quantity of data and work to be provided by the Artist as the product of this effort is defined in the incorporated "Proposal" and/or SCOPE OF WORK, and the County reserves the right to use, duplicate and disclose this data, in whole or in part, in any manner for any purpose whatsoever and to authorize others to similarly do so. The Artist shall not release the results of this work or any drawings or other material pertaining to it without the express written consent of the County except to comply with appropriate State and Federal requirements. In such instances, the Artist shall confer with the County before doing so. Materials approved for release by the Artist cannot be distributed for profit.

The Artist may publish information pertaining only to its services rendered under this Agreement but shall not release copies of its documentation or final report to any other parties without the prior written approval of the County.

## XI. PAYMENT

The Artist hereby agrees to undertake the project for the following Hourly Rates as set forth in the "RFP" and the "Proposal":

- A. Artist (Design) – Hourly Rate: Standard Rate: \_\_\_\_\_ /hr.
- B. Artist (carving/construction) – Hourly Rate: Standard Rate: \_\_\_\_\_ /hr.
- C. Artist (Onsite Sawmill Processing) – Hourly Rate: Standard Rate: \_\_\_\_\_ /hr.



County-directed adjustments in direction or emphasis of the work effort will not be considered as adequate justification for cost re-negotiation, provided such adjustments do not constitute change in the general scope of the project.

In the event that changes in the general scope of effort are mutually agreed upon by the parties, the degree of change of scope in terms of man-hours (amount and type) will be negotiated to a satisfactory solution between the parties and payment or credit for this adjustment will be made part of this Agreement by written change order to the purchase order to this Agreement.

## **XII. METHOD OF PAYMENT**

The Artist will, at a designated time each month, submit on its standard form an invoice for his services rendered. The invoices shall indicate the total amount due for each discipline, showing hours multiplied by hourly rates. In addition, the Artist shall submit a monthly report that shall indicate progress during the billing period of each of the principal tasks, and the status of the various work products that the Artist is required to furnish as part of the Agreement.

The Artist shall submit the original and two (2) copies of the invoice directly to the person and address established as the primary contact for the task being invoiced. This invoice will be reviewed and verified for work accomplished as set forth in the statement of work and schedule (Sections II and III of this Agreement) and, when certified as acceptable, will be forwarded to the County Office of Budget & Finance for payment.

In event of dispute or defective work (Section V and VII of this Agreement), the County reserves the right to withhold payment until such time as the dispute is resolved, the defective work corrected, or settlement is achieved through other means.

## **XIII. PERSONNEL**

The Artist represents that it has or will secure, at its own expense, all necessary personnel required to perform the services under this Agreement. Such personnel shall not be employees of or have any contractual relationship with agencies providing funds for the project.

## **XIV. EQUAL EMPLOYMENT**

The Artist agrees and affirms that it accepts and will conform to Maryland anti-discrimination law, as follows:

The Artist shall not:

- (1) fail or refuse to hire or to discharge any individual, or otherwise to discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individual's race, color, religion, sex, sexual orientation, age, national origin, marital status, or disability unrelated in nature and extent so as to reasonably preclude the performance of the employment; or

(2) limit, segregate or classify his employees or applicants for employment in any way which would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect his status as an employee, because of the individual's race, color, religion, sex, sexual orientation, age, national origin, marital status, or disability unrelated in nature and extent so as to reasonably preclude the performance of the employment. In addition, the Artist further certifies that it now complies and will continue to comply with all Federal, State and local laws and regulations pertaining to equal opportunity and equal employment practices.

## **XV. CONFLICT OF INTEREST**

- A. No officer or employee of the County and no member of its governing body, and no other public official of the governing body of the locality or localities in which the work is situated or being carried out, or of other local public agencies, who exercises any functions or responsibilities in review or approval of the undertaking or carrying out of this work, during his tenure or one year thereafter shall have any personal interest, direct or indirect, apart from his official duties, in this Agreement or the proceeds thereof.
- B. The Artist covenants that it has presently no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of services required to be performed under this Agreement. The Artist further covenants that in the performance of this Agreement no person having such interest shall be employed.

## **XVI. EXECUTION OF AGREEMENT**

This Agreement may be simultaneously executed in several counterparts, each of which shall be deemed to be an original having identical legal effect. This Agreement shall be construed to bind the parties hereto in accordance with the Constitution and laws of the State of Maryland.

## **XVII. COUNTY SAVED HARMLESS/INSURANCE REQUIRED**

- A. Professional Liability

The Artist shall defend, indemnify and save the County harmless from all claims, suits, judgments, expenses, actions, damages and costs of every name and description arising out of or resulting from the negligent performance of the professional services of the Artist, its servants or agents, under this Agreement.

Monies to become due the Artist under the Agreement as may be considered necessary by the County shall be retained by the County until such suits or claims for damages shall have been settled or until the Artist furnishes to the County satisfactory evidence of insurance coverage with respect to such suits or claims.

- B. General Liability

The Artist shall defend, indemnify and save the County harmless from all claims, suits, judgments, expenses, actions, damages and costs of every name and description to which the

County may be subject or put by reason of injury to persons (bodily injury, including death, or any personal injury) or property damage as a result of its work, caused or alleged to be caused by negligence or fault on the part of the Artist, its servants, or agents (other than that arising out of Artist's professional services). Monies to become due the Artist under the Agreement as may be considered necessary by the County shall be retained by the County until such suits or claims for damages shall have been settled or until the Artist furnishes to the County satisfactory evidence of insurance coverage with respect to such suits or claims.

- C. The Artist will not hold the County liable for any injuries to employees, servants, agents, subcontractors or assignees of the Artist arising out of or during the course of services relating to this Agreement.
- D. The Artist will provide to the County evidence of insurance coverage satisfactory to the County.

#### **XVIII. COVENANT AGAINST CONTINGENT FEES**

The Artist warrants that it has not employed or retained any person, partnership, corporation, or other entity, other than a bona fide employee working for the Artist, to solicit or secure this Agreement, and that he has not paid or agreed to pay any person, partnership, corporation, or other entity, other than a bona fide employee, any fee or any other consideration contingent on the making of this Agreement. For breach or violation of this warranty the County shall have the right to terminate this Agreement without liability, or, in its discretion, to deduct from the Agreement price or consideration, or otherwise recover the full amount of such fee, commission, percentage, brokerage fee, gift or contingent fee.

#### **XIX. SUBCONTRACTING OR ASSIGNMENT**

The benefits and obligations hereunder shall inure to and be binding upon the parties hereto and their respective successors, provided that any such successor to the Artist, whether such successor be an individual, partnership, corporation, or other legal entity is acceptable to the County, and neither this Agreement nor the services to be performed thereunder shall be subcontracted, assigned or otherwise disposed of, either in whole or in part, except with the prior written consent of the Department.

#### **XX. DELAYS AND EXTENSIONS OF TIME**

The Artist agrees to prosecute the work continuously and diligently and no charges or claims for damages shall be made by it for any delays or hindrances, from any cause whatsoever during the progress of any portion of the services specified in this Agreement. Such delays or hindrances, if any, may be compensated for by an extension of time for such reasonable period as the County may decide. Time extensions will be granted only for excusable delays such as delays beyond the control and without the fault or negligence of the Artist.

**XXI. CHANGES, ALTERATIONS OR MODIFICATIONS IN THE SERVICES**

The County shall have the right, at its discretion, to change, alter or modify the services provided for in this Agreement and such changes, alterations or modifications may be made even though it will result in an increase or decrease in the services of the Artist or in the cost thereof. Such changes, alterations or modifications to the services provided for in this Agreement shall be made by written change orders.

Any such change, alteration or modification which either separately or in combination results in a change in the scope of services or an increase in the amount payable to the Artist will be processed by a written change order requisition and is effective only when the change order is issued.

**XXII. AVAILABILITY OF DATA**

Each party hereto shall make available to the other party, without cost, all nonproprietary technical data under its control reasonably necessary to the performance of the services required under this Agreement.

**XXIII. OWNERSHIP OF DOCUMENTS**

The Artist agrees that all data including but not limited to drawings, specifications, prepared by or for it under the terms of this Agreement shall at any time during the performance of the services be made available to the County upon request and shall become and remain the property of the County upon termination or completion of the services. The County shall have the right to use the same without restriction or limitation and without compensation to the Artist other than that provided in the Agreement.

**XXIV. DISSEMINATION OF INFORMATION**

During the term of this Agreement, the Artist shall not release any information related to the performance of the services under this Agreement nor publish any final documents without the prior written approval of the County.

**XXV. SANCTIONS UPON IMPROPER ACTS**

If the Artist, or any of its officers, partners, principals, members or agents, or if an employee of the Artist acting with its acquiescence, is convicted of a crime arising out of or in connection with the procurement of this Agreement or the services or any payment under it, the Agreement may be terminated as provided in Section IV. In the event of a conviction occurring after the expiration or termination of this Agreement, the Artist shall be liable for the refund of all fees or profit paid under the Agreement. The rights and remedies set forth herein shall be in addition to, and the exercise thereof shall in no way be considered or construed as a waiver of, any other rights or remedies granted or available to the County.

**XXVI. RESPONSIBILITY OF ARTIST**

A. The Artist shall perform the services with that standard of care, skill, and diligence normally provided by an Artist in the performance of services similar to the services hereunder.

B. If the Artist fails to perform the services, or any part of the services, in conformance with the standards set forth in subparagraph A above, and such failure is made known to the Artist within two (2) years after expiration of this Agreement, it shall, if required by the County, perform at its own expense and without additional cost to the County, those services necessary for the correction of any deficiencies or damage resulting, in whole or in part, from the Artist's failure. This obligation is in addition to and not in substitution for other remedies available to the County under Section IV.

## **XXVII. CHOICE OF LAW**

- A. This Agreement was made and entered into in Maryland and is to be construed under the laws of Maryland. As to the Artist, this Agreement is intended to be a contract under seal and a specialty.
- B. The laws of Maryland and Washington County shall govern the resolution of any issue arising in connection with this Agreement, including, but not limited, to all questions concerning the validity of this Agreement, the capacity of the parties to enter therein, any modification or amendment thereto, and all rights and obligations of the parties hereunder.

## **XXVIII. COMPLIANCE WITH LAWS**

The Artist hereby represents and warrants:

- A. That it is qualified to do business in the State of Maryland and that it will take such action as, from time to time hereafter, may be necessary to remain so qualified;
- B. That it is not in arrears with respect to the payment of any monies due and owing the County, or any department or agency thereof, including but not limited to the payment of taxes and employee benefits, and that it shall not go into arrears during the term of this Agreement;
- C. That it shall comply with all Federal, State and local laws, ordinances, and legally enforceable rules and regulations applicable to its activities and obligations under this Agreement;
- D. That it shall procure, at its expense, all licenses, permits, insurance and governmental approval, if any, necessary to the performance of its obligations under this Agreement;
- E. That the facts and matters set forth hereafter in the Affidavit and Signature Page attached to this Agreement and made a part hereof are true and correct.

In addition to any other remedy available to the County, breach of any of subparagraphs A through E of this Section shall, at the election of the County, be grounds for termination as provided for in Section IV, provided, however, that failure of the County to terminate this Agreement shall not be considered or construed as a waiver of such breach nor as a waiver of any rights or remedies granted or available to the County.

**XXIX. NOTICE OF POLITICAL CONTRIBUTIONS**

The Artist agrees, in accordance with Md. Code, State Finance and Procurement Article, §17- 402, to comply with the political contribution reporting requirements under Md. Code, Article 33, Subtitle 14, as amended from time to time, to which the Artist may be subject.

IN WITNESS WHEREOF, the parties have caused this **Agreement PUR-1480** to be executed on \_\_\_\_\_, 2020, by affixing hereon their respective seals and signatures of the proper officers.

APPROVED AND AGREED TO:

ATTEST:

\_\_\_\_\_  
Secretary

BY: \_\_\_\_\_ (SEAL)

\_\_\_\_\_  
Name

\_\_\_\_\_  
Title

Address: \_\_\_\_\_  
\_\_\_\_\_

ATTEST:

\_\_\_\_\_  
Krista Hart, Clerk

BOARD OF COUNTY COMMISSIONERS  
OF WASHINGTON COUNTY, MARYLAND

BY: \_\_\_\_\_  
Jeffrey A. Cline, President

Recommended for approval:

\_\_\_\_\_  
Andrew Eshleman, P.E., Director  
Division of Public Works

APPROVED FOR LEGAL SUFFICIENCY:

\_\_\_\_\_  
Kirk C. Downey  
County Attorney

*Agreement – Attachment F*

**Design, Create & Construct Playground Structures  
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