

ARLINGTON COUNTY, VIRGINIA
OFFICE OF THE PURCHASING AGENT
2100 CLARENDON BOULEVARD, SUITE 500
ARLINGTON, VIRGINIA 22201

NOTICE OF CONTRACT AWARD

TO: MICHELLE MARIE SMITH	DATE ISSUED:	12/31/19
1121 NORTH TAYLOR STREET, APT B	CONTRACT NO:	20-742-EP
ARLINGTON, VA 22201	CONTRACT TITLE:	MICHELLE MARIE SMITH ART BUS

THIS IS A NOTICE OF AWARD OF CONTRACT AND NOT AN ORDER. NO WORK IS AUTHORIZED UNTIL THE VENDOR RECEIVES A VALID COUNTY PURCHASE ORDER ENCUMBERING CONTRACT FUNDS.

The contract documents consist of the terms and conditions of AGREEMENT No. 20-742-EP including any attachments or amendments thereto.

EFFECTIVE DATE: DECEMBER 31, 2019

EXPIRES: JULY 31, 2021

RENEWALS: N

COMMODITY CODE(S): 90948

LIVING WAGE: N

ATTACHMENTS:

AGREEMENT No. 20-742-EP

EMPLOYEES NOT TO BENEFIT:

NO COUNTY EMPLOYEE SHALL RECEIVE ANY SHARE OR BENEFIT OF THIS CONTRACT NOT AVAILABLE TO THE GENERAL PUBLIC.

<u>VENDOR CONTACT:</u> MICHELLE MARIE SMITH	<u>VENDOR TEL. NO.:</u>	<u>(206) 473-9506</u>
<u>EMAIL ADDRESS:</u> STUDIOCORNIX@GMAIL.COM		
<u>COUNTY CONTACT:</u> CYNTHIA CONNOLLY, AED	<u>COUNTY TEL. NO.:</u>	<u>(703) 228-0818</u>
<u>COUNTY CONTACT EMAIL:</u> CCONNOLLY@ARLINGTONVA.US		

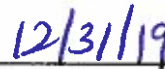
PURCHASING DIVISION AUTHORIZATION



Title



Date



ARLINGTON COUNTY, VIRGINIA

STANDARD FORM AGREEMENT No. 20-742-EP

THIS AGREEMENT ("Agreement") is made on the date of execution by the County between the COUNTY BOARD OF ARLINGTON COUNTY, VIRGINIA ("County") and Michelle Marie Smith, with a principal place of business located at 1121 North Taylor Street, Apartment B, Arlington, VA 22201 ("Contractor").

1. The Contractor agrees to provide the following goods or services:

Provision of drawings for postcards, Arlington Art Bus, per EXHIBIT A – SCOPE OF WORK

2. The County will have no obligation to the Contractor if no goods or services are required.
3. The Contractor's provision of these goods or services is subject to review and approval by the County's Project Officer.
4. The Contractor shall provide the goods or services covered by the Contract beginning on the date of execution. Unless terminated as provided below, the Agreement shall continue until July 31, 2021.
5. The County will pay the Contractor, for services or goods that the Project Officer accepts, \$3,700.00, as honorarium to produce the Artwork (Work), and provide final scans for promotional and print purposes. The Contractor shall be paid \$65.00 per hour, while working on-site County events. The total project cost shall not exceed \$8,900.00. The County will pay the Contractor net 30 days from receipt of an invoice that the Project Officer approves for payment.
6. The Contractor is an independent contractor, and the County will not withhold from the Contractor's compensation any federal or Virginia unemployment taxes, federal or Virginia income taxes, Social Security tax or any other amounts for benefits to the Contractor or its agents or employees.
7. The Contractor is obligated to take one of the two following actions within seven (7) days after receipt of amounts paid to the Contractor by the County for work performed by any subcontractor under this Agreement:
 - a. Pay the subcontractor for the proportionate share of the total payment received from the County attributable to the work performed by the subcontractor under this Agreement; or

- b. Notify the County and the subcontractor, in writing, of the Contractor's intention to withhold all or a part of the subcontractor's payment, with the reason for nonpayment.

The Contractor is obligated to pay interest to any subcontractor on all amounts owed by the Contractor to the subcontractor that remain unpaid after seven (7) days following receipt by the Contractor of payment from the County for work performed by the subcontractor under this Agreement, except for amounts withheld as allowed in section b., above. Unless otherwise provided under the terms of this Agreement, interest shall accrue at the rate of one percent (1%) per month.

The Contractor shall include in each of its subcontracts a provision requiring each subcontractor to include or otherwise be subject to the same payment and interest requirements as those contained in this Agreement with respect to each lower-tier subcontractor.

The Contractor's obligation to pay an interest charge to a subcontractor pursuant to the above provisions may not be construed to be an obligation of the County. A Contract modification may not be made for the purpose of providing reimbursement for such interest charge. A cost reimbursement claim may not include any amount for reimbursement for such interest charge.

8. The County may terminate this Agreement by 30 days' written notice whenever the Purchasing Agent determines that termination is in the County's best interest. The Contractor will be entitled to receive compensation for all goods or services that the County accepted before the termination notice.
9. The County may terminate this Agreement by 48 hours' written notice if the Contractor fails to provide satisfactory goods or services, in the determination of the Project Officer. The notice will be effective upon receipt by the Contractor or three days after the County mails the notice, whichever is sooner. The Contractor will be entitled to receive compensation only for goods or services that the County accepted before the County mailed the notice. The Contractor will be liable to the County for all costs that the County incurs after the termination takes effect to complete the Work covered by the Contract, including delay costs and costs to repair or replace any unsatisfactory work. The County may deduct these costs from any amount that it owes the Contractor or require that the Contractor pay the costs on demand.
10. Time is of the essence and the Contractor agrees that failure to provide timely service will render this Agreement null and void.
11. The Contractor must provide a certificate of proof of the insurance coverages before the start of work:
 - Commercial General Liability (CGL)- \$500,000 combined single limit with \$1,000,000 aggregate coverage to include Personal Injury, Completed

Operations, Contractual Liability and, where applicable to the services, Products and Independent Contractors. "The County Board of Arlington County, Virginia, and its officers, employees and agents" must be additional named insureds on the CGL policy.

The artwork is insured by the County, when the artwork is in the sole custody of the County, in storage in a County building or in the Arlington Art Truck, during transportation or parked in storage. The total value cannot exceed the total cost to fabricate the Artwork and banners. During activations with the Arlington Art Truck and the Contractor, the Artwork is considered to be the joint custody of both the County and the Contractor.

12. The Contractor agrees as follows:

- a. The Contractor will not discriminate against any employee or applicant for employment because of race, religion, color, sex, sexual orientation, national origin, age, disability or on any other basis prohibited by Virginia or federal law and must post in this nondiscrimination clause in conspicuous places, available to employees and applicants for employment.
- b. The Contractor must state that it is an Equal Opportunity Employer in all solicitations or advertisements for employees that it places or causes to be placed.
- c. Notices, advertisements and solicitations placed in accordance with federal law, rule or regulation shall meet the requirements of this section.
- d. The Contractor must include the provisions of the foregoing paragraphs a), b), and c) in every subcontract or Purchase Order in excess of \$10,000.00, so that the provisions will be binding upon each subcontractor and/or supplier.

13. The Contractor must comply with the provisions of the Americans with Disabilities Act of 1990, which prohibits discrimination against individuals with disabilities in employment and mandates their full participation in publicly- and privately-provided services and activities.

14. The Contractor must (i) provide a drug-free workplace for the Contractor's employees; (ii) post in conspicuous places, available to employees and applicants for employment, a statement notifying employees that the unlawful manufacture, sale, distribution, dispensation, possession, or use of marijuana or any other controlled substance is prohibited in the Contractor's workplace and specifying the actions that will be taken against employees for violations of such prohibition; (iii) state in all solicitations or advertisements for employees placed by or on behalf of the Contractor that the Contractor maintains a drug-free workplace; and (iv) include the provisions of the foregoing clauses in every subcontract or purchase order in excess of \$10,000.00, so that the provisions will be binding upon each subcontractor or supplier. For the purposes of this section, "drug-free workplace" means a site for the performance of

work done in connection with this Agreement.

15. The Contractor acknowledges that it does not, and will not during the performance of this Agreement, knowingly employ an unauthorized alien as defined in the federal Immigration Reform and Control Act of 1986.
16. This Agreement is governed by the Arlington County Purchasing Resolution, which is incorporated by reference. The time limit for decision by the County Manager in Contractual Disputes, as that term is used in the Purchasing Resolution, is thirty (30) days.
17. This Agreement is not effective until the County issues a valid County Purchase Order covering the amount of the Agreement.
18. All payments by the County to the Contractor pursuant to this Contract are subject to the availability of an annual appropriation for this purpose by the County Board of Arlington County, Virginia ("Board"). In the event that the Board does not appropriate funds for the goods or services provided under this Contract, the County will terminate the Contract, without termination charge or other liability to the County, on the last day of the fiscal year or when the previous appropriation has been spent, whichever event occurs first.
19. This Contract incorporates by reference Article 9 of the Arlington County Purchasing Resolution, as well as all state and federal laws related to ethics, conflicts of interest or bribery, including the State and Local Government Conflict of Interests Act (Code of Virginia § 2.2-3100 et seq.), the Virginia Governmental Frauds Act (Code of Virginia § 18.2-498.1 et seq.) and Articles 2 and 3 of Chapter 10 of Title 18.2 of the Code of Virginia, as amended (§ 18.2-438 et seq.). The Contractor certifies that its proposal was made without collusion or fraud; that it has not offered or received any kickbacks or inducements from any other offeror, supplier, manufacturer or subcontractor; and that it has not conferred on any public employee having official responsibility for this procurement any payment, loan, subscription, advance, deposit of money, services or anything of more than nominal value, present or promised, unless consideration of substantially equal or greater value was exchanged.
20. No Arlington County employee may share in any part of this Contract or receive any benefit from the Contract that is not available to the general public.
21. The County does not discriminate against faith-based organizations.
22. The Contractor and its employees, agents and subcontractors will hold as confidential all County Information that they obtain under this Agreement. Confidential Information includes, but is not limited to, nonpublic personal information; personally identifiable health information; security numbers; addresses; dates of birth; information pertaining to products, operations, systems, customers, prospective customers, techniques, intentions, processes, plans and expertise. The Contractor must take reasonable

measures to ensure that all of its employees, agents, and subcontractors are informed of and abide by this requirement.

23. The Contractor must comply with the provisions of Chapter 11 of the Arlington County Code covering business licenses as applicable.
24. The Contractor must remain authorized to transact business in the Commonwealth of Virginia during the term of this Agreement.
25. This Agreement is governed in all respects by the laws of the Commonwealth of Virginia, and the jurisdiction and venue for any litigation is in the Circuit Court for Arlington County, Virginia, and in no other court.
26. The Contractor covenants for itself, its employees and its subcontractors to save, defend, hold harmless and indemnify the County and all of its elected and appointed officials, officers, current and former employees, agents, departments, agencies, boards and commissions (collectively the "County Indemnitees") from and against any and all claims made by third parties for any and all losses, damages, injuries, fines, penalties, costs (including court costs and attorneys' fees), charges, liability, demands or exposure resulting from, arising out of or in any way connected with the Contractor's acts or omissions, including the acts or omissions of its employees and/or subcontractors, in performance or nonperformance of the Contract. This duty to save, defend, hold harmless and indemnify will survive the termination of this Contract. If the Contractor fails or refuses to fulfill its obligations contained in this section, the Contractor must reimburse the County for any and all resulting payments and expenses, including reasonable attorneys' fees. The Contractor must pay such expenses upon demand by the County, and failure to do so may result in the County withholding such amounts from any payments to the Contractor under this Contract.
27. Notices will be effective when made in writing and either (a) delivered in person, (b) delivered to an overnight delivery service or (c) deposited in the United States mail, certified or registered. Notices should be addressed as follows:

TO THE CONTRACTOR:

Michelle Marie Smith
1121 North Taylor Street, Apartment B
Arlington, VA 22201

TO THE COUNTY:

Cynthia Connolly, Project Officer
Arlington County, Virginia
Arlington Economic Development
1100 N. Glebe Road, Suite 1500
Arlington, VA 22201

AND

Arlene Palmer, Procurement
Arlington County, Virginia
2100 Clarendon Boulevard, Suite 500A
Arlington, Virginia 22201

28. The Contractor must retain all books, records and other documents related to this Contract for at least five years after the final payment and must allow the County or its authorized agents to examine the documents during this period and during the Contract Term. The Contractor must provide any requested documents to the County for examination within 15 days of the request, at the Contractor's expense. Should the County's examination reveal any overcharging by the Contractor, the Contractor must, within 30 days of County's request, reimburse the County for the overcharges and for the reasonable costs of the County's examination, including, but not limited to, the services of external audit firm and attorney's fees; or the County may deduct the overcharges and examination costs from any amount that the County owes to the Contractor. If the Contractor wishes to destroy or dispose of any records related to this Contract (including confidential records to which the County does not have ready access) within five years after the final payment, the Contractor must give the County at least 30 days' notice and must not dispose of the documents if the County objects.
29. Notwithstanding any provision of this Contract to the contrary, the Contractor retains all rights under the Copyright Act of 1976, 17 USC §§ 101 et seq., and all other rights in and to the design proposal and the Artwork. The Contractor grants the County an irrevocable, non-exclusive, transferable license to make two-dimensional reproductions of the Artwork for noncommercial purposes in perpetuity. For purposes of this Agreement, the following shall be deemed to be reproductions for non-commercial purposes:

Reproductions in exhibition catalogues, books, slides, photographs in art magazines, art books, and art and news sections of newspapers; in general books and magazines not primarily devoted to art but of an educational, historical or critical nature; slides and film, video, or digital pieces used in public buildings, website, or otherwise intended for public, noncommercial consumption, and television from stations operated for educational purposes or on programs for educational purposes from all stations. Since the Artwork will be located in a public space, its incidental appearance or use in images, videos, or films of events using space shall not be considered commercial use. The Contractor warrants to the County that the Contractor has full copyright vis-à-vis the artwork. The Contractor indemnifies and holds harmless the County from and against any liability, including the costs of claims, demands, threatened litigation or actual litigation, including damages and the County's and the Contractor's attorneys' fees, arising out of any allegation or claim by any individual, institution or other entity claiming full or partial title to, or intellectual property right, including copyright, in any or all of the artwork or any reproduction thereof, arising

under the laws of the United States of America, international law, treaty or convention, the Commonwealth of Virginia, or common law.

- 30. The Contractor shall not assign or transfer this Agreement, or any of its rights or interests, without the County's prior written consent.
- 31. This Agreement may be modified only by written amendment.
- 32. All remedies available to the County under this Agreement are cumulative, and no remedy is exclusive of any other that is available to the County at law or in equity.
- 33. The sections, paragraphs, sentences, clauses and phrases of this Agreement are severable; and if any part is held to be invalid, the rest of the Agreement will remain in effect.

IN WITNESS WHEREOF, THE PARTIES HERETO HAVE AFFIXED THEIR SIGNATURES.

THE COUNTY BOARD OF ARLINGTON COUNTY, VIRGINIA

SIGNED: 

ARLENE PALMER

PROCUREMENT

DATE: 12/31/19

MICHELLE MARIE SMITH

SIGNED: 

PRINTED NAME: Michelle "Shelly" Smith

PRINTED TITLE: _____

DATE: 12/18/2019

EXHIBIT A – SCOPE OF WORK

The Contractor will create five (5) designs, for ten (10) postcards, that will be printed in both color and black and white. The drawings will be based off her findings of microscopical living creatures in each of the five (5) bodies of water in Arlington, and each body of water listed below, shall have one (1) design based off of it:

- A Bog (Barcroft Bog, for example);
- Vernal Pool or Pond (Bluemont Cattail Pond, for example);
- Spring (Carlin Spring or Moses Ball Spring, for example);
- Creeks and Runs (Four Mile Run, for example);
- River (Potomac River, for example)

Each postcard will celebrate the unique waterways, by illustrating the microscopical living creatures in various designs lending a “souvenir” style aesthetic (Title of Project: *Greetings from our Microbiome!*) The Contractor shall conduct on-site presentations to discuss her findings, share more findings by showing samples in a microscope, and help visitors water color the postcards for them to take away. This project is designed to implement outdoors at the Farmer’s Markets, sidewalks and parks in the County. The interaction with the Contractor and visitor can last from three to thirty (3 - 30) minutes. The goal is to provide the public with a quick artist-designed project to expose disparate visitors to creativity that will connect on multiple levels of civic engagement, expose and educate them to services provided by the community partner, Arlington County’s Office of Sustainability and Environmental Management, who is selected in theme with the art making project.

The Contractor will:

- Create artwork for ten (10) different postcards: This will be done by creating five (5) original drawings. Each drawing will be created in a black and white line drawing AND a color version, for a total of ten (10) different works of art. The reverse side of the postcards will contain text provided by the County Project Officer. These ten (10) final artworks will be made in a digital format acceptable, as indicated, by the printer selected by the County Project Officer;
- Provide a microscope for visitors to use with assistance from the Contractor. The Contractor shall have water specimens available for the visitors to view;
- Provide photographs of previous microbes with bodies of water labeled for each microbe or microplastic found;
- Guide visitors to watercolor cards and discuss topics contained on cards;
- Load and unload the Arlington Art Truck;
- Oversee and manage visitors with a quick interactive project encouraging people to take postcards, observe microbiomes via microscope, water color postcards and engage visitors with community partner;
- Meet the County Project Officer at each site on dates specified by the County where the Contractor will oversee and interact with visitors;
- Perform up to ten (10) activations between June and August, 2020;

- Design and paint banners to be hung on tent at flounce edge of Pop-up tent. Final designs and size must be approved by County Project Officer;
- Provide display pockets with postcards sewn to pockets to be hung at two (2) different locations within the tent, the design must be cohesive with the painted banners;
- Provide images used for promotional purposes and outlined in timeline below;
- Provide supplies as follows for the activations: Compound demonstration microscope, master samples from local sources that relate to the water illustrated in the postcards, supplies for demonstration, including blank slides, cover slips, scientific quality sample bottles, pipettes, safe sample disposal materials that include bleach and wipes;

Activations shall:

- be approximately four (4) hours each and the Contractor shall perform up to three (3) activations at an event for up to ten (10) hours, per activation. Once dates are determined, they will be confirmed with the Contractor and County Project Officer by email;

Contractor agrees to the following:

- The Contractor is paid a one-time payment of \$3700 as honorarium to produce the Artwork (inclusive of supplies and materials), and provide final scans for promotional and print purposes, to the County Project Officer;
- The Contractor will be paid an hourly rate of \$65.00, while working on site ("site activation & set up") for events with the County Project Officer (this excludes breaks or lunch);
- The Contractor must arrive 30 minutes before site activation for set-up and stay 30 minutes after presentation for breakdown. The County Project Officer reserves the right to change this requirement after Arlington Art Truck activations occur, if a need for revision is observed. The Contractor shall be notified of any changes via email, phone or text;
- The Contractor will pay for his or her parking and/or transportation to and from activation location;
- The County has the right to reproduce images of the artwork for promotional purposes;
- If the Contractor cannot be in attendance at a scheduled activation, due to an unforeseen occurrence, the activation will continue as planned with additional staff provided by the County. The Contractor will not be paid for those hours of the activation, when not in attendance.

County will provide:

The Arlington Art Truck containing these supplies and equipment:

- One (1) pop up tent;
- A-frame signs to promote activation on site;
- One (1) or more staff person/s to assist the Contractor and community partner, variable on each event;
- Additional supplies, if needed and within reason, through guidance of the Contractor, up to \$500 in expenditures;
- Extension cord of up to 20 feet, for outdoor use, and electricity from batteries stored on Truck;
- Two (2), 6' tables and eight (8) chairs, if needed;
- Supplies, artwork contained in Arlington Art Truck and brought to each activation site:
 - Printed postcards, 10 designs provided by Contractor;
 - Water color supplies that include cups, brushes, water, paints, colored pencils;
 - Postage for visitors, for one (1) postcard per visitor, if they choose to utilize postage for up to a limit of \$350.00 in total.

Timeline is as follows:

January 6, 2020:

- illustrations, black and white versions of illustrations are emailed to County Project Officer (cconnolly@arlingtonva.us) for review and approval.

January 15, 2020: color versions of postcards sent to County Project Officer (cconnolly@arlingtonva.us) for review and approval.

- Contractor shall provide the following to be used for promotional purposes:
 - Eight (8) high resolution images of artwork commissioned for the Truck
 - Five (5) high resolution images of other work by Contractor;
 - Photograph of Contractor;
 - Two (2) short videos (1-2 mins) showing creation of project;
 - Each image must have titles, materials used (if applicable) and image credit;

January 15, 2020: text finished for postcards and sent to Contractor to incorporate into final draft of postcard artwork;

January 22, 2020: review final digital artwork for postcards with the County, response will take up to two weeks from the County with possible multiple edits and reviews with Contractor;

February 11, 2020: final files produced and ready for upload to printer.

Early March, 2020: The County uploads and sends to print final digital files for postcards;

March, 2020: Arlington Art Truck cartouche for Pop-up tent is created by the Contractor with approval of the County Project Officer. Microscope, display pockets and supplies purchased by the Contractor;

April 14, 2020: Mock set up - 3700 South Four Mile Run, Arlington, VA 22206, 5pm: Contractor must have entire project completed and bring all supplies. The County Project Officer will provide tables, tent, chairs and indoor space to perform mock set-up;

May 31 - August, 2020: Activations will take place in the County. Exact dates will be determined at a later date and must be approved by the County Project Officer and Contractor;

Cancellation Terms:

During the contracted dates, the Contractor will perform six to ten (6-10) activations (on average, one per week) of up to six (6) hours, additionally, up to three (3) festival events of up to 10 hours. Activations that are cancelled with the approval of the Project Officer will be rescheduled during the contracted time period, unless the County determines that rescheduling is not possible. In the event that this rescheduled activation is cancelled for a second time, the Contractor will be paid in full for that activation and will be counted as one (1) scheduled activation against the total scheduled activations. The Contractor agrees that if an event or activation is cancelled due to repair of Artwork commissioned for the County under this contract, the Contractor will re-schedule the event for a date to be approved by the County Project Officer. This date may fall outside of the six to ten (6-10) week scheduled timeline for this project.

Cancellation of event will be determined as follows:

- Morning events (9am-12noon): cancellation will be decided by 7am the same day.
- Afternoon events (12noon-5pm) cancellation will be decided by 9am the same day.
- Evening events (5-10pm): cancellation will be decided by Noon the same day.
- Cancellation will be determined by County Project Officer or other assigned County staff.
- County Project Officer will notify Contractor by email, text or phone.

Marketing and Promotion:

- All photographs and videos taken during Art Truck events are the property of Arlington County and may be used for marketing in print media, social media, web.
- Artwork commissioned for the Arlington Art Truck cannot be displayed to the public before the Arlington Art Truck scheduled activations.
- Before printing any final artwork or marketing materials, Artwork must be approved by the County Project Officer and County Marketing Director.
- Logos will be provided by Arlington Cultural Affairs.

- When posting to social media, these hashtags are required for this project:
#arlingtonarts #arttruckarlington
- If the Artwork is displayed or used outside the Arlington Art Truck project – after the initial Art Truck activations- credit shall be given to the County in such form: An original artwork created for Arlington County, Virginia as part of the Arlington Art Truck program.