

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

**NOTICE OF CONTRACT AWARD**

TO: GREGORY STEWART	DATE ISSUED:	2/10/2020
116 MONUMENT AVENUE	CONTRACT NO:	20-744-EP
HARRISONBURG, VA 22801	CONTRACT TITLE:	GREGORY STEWART – ARLINGTON ART TRUCK

**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. 20-744-EP including any attachments or amendments thereto.

**EFFECTIVE DATE:** FEBRUARY 10, 2020  
**EXPIRES:** NOVEMBER 30, 2022  
**RENEWALS:** NO  
**COMMODITY CODE(S):** 5303059, 9094800  
**LIVING WAGE:** N

**ATTACHMENTS:**  
AGREEMENT NO. 20-744-EP

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

<b><u>VENDOR CONTACT:</u></b> GREGORY STEWART	<b><u>VENDOR TEL. NO.:</u></b>	<b><u>(540) 209-4306</u></b>
<b><u>EMAIL ADDRESS:</u></b> STEWARGK@JMU.EDU		
<b><u>COUNTY CONTACT:</u></b> CYNTHIA CONNOLLY, AED	<b><u>COUNTY TEL. NO.:</u></b>	<b><u>(703) 228-0818</u></b>
<b><u>COUNTY CONTACT EMAIL:</u></b> CCONNOLLY@ARLINGTONVA.US		

**PURCHASING DIVISION AUTHORIZATION**



Title

Buyer

Date

2/10/2020

## ARLINGTON COUNTY, VIRGINIA

### STANDARD FORM AGREEMENT No. 20-744-EP

**THIS AGREEMENT** ("Agreement") is made on the date of execution by the County between the COUNTY BOARD OF ARLINGTON COUNTY, VIRGINIA ("County") and Gregory Stewart, with a principal place of business located at 116 Monument Avenue, Harrisonburg, VA 22801 ("Contractor").

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

Interactive project(s) for the Arlington Art Truck, Fall 2020 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 by the County. Unless terminated as provided below, the Agreement shall continue until November 30, 2022.
5. The County will pay the Contractor, for services or goods that the Project Officer accepts, in accordance with Attachment A, Payment Schedule, \$5090.00, as honorarium, time and materials to develop the project. The Contractor shall be paid \$65.00 per hour while working on-site County events. Additionally, each of two subcontractors shall be paid \$12.00 per hour while working County events. The total project value is not to exceed \$11,186.50. The County will pay the Contractor net 45 days from receipt of an invoice that the Project Officer approves for payment.

Additional activations may be negotiated under separate quotation provided by the Contractor, during the contract period, with hourly rates not to exceed \$65.00/hr. The County Project Officer will negotiate with the Contractor availability and fees for booking any additional date(s), which will be documented via Contract amendment. This agreement does not guarantee that additional dates will be offered.

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 and equipment are 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. 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:**

Gregory Stewart  
116 Monument Avenue  
Harrisonburg, VA 22801  
540-209-4306  
stewargk@jmu.edu

**TO THE COUNTY:**

Cynthia Connolly, Project Officer  
Arlington Economic Development  
1100 N Glebe Rd, Suite 1500  
Arlington, Virginia 22201  
(703) 228-0818  
cconnolly@arlingtonva.us

**AND**

Arlene Palmer, Procurement  
Arlington County, Virginia  
2100 Clarendon Boulevard, Suite 500A  
Arlington, Virginia 22201  
(703) 228-3554  
ampalmer@arlingtonva.us

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 Artist 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 Artist 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, websites, or otherwise intended for public, noncommercial consumption, and television from stations operated for educational purposes or on programs for educational purposes from all stations, and social media. 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 Artist warrants to the County that the Artist has full copyright vis-à-vis the artwork. The Artist 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 Artist'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

GREGORY STEWART

SIGNED: Arlene Palmer

SIGNED: Gregory Stewart

ARLENE PALMER

PRINTED NAME: Gregory Stewart

PROCUREMENT

PRINTED TITLE: Contractor

DATE: 2/10/2020

DATE: 2/6/20



AGREEMENT No. 20-744-EP

Attachment A  
PAYMENT SCHEDULE

FISCAL YEAR	Activity	Amount
FY 2020	Supplies, Honorarium, Time to create project	\$5090.00
FY 2021	Time for artist and subcontractors in site at Arlington Art Truck	\$6096.50
FY 2022	Additional activations as needed	Not more than \$5000

## **EXHIBIT A - SCOPE OF WORK**

This Arlington Art Truck project will have three interactive components designed in collaboration with the County's Project Officer (Special Projects Curator) and the Contractor.

The project will be:

### ***Flight by Greg Stewart***

The purpose of this project is to learn about the birds that migrate through the County each Autumn, and those that are threatened by loss of habitat in Virginia. The Contractor and a team of James Madison University students will be on-hand to facilitate the public's artmaking. The public can select from a library of laser cut names of Fall migrating birds, then stencil them onto the ground with sifted soil and create a bird sculpture (seedbird) with clay and native seeds in the shape of the threatened birds to take home and plant. The public may also view threatened birds through a 3-D Viewmaster.

The community partner for this project is the County's Urban Forestry Office, who will offer tips on tree care and grant opportunities for free trees. They will be sharing information on the update to their Urban Forest Master Plan and Natural Resources Management Plan. The Urban Forest Master Plan addresses the conservation, planting and maintenance of trees in the County, preserving a healthy ecosystem, and the Natural Resources Management Plan looks to conserve and enhance the unique ecosystems in County parks.

This project is developed in partnership with James Madison University, Harrisonburg, Virginia.

The components shall include:

1. Soil stenciling of Fall migratory birds
2. Viewmaster viewers available for the public to see the images of the four (4) threatened bird species
3. Seedbird crafting station using plaster molds, seeds, clay, paper bags.

The Contractor agrees to provide the following goods and services:

- Develop and participate in interactive project(s) for the Arlington Art Truck, Fall 2020 (September and October 2020);
- The subject of interactive art project, designed with the County Project Officer (Special Projects Curator), will encompass the degradation of natural lands, climate change through a closer examination of the changing patterns of migratory birds and the specific loss of four (4) bird species that migrate through Arlington, Virginia;

- Collection of 54 cardboard stencils of the names of the birds that will be migrating through the County during the activation time, Fall, 2020;
- Stencils will be stored in stackable wooden crates and each organized with a small wooden box with spoon containing dried soil that the public will be able to access. There, the public can use the stencil and soil to sift the names of the birds on the ground, referencing the sighting and fleeting moment of seeing a bird;
- Twelve plaster press molds, 8" x 8" each, representing one of the four (4) species of birds currently posted on Virginia's threatened species list. (Piping Plover, Red Know, Red-Cockaded Woodpecker and the Roseate Tern);
- Clay and buckets to store clay. The Contractor will maintain clay in a workable form and will bring to each activation;
- Heavy-duty brown paper lunch bags and rubber stamp and pad with name of project with the additional text reading "This artwork is part of an interactive project created by Gregory Stewart for Arlington County, Virginia's Cultural Affairs Division as a part of the Arlington Art Truck program, 2020.";
- Three (3) Viewmaster viewers and ten (10) Viewmaster image reels showing images of the four (4) birds on Virginia's threatened species list;
- Project components shall be designed and constructed to fit easily in and out of the van. Components will be built as carts for better movement on site. They will be constructed with durable natural materials made in the Contractor's aesthetic. Carts must be able to roll on ramp to load and unload Arlington Art Truck. Ramp width is: 27.5";
- Soil, bags, seeds to create 600 seedbirds;
- Secure two (2) James Madison University sculpture students as staff to work on site with each activation. Students will be paid as subcontractors.
- Vehicle, gas, and time for the Contractor and subcontractors to drive from Harrisonburg, VA to the County is provided by James Madison University, credit will appear in all promotional materials that James Madison University is a supporting partner;
- Images used for promotional purposes as outlined in the timeline below;
- Adhere to the timeline below;
- Provide his own breakfast, lunch and/or dinner and water for each activation, including subcontractors;

- Participate in up to ten (10) activations in the public realm and one public school activation;
  - During the activations, the Contractor shall assist the public in instructing how to interact with art work and installations;
  - Support the community partner by introducing the public to the partner when the opportunity arises. The community partner for this project will be the Office of Sustainability and Environmental Management, discussing the new federal flood plan map and/or the County Arborist discussing the revision of Arlington County, Virginia's Natural Resources Master Plan. A representative from either the Office of Sustainability and Environmental Management or the County Arborist's office or representative will be present at each activation. Additional partners for this project may be added at a later date;
  - For the public school presentation, the Contractor will also provide a 10 (ten) minute slideshow presentation of biography and images of previous work and engage students in the three component interactions;
  - Meet the County Project Officer at Arlington Art Truck, at each activation site and time. The Contractor must arrive 30 minutes before site activation for set up and stay 30 minutes after activation for breakdown. The County Project Officer reserves the right to change this requirement after Arlington Art Truck activations occur, and shall notify the Contractor by text or email, if a need for revision is observed;
  - Load and unload Arlington Art Truck with Arlington Art Truck staff;
  - The Contractor will pay for their own parking on site of activation.

***The County Will Provide:***

The Arlington Art Truck shall contain the following supplies and equipment:

- At least one (1) pop up tent;
- Two (2) A-frame signs to promote activation on site;
- Spray water bottle and paper towels to wipe hands, after seedbirds are created;
- One (1) or more staff person/s to manage Arlington Art Truck needs, which includes some assistance for the Contractor;
- Additional supplies if needed and within reason through guidance of the Contractor, up to \$800 in expenditures;
- Two (2) 6' tables and up to 12 chairs, if needed;
- Supplies and artwork contained in Arlington Art Truck and brought to each activation site as scheduled;
- Community Partner will provide information rack card describing their mission;

- Electricity from the Arlington Art Truck, if needed;
- Criminal Conviction Form; shall be provided by the County Project Officer; and must be signed by the Contractor and all subcontractors
- Credit James Madison University as supporting partner in all promotional materials;
- Floor plan of Arlington Art Truck for the Contractor to build components that easily fit in the Truck.

### ***Cancellation Terms for the Arlington Art Truck***

During the contracted dates, the Contractor will perform up to 6 (six) activations of up to six (6) hours and 4 (four) festival activations of up to nine (9) 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 understands 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 or will be cancelled, based on schedule availability.

Cancellation of an 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.
- The County Project Officer will notify the Contractor by email, text or phone.

### **The timeline is as follows for all projects combined:**

February 2020: first payment is sent to Contractor to build project

March 2020: High resolution photographic images (5mb each) of finished Artwork (finished stencils on concrete, finished seedbird and mold and other any other deliverables mutually agreed to by the parties as appropriate) for project is sent to County project officer by email to [cconnolly@arlingtonva.us](mailto:cconnolly@arlingtonva.us). (to be used for promotional purposes)

July 15, 2020: Physical components of the final Artwork to be completed by and delivered to Arlington County for a mock set up at 3700 South Four Mile Run, Arlington, VA 22206 (Artwork shall be stored in Arlington until September 2020)

September 1, 2020: The Contractor and subcontractors must be available for activations to take place in September and October, 2020

November 2020: Second and final payment made to Contractor

**Marketing and Promotion:**

- All photographs and videos taken during all events are the property of the County and may be used for marketing in print media, social media, web.
- Artwork commissioned for this project cannot be displayed to the public before the scheduled activations and events. Artwork commissioned for this project may not be displayed, activated or used outside of this project unless credit is given to the County in the following form: "An original artwork created for Arlington County, Virginia as part of the Arlington Art Truck program."
- Before printing any final Artwork or marketing materials, all materials must be approved by the County Project Officer and the County Marketing Director.
- When posting to social media, these hashtags are required for this project: #arlingtonarts #arttruckarlington @Arl\_arts @arttruckarlington