

REQUEST FOR QUALIFICATIONS (RFQ)



PUBLIC ART FOR BUS SHELTERS

RFQ No. 1.500122

MAY 3, 2022

Prepared by:
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Executive Director

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www.kpwb.org

REQUEST FOR QUALIFICATIONS

I. PROJECT DESCRIPTION

As part of its mission to promote environmental stewardship resulting in a more sustainable, beautiful and economically thriving Prince William County, Keep Prince William Beautiful (KPWB) has partnered with the Potomac and Rappahannock Transportation Commission (PRTC), Prince William County Neighborhood Services, Prince William County Parks, Recreation & Tourism, Amazon Web Services InCommunities, (AWS) and Apple Federal Credit Union (AFCU) (collectively called “Steering Committee”) to facilitate the creation of, approve, and install public art and to provide litter control services to designated OMNIRIDE bus shelters throughout Prince William County (Project). The goal of this Project is to foster a unique sense of place in each community served. This Project will improve the community and ridership experience by providing dedicated and consistent litter removal and the installation of public artwork that contributes to the interest and aesthetic appeal of designated bus shelters across the County.

Similar projects across the country designed and intended to beautify neighborhoods have had the added benefit of deterring vandalism and litter and connecting the local communities to public art. Studies have shown that in like programs that have been implemented – in which volunteers agree to monitor and upkeep bus stops for cleanliness- have generated a sense of ownership and interest within the community and the volunteer work to improve the physical appearance of bus stops has improved the safety and security of those bus stops for transit customers.

The Steering Committee seeks artists to create public art for designated OMNIRIDE bus shelters throughout Prince William County with a theme of “ENVIRONMENTAL SUSTAINABILITY.” Artists or Artist Teams (herein “Artists”) is invited to submit qualifications to be considered to participate in the public art opportunities described herein. Up to five (5) artists may be selected from this Request for Qualifications (RFQ) as finalists who may be invited for a site visit and interview process. The original artwork shall be designed to be installed/implemented across five (5) blank plexiglass panels that measure approximately 27.7 inches wide by 75.75 inches tall, each creating a “canvas” across the side of the bus shelter. [Attachment A, Fig. 1.1]

The selected artist(s) will be provided a \$500 grant to create the artwork. Artists will also receive half (50%) of the proceeds gained at auction of the artwork at the end of the display period. Installation of the work will be coordinated with OMNIRIDE, and further instructions provided to the artists selected as a result of this process. Artwork will be displayed on bus shelters for one year (365 days) from installation.

II. PROJECT TIMELINE:

Description	Date
RFP - Call to Artists Released	May 3, 2022
Pre-Application Meeting (Zoom)	May 17, 2022, 6pmET
Questions/Clarification due to Rfleshman@kpwb.org by 2:00pm ET	May 20, 2022
Application/Letter of Interest Deadline by 5pm ET	May 27, 2022
Selection of Artists	June 3, 2022
Final Design Approval	June 10, 2022
Installation	July 8, 2022

The timeline is intended to provide artists, who are interested in applying, a framework for Project phase expectations. The timeline, with the exception of dates relating to the call-to-artists, are subject to change based on the approval process and needs of the overall Project.

III. PRE-APPLICATION SESSION:

All artists interested in submitting a letter of interest/application for this opportunity are required to attend the requisite informational session on **Tuesday May 17, 2022, at 6pmET**. Members of the Steering Committee will be in attendance to review the application process, discuss the process for design, fabrication, and installation, and answer any questions applicants may have. Additional questions that applicants may have must be submitted by the May 20, 2022, deadline set forth below.

IV. QUESTIONS & CLARIFICATIONS:

Submit any questions or requests for clarification by or before **Friday May 20, 2022**, by 2pm ET in writing to: Rico Fleshman, rfleshman@kpwb.org.

V. SUBMISSION INSTRUCTIONS:

The submission package must be sealed and plainly marked for delivery as follows:

KEEP PRINCE WILLIAM BEAUTIFUL
ATTN: Rico Fleshman
4391 Ridgewood Center Drive, Suite F
Woodbridge, VA 22191

Please identify your package or envelope with the following:

Solicitation Number: RFQ 1.500122
Project Name: Public Art for Bus Shelters
Deadline Date: May 27, 2022, 5pm ET

The Applicant's return address must also appear on the outside of the envelope or package. Submissions made using "Express/Overnight" services must be shipped in a separate sealed inner envelope/package identified as stated above.

For hand-delivered submissions, it is the Applicant's responsibility to have the Keep Prince William Beautiful Office timestamp their application prior to the deadline. Allow yourself extra time when delivering your application to ensure it gets time-stamped before the deadline. Late, non-stamped, or incomplete applications will not be accepted. Oral, telephone, facsimile, and email submissions will not be accepted. DO NOT EMAIL OR FAX YOUR APPLICATION.

It is the Applicant's sole responsibility to timely submit their application by the scheduled deadline date and time.

ALL APPLICATIONS MUST BE SIGNED. Applications not signed will be disqualified and considered non-responsive.

The Applicant is responsible for all costs incurred in preparing/responding to this RFQ. All materials/documents submitted become the property of KPWB and will not be returned.

Applicants must submit the following completed forms by the proposal deadline:

- ONE (1) signed original application, which includes:

- Application Form/Signature Page – (Attachment B)
- Letter of Interest/Ability to Provide
- Resume/Prior Experience
- References Contact Sheet – (Attachment C)
- Website/Social Media Links with Examples of Past Work/Artwork List

Applications not signed will be disqualified and considered non-responsive. Failure to submit all requested information may render any application non-responsive and void.

APPLICATION DEADLINE is May 27, 2022, 5pm ET

VI. REQUIRED CONTENT, EVALUATION, AND SELECTION PROCESS:

Applications shall be submitted in a format that allows uniform review and easy access to information by the Selection Committee, which is made up of the aforementioned Steering Committee partner agencies. The Applications shall be clear and to the point. 1 – 5 items must be included in the package in hard copy, printed form. The Application package shall contain the following information:

1. Application Form/Signature Page (Pass/ Fail)

Fill out / sign the Application Form/Signature Page and submit as your first document.

2. Letter of Interest/Ability to Provide (10 points)

Include a one-page letter addressing why you are interested in this opportunity and your related experience or qualifications. Describe how you are able to provide responsive services for public artwork, meeting the needs of the Steering Committee for this project.

3. Resume/Prior Experience (40 pts.)

Include a resume and/or brief summary of your qualifications and/or past experience.

4. References (20 points)

Applicants must provide at least two (2) current references who are familiar with the quality of the artwork created by the Applicant. References of potential finalists will be contacted.

5. Past Work (30 points)

Provide access via website and/or social media links to previous works/artwork/public art that is most relevant to the work requested in this RFQ.

EVALUATION OF APPLICANT

In determining the best-qualified applications, the Steering Committee will consider all acceptable applications on a basis consistent with this RFQ. The Steering Committee will rank applications directly from the evaluation process and basis of qualifications identified in this document. Once the final ranking is complete, the Steering Committee will invite the five (5) highest ranked Applicant Artists to a site visit and interview with the Committee. Should any of the selected Artists not be available at that time, the Steering Committee may invite the next ranked, qualified Applicant(s) to interview. During the interview, the Committee will further evaluate the performance record, the ability of the Applicant to perform the work, and the quality of the service being offered. Initial scoring will be adjusted based upon interviews resulting in a final ranking. The highest ranked Artist(s) will be recommended for selection. During the review process, the Steering Committee will conduct reference checks by contacting references submitted by the Applicants. The information obtained from the reference checks may impact the scores assigned by the Selection Committee.

QUALIFICATION-BASED SELECTION:

The Steering Committee reserves the right to reject any and all Applications, to waive any irregularities in the Applications received and to accept the Applications that are in the best interest of the Project. Artists interested in submitting applications for this project can be

located with their residence or business anywhere in Prince William County or must have a team member located with a residence or business within the County. This connection must be acknowledged in the Application's Letter of Interest.

SELECTION COMMITTEE:

Members include representatives from Keep Prince William Beautiful (KPWB), the Potomac and Rappahannock Transportation Commission (PRTC), Prince William County Neighborhood Services, Prince William County Parks, Recreation & Tourism, Amazon Web Services InCommunities (AWS) and Apple Federal Credit Union (AFCU). As needed, the Committee may request the assistance of neighborhood stakeholders or local art professionals to provide additional information as part of the evaluation process.

NOTIFICATION OF AWARD:

Artists selected for this Project will be notified in writing (email) and via phone on **June 3, 2022**. Upon acceptance of award, Artist will enter into a contract with KPWB of which the submitted Application, terms and conditions and specifications herein will be part. Artist will execute and deliver the signed contract to the Steering Committee within five (5) working days of award notification.

STATEMENT ON EQUITY AND INCLUSION:

We encourage artists of all creative levels and backgrounds to be a part of representing our community, culture, and art through this investment in public art.

Cultural equity embodies the values, policies, and practices that ensure that all people—including, but not limited to, those who have been historically under-represented based on race or ethnicity, age, disability, sexual orientation, gender, gender identity, socio-economic status, geography, citizenship status, or religion—are represented. Cultural equity is critical to the long-term viability of the arts sector. The prominent presence of artists challenges inequities and encourages alternatives. We cannot Celebrate Diversity or Cultivate Multiple Identities without allowing creative representation of such persons or segments of the community.

ADDENDA:

In the event it becomes necessary to revise any part of this RFQ, addenda will be issued. Information given to one Applicant will be made available to all other Applicants by email. It is the Applicant's responsibility to check for addenda prior to submitting an application. Failure to do so may result in the Application being declared non-responsive. No addenda will be issued fewer than four (4) business days before the proposal deadline unless the deadline is extended. Applicants shall indicate within their cover letter the addenda number(s) which they have incorporated into their submittal.

ATTACHMENT A

Figure 1.1 Example of OMNIRIDE Bus Shelter



The original artwork shall be designed to be installed/implemented across five (5) blank plexiglass panels that measure approximately 27.7 inches wide by 75.75 inches tall, each creating a “canvas” across the side of the bus shelter.

ATTACHMENT B

**RFQ No. 1.500122 Public Art for Bus Shelters
APPLICATION FORM / SIGNATURE PAGE**

NAME(s): (please include all Artists in Team)

ADDRESS: _____
CITY: _____ **ZIP:** _____

PRIMARY PHONE: (____) _____ **SECONDARY PHONE:** (____) _____
EMAIL: _____

ARTIST(s) WEBSITE: _____

SOCIAL MEDIA: (Please list web address)

Instagram _____
Twitter _____
Facebook _____
LinkedIn _____
OTHER: _____

Signature: _____ **Date:** _____

Team Signatures: _____ **Date:** _____

Team Signatures: _____ **Date:** _____

Team Signatures: _____ **Date:** _____

You must sign and date this form or you will be disqualified!

This application must include:

- 1. LETTER OF INTEREST**
- 2. RESUME**

The above signed applicant(s) proposes to provide services in accordance with the specifications for RFQ No. 1.500122: Public Art for Bus Shelters and to bind themselves, on the acceptance of this application, to execute a contract, of which this application, terms and conditions, and specifications will be part. The undersigned further agrees, if awarded a contract, to execute and deliver the signed contract to the Steering Committee within five (5) working days after receipt of award notification.

ATTACHMENT C

**RFQ No. 1.500122: Public Art for Bus Shelters
REFERENCES**

Applicants must provide at least two (2) current references who are familiar with the quality of the artwork created by the Applicant. References must be able to verify Applicant's ability to comply with the requirements of this Application. Failure to provide references may be grounds for disqualification. Before a contract is awarded, the Steering Committee will conduct a reference check as is necessary to evaluate and determine the performance record and ability of the top ranked Applicant(s) to perform the size and type of work to be contracted, and to determine the quality of the service being offered. By submitting an application, you authorize the Steering Committee to conduct reference checks, including, but not limited to, phone or email interviews, as needed.

Reference

Name: _____
Email: _____
Phone: _____
Address: _____
City: _____
State: _____ Zip: _____
Affiliation: _____
Years Known: _____

Reference

Name: _____
Email: _____
Phone: _____
Address: _____
City: _____
State: _____ Zip: _____
Affiliation: _____
Years Known: _____

ATTACHMENT D

RFQ No. 1.500122: Public Art for Bus Shelters TERMS AND CONDITIONS

GENERAL CONDITIONS

These General Conditions are presented for clarification of the Terms and Conditions included with the Artist Agreement.

1.1 Intent of Application

It is the intent of this Application to describe the services being sought in sufficient detail to secure qualified applicants, based on past work. Applications will be evaluated using a weighted scoring method. Applications not conforming to the requested format or not in compliance with the specifications will not receive full scoring and will be deemed non-responsive.

1.2 Applicant's Costs

The Applicant will be responsible for all costs (including site visits where needed) incurred in preparing or responding to this RFQ. All materials and documents submitted in response to the RFQ become the property of KPWB and will not be returned.

1.3 Reserved Rights

The Steering Committee reserves the right to accept or reject Applications. The Steering Committee may select an artist on the basis of the written Application, oral presentations, and interview.

1.4 Request for Clarification or Questions, Protest of Application Requirements or Process

Any Artist, who desires to request clarifications, or protest the requirements, or processes outlined in this RFQ may submit a written notification to the Company, to be received no later than 2 p.m. ET, **May 20, 2022**. The notification shall state the exact nature of the clarification, protest, describing specifically the location of the protested portion or clause in the Application document and explaining why the provision should be struck, added, or altered, and contain suggested corrections. The Steering Committee may deny the protest, require that the Application document be modified, modify the proposal, and/or reject all or part of the protest. Changes to these specifications will be made by written addendum. Verbal responses will not be binding on the Steering Committee or the Applicant. Written requests are to be directed to:

**Programs Administrator
ATTN: RFQ No. 1.500122
Keep Prince William Beautiful
4391 Ridgewood Center Drive, Suite F
Woodbridge, VA 22192**

1.5 Addenda to the RFQ

If this RFQ is modified by the Steering Committee, the modifications will be sent to each applicant in writing through a website attachment or by email. Verbal modifications are not binding on the Steering Committee or the Artist. No oral changes will be considered or acknowledged. Artists are requested to acknowledge each addendum received in their Application.

1.6 Modification and Withdrawal of Proposal

An Application may be modified or withdrawn by the Artist prior to the set date and time for the opening of proposals.

1.7 Application Questions

Questions and responses of any one Applicant, which the Steering Committee deems may affect or cause an ambiguity in Application responses, will be supplied to all prospective Applicants by addendum. The Steering Committee may, by written notice to all Applicants, cancel, postpone, or amend the RFQ prior to the due date. If, in the opinion of the Steering Committee, the revisions or amendments will require additional time for a response, the due date will be extended to all Applicants. If revisions and amendments are not furnished to Applicants prior to the due date, Applications shall be considered withdrawn, and the process shall be re-initiated without further discussion.

1.8 Award Criteria

Criteria necessary to evaluate the Applications in relation to the service being sought are included in the RFQ documents and will be established and weighted. At a minimum, criteria will include general qualifications, specific project experience, compliance to the specifications and requirements for the service.

1.9 Rejection of Applications

The Steering Committee may, at its sole option, reject all Applications, for any reason, including those listed herein, and reserves the right to re-solicit applications in the event no response to this RFQ is acceptable to the Steering Committee. The Steering Committee is in no way obligated to any Applicant for the work as set forth in this RFQ until a contract is executed.

Applications, which are incomplete, will be considered non-responsive to this opportunity and may be rejected without further consideration.

1.10 Protest of Artist Selection or Contract Award:

An Applicant may object to the contract award by responding in writing to the Notice of Intent to Award the contract within seven (7) calendar days after transmittal of the Notice of Intent to Award letter. A responsive protest must set forth in specific terms the alleged reason the Applicant selection or contract award is erroneous. The judgment used in the scoring by individual evaluators is not grounds for a protest. The protest must be submitted in writing. Only persons who submitted a proposal, i.e., Applicants, are allowed to protest the Award. The protest must be received within seven (7) days of Intent to Award Letter posting.

Written protests are to be directed to:

**Programs Administrator
ATTN: RFQ No. 1.500122
Keep Prince William Beautiful
4391 Ridgewood Center Drive, Suite F
Woodbridge, VA 22192**

ATTACHMENT E

AGREEMENT FOR DESIGN, FABRICATION AND COORDINATION OF INSTALLATION OF PUBLIC ART ON BUS SHELTERS

SAMPLE DRAFT CONTRACT - DO NOT FILL OUT

THIS AGREEMENT is made and entered into and effective upon its mutual acceptance (“Effective Date”) by and between Keep Prince William Beautiful, a 501(c)3 not-for-profit business, (“the Company”) The Potomac and Rappahannock Transportation Commission (PRTC/OMNIRIDE), and ARTIST NAME (“Artist”), collectively referred to as “the Parties,” for the purpose of defining the rights and responsibilities of the Parties regarding the design, fabrication, and coordination of the installation of public art (the “Work”) on selected bus shelters of PRTC/OMNIRIDE throughout Prince William County.

1. The Site. For purposes of this Agreement, the Site shall be a bus shelter designated by the Company with the concurrence of PRTC/OMNIRIDE.

2. Scope of Services: Design, Fabrication, Delivery of Art. The Artist shall design the Work, working with the Company’s Project Team and representatives upon signing this Agreement. The Artist will refine the approved conceptual design, which will be provided to the Company for final approval. PRTC shall not commence fabrication of the Work until the Company provides the Artist written final approval of the refined conceptual design. The Artist shall work with the Company’s Project Team to complete any design decisions. Post award PRTC will make designated shelter panels available to the Artist who will be responsible for the fabrication of the Work on the panels. Upon completion of the Work, PRTC will collect panels from the Artists and install the panels on the designated shelters. The Work will remain on display for one year (365 days) after initial installation and be subject to auction by Company or its designee at the end of the display period. The Company and the Artist, respectively, will receive 50% of proceeds from auction.

3. Artist’s Responsibilities.

a) In addition to other responsibilities set forth in this Agreement, Artist shall attend meetings in person or by phone with representatives of the project team, the Company and/or Company representatives to provide periodic progress reports.

b) Artist shall not assign any of their obligations under this Agreement without the prior written consent of the Company. This provision shall not prevent the Artist from subcontracting for obligations that do not require their artistic talents, including, but not limited to, such obligations as engineering, structural engineering, drawing architectural renderings or plans for the preparation and submittal of operations and maintenance manual for all works.

4. Compensation. The Artist's grant for the scope of work and services contained in this Agreement is \$500. This amount shall constitute full payment for all services the Artist shall perform, including necessary materials and fees, related travel, permits for the artwork, and necessary costs as set forth in the Scope of Services and this Agreement. Payment shall be in one (1) installment as follows:
\$500.00 no later than thirty (30) days from final review
of installed Work and written approval by the Company and confirming that Artist has met all terms and conditions of the Scope of Services and this Agreement.

5. Company Responsibilities. The Company agrees to timely furnish Artist drawings and information in its possession, together with timely access to all facilities, personnel, and data necessary for Artist to perform the Work unless such disclosure is prohibited by law.

6. Time of Performance. The Artist shall commence final design upon signing this Agreement and/or by a date agreed upon between the Parties.

7. Approvals. Artist shall allow the Company representatives (to include PRTC) to review and approve the Work's progress as follows:

- a) Initial review and approval of the conceptual designs and/or working drawings to determine that the Work is appropriate for the location. Reviews must be timely in their turn around or additional time must be provided to the Artist to complete.
- b) Review and approval by the Company of design, fabrication, and/or installation methods prior to the commencement of fabrication/installation, as appropriate.
- c) At the Company's request, additional periodic reviews, via photographs, and approvals as the Work's design, fabrication and/or installation progresses.
- d) The Company shall approve or disapprove the Work in writing within seven (7) days of final completion. If, during the approval reviews, the Company concludes that the Work does not conform to the designs as previously approved, or as mutually agreed by the Parties in writing, the Company shall provide the Artist with a notice in writing of specific non-conformity and request the Artist to address and cure the specific non-conformity within two (2) weeks of the reviews. The Artist shall then have seven (7) days within which to address, cure, and correct any non-conformity. If, after resubmission, the Work still does not conform, this Agreement shall be subject to immediate termination for cause.

8. Public Education. The Artist agrees to participate, at no additional cost to the Company, in public events, a "Meet the Artist" event and/or a public dedication of the Work, as planned and agreed to by the Artist and Company. Such events shall be timed to the extent possible to occur when the Artist is available. The Artist will provide a QR code linked with Artist's website to the Company for display on the artwork at the site.

9. Project Close-Out.

- a) Upon installation of the Work and prior to final approval or disapproval, the Artist shall furnish the Company and PRTC/OMNIRIDE a full release and lien waiver, together with such releases and waivers from any subcontractor who furnished goods for or performed services for the Work in any way. The Artist shall comply with all applicable federal, state

and local laws, statutes, rules, regulations and/or ordinances, and conditions of PRTC/OMNIRIDE.

b) The Artist shall also submit recommendations for on-going maintenance and repairs, as well as slides and/or photographs and written documentation of fabrication and installation of the Work, such as to assist in future maintenance, repair, and public education provided by the Company.

10. Repairs, Maintenance, or Alterations.

a) The Artist is responsible for all parts and workmanship of the Work for the period of fabrication and delivery after acceptance of the Work and shall replace any defective parts or rework any defective craftsmanship in a timely fashion at no cost to the Company or PRTC except as provided in Section 10(b) and 10(c) of this Agreement.

b) The Artist shall not be responsible for and shall not be held liable for any damage beyond the control of Artist to the Work, its surfaces, or environment caused by personnel of the Company or its employees, visitors, or others.

c) The Artist shall not be responsible for and shall not be held liable for any damage to the Work by normal or adverse weather conditions, acts of nature, or vandalism.

d) PRTC and its agents will provide basic maintenance, restoration and repairs as it deems necessary.

e) In the Company's sole discretion, the Artist may be given an opportunity to perform and/or act as consultant for the repair or restoration. If design work is necessary, the Artist shall receive compensation to be agreed upon by the Parties. In the event that the Work is damaged or destroyed, the Company may, in its sole discretion, relocate, repair, or restore the Work subject to receipt of any insurance proceeds and availability of sufficient funds.

11. Insurance. The Company and PRTC shall maintain all necessary property and commercial general liability insurance as may be required in order to protect its insurable interests for its rights and obligations described within this Agreement.

12. Indemnification. The Artist shall indemnify, save and hold harmless the Company, PRTC, their officers, employees, agents, and volunteers, from and for any and all liability, losses, claims, actions, judgments for damages, or injury to persons or property and losses and expenses, including reasonable attorneys' fees, arising from all acts or omissions to act of the Artist or their servants, officers, agents employees, guests, and business invitees in rendering services under this contract or otherwise caused or incurred by the Artist, their servants, officers, agents employees, guests, and business invitees, and not caused by or arising out of the tortious conduct of the Company or its employees. The limits of insurance will not be deemed a limitation of the covenants to indemnify, save and hold harmless the Company, PRTC, their officers, employees, agents, and volunteers. If the Company or PRTC becomes liable for an amount in excess of the Artist's insurance limits, Artist covenants and agrees to indemnify and save and hold harmless the Company, PRTC, their officers, employees, agents, and volunteers, from and for any and all liability, losses, claims, actions, judgments for damages, or injury to persons or property and losses and expenses, including reasonable attorneys' fees, to the extent permitted by law.

The Artist represents and warrants that any and all materials or deliverables, including, but not limited to the design, and the Works, provided under this Agreement are either original, not encumbered and do not infringe upon the copyright, trademark, patent or other intellectual property rights of any third party, or are in the public domain. Artist agrees to indemnify and hold harmless the Company, PRTC, their officers, employees, agents, contractors, licensees, successors or assigns from and against any injury, loss, liability, expense claim, lawsuits, and damages arising from the Artist's Artwork, including but not limited to copyright, trademark, patent or other intellectual property infringement or violations. If deliverables, materials or Work provided hereunder become the subject of a claim, suit or allegation of copyright, trademark or patent infringement, Company shall have the right, in its sole discretion, to require Artist to produce, at the Artist's own expense, a new non-infringing materials, deliverables, or Works as a means of remedying any claim of infringement in addition to any other remedy available to the Company under law or equity.

13. Warranty. Upon final acceptance of the completed Work by the Company, the Artist warrants that the Work shall be free from defects in materials and workmanship, including "inherent vice". The Artist, for a period of one (1) year after acceptance by Company, shall correct any such defects at Artist's expense. "Inherent vice" refers to a quality within the material or materials which comprise the Work which, either alone or in combination with other materials used in the Work or reacting to the environment, results in the tendency of the Work to destroy itself. Upon written notification of a defect in materials or workmanship, the Artist shall have sixty (60) days to commence repairs and shall conclude the repairs within a reasonable time thereafter.

14. Ownership. Each Work shall be a limited edition of one. The Artist warrants that, unless otherwise stipulated, the Work is original, in that the Work owes its creation or origin to Artist and is not the product of copying another's work in any manner. Furthermore, the Artist warrants and represents they have not previously published the Work, which is transferred by, and the subject of, this Agreement, and that the Artist is the sole owner of all rights therein. Upon final approval and acceptance of the Work, subject to delivery, installation and final payment, the Company shall own the Work. Except as set forth in Paragraphs 15 and 16, herein and agreement to 50% of the proceeds of the Work at auction at the end of the period, the Artist hereby expressly waives any ownership right, title or interest in the Work.

15. Ownership of Copyright. The Artist shall retain all right, title and ownership of the copyright of the Work. The Artist hereby grants the Company a royalty-free, irrevocable, perpetual, non-exclusive license to reproduce images of the Work for educational or promotional uses. Models or drawings shall not be identified or represented to be the finished artwork. The Artist shall be identified, whenever possible, on all printed material, signage, websites, or other promotional material as the original creator of the design and the Work. The Artist shall retain the right to claim authorship of the design of the Work and may utilize such authorship in any of his/her printed material or other promotional material.

16. Waivers and Relinquishments of Rights. Except for copyright, as set forth in paragraph 15, above, the Artist agrees to relinquish all ownership rights, title, and interest to the Work created for the Project and hereby expressly waives the right of integrity, but not attribution, with respect to the Work as conferred by the federal Visual Rights Act of 1990, Title 17 U.S.C. Sections 101, et seq. If at any time following final approval, the Company or PRTC chooses to move or modify the Work, the Company will make reasonable attempts to contact and to notify the Artist regarding the Company's plans, provided that the Artist shall have no right to override or veto the Company's plans. The Artist hereby waives their right to file a claim or demand of any type against the Company based upon any future decision regarding the placement or modification of the Work, including those granted pursuant to the Copyright Act of 1976 and the Visual Rights Act of 1990. To the extent that the provisions of this Agreement differ from the Copyright Act of 1976 and Visual Rights Act of 1990, the provisions of this Agreement shall govern, and the Artist expressly waives any such differences.

17. Artwork Changes.

a) Material Changes After Acceptance/Completion:

- i) If any material change occurs to the Work after final acceptance by the Company (whether such change is an intentional act of a third party, an accident, or an act of nature), including but not limited to a change to the exterior surface of the Work or the interrelationship or relative locations of the parts of the Work, the Company reserves the right to determine, after consultation with an independent, professional art professional, if, when and how any repair and restoration to the Work can be made, and the nature, scope, and anticipated cost of any such repair or restoration. The Company reserves the right to contract with a conservator, rather than the Artist, to implement any such repairs or restoration.
- ii) PRTC/OMNIRIDE and its agents reserve the right to manage its buildings, facilities, and public sites for public purposes, and in doing so, may determine that it is necessary to relocate or remove the Work and/or modify the site in/on which it is located. Neither the Company or PRTC shall not relocate or remove the Work and/or substantially modify the site in/on which it is located without attempting to notify Artist of the proposed change; provided, however, that Artist shall have no right to object to any such relocation, removal, or modification.
- iii) In the event PRCT or the Company decides to remove the Work or any of its components before the period of one year, the Artist shall have the first right of refusal to purchase their Work, providing it is not integrated into a larger piece or a structure, and/or can be removed without destruction of the Work.
- iv) If a modification of the Work occurs, the Artist may give written notice to the Company requesting that their name and the Work be disassociated, and the Work shall no longer be designated as the Artist's Work.
- v) For purposes of this Agreement, no modification of the Work resulting from the passage of time, or the inherent nature of the materials used in the Work shall constitute a modification. In addition, no modification of the Work resulting from conservation or public presentation (including but not limited to lighting and placement) shall constitute a modification that is prejudicial to the Artist's honor or reputation.

vi) The action of the Company/PRTC or their agents in the exercise of their powers (including but not limited to the pursuance of any permit for the redevelopment of land or any structure thereon other than action by the Company on the specific site of the Work) shall not constitute a modification of the Work.

vii) By executing this Agreement, the Artist consents to the installation of the Work in or around the site specified in this Agreement. The Artist acknowledges that such installation may subject the Work to destruction, distortion, mutilation, or other modification by reason of its removal from that location.

18. **Publicity-Rights of Reproduction.** In retaining the Artist's right of attribution as set forth in Section 15 above, the Artist also consents to the use of the Artist's full name and the Artist's own identifying photograph in any publicity or promotional materials produced for the Work, whether printed or electronic, in the discretion of the Company. Such consent includes placement of these items on any Website the Company/PRTC or their representatives maintains.

19. **Nondiscrimination.**

a) In the performance of this Agreement, the Artist and any subcontractors agree not to discriminate in their employment practices against any employee, contractor, subcontractor, or applicant for employment because of the employee's or applicant's race, religion, national origin, ancestry, sex, age, disability or sexual orientation and/or gender identity/expression.

b) The Artist also agrees to comply with all provisions of Virginia law relative to labor, and all other applicable federal, state, and/or local statutes, ordinances, and regulations relative to employment, wages, and hours of labor.

20. **Independent Artist.** The Parties intend that this Agreement create only an independent contractor relationship and that the Artist is not an employee, agent, joint venturer, or partner of the Company or PRTC. Nothing in this Agreement shall be interpreted or construed as creating or establishing the relationship of employer and employee between the Artist and the Company and PRTC or between the Artist and any official, agent or employee of the Company or PRTC. The Artist shall retain the right to perform services for others during the term of this Agreement.

21. **Attorneys' Fees.** If either party brings any action or proceeding to enforce, protect or establish any right or remedy under the terms and conditions of this Agreement, in addition to any other relief awarded, the prevailing party shall be entitled to recover reasonable attorney's fees, as determined by a court of competent jurisdiction.

22. **Agreement Made in Virginia.** The laws of the Commonwealth of Virginia shall govern the validity, interpretation, performance, and enforcement of this Agreement. In the event of a dispute, venue shall be in the courts in Prince William County, Virginia.

23. **Cumulative Rights and Remedies.** All rights and remedies here enumerated shall be cumulative and none shall exclude any other right or remedy allowed by law. Likewise, the

exercise of any remedy provided for herein or allowed by law shall not be to the exclusion of any other remedy.

24. Agreement Made in Writing. This Agreement contains all of the agreements and conditions made between the Parties hereto and may not be modified orally or in any manner other than by agreement in writing signed by the Parties hereto or their respective successors in interest.

25. Termination for Cause. If either party willfully or negligently fails to fulfill its obligations under this Agreement, the other party shall have the right to terminate this Agreement by giving written notice to the defaulting party of its intent to terminate and specify the grounds for termination. The defaulting party shall have thirty (30) days after receipt of the notice to cure the default. If the defaulting party does not cure the default, this Agreement shall terminate. In the event of termination for non-performance by the Company, it shall compensate the Artist for all phases of the Scope of Services the Artist has successfully completed and any additional services and materials performed or supplied prior to termination; provided however, that such payment shall be limited to the amount of compensation set forth herein, i.e., \$500. In the event of default by the Artist, except that caused by the death or incapacity of the Artist, all finished and unfinished drawings, photographs, and other Work products prepared and submitted or prepared for submission under this agreement shall, at the Company's option, become its property. This shall not relieve the Artist of any liability for damages sustained by virtue of the Artist's breach or default of this Agreement.

26. Termination for Convenience of Company. The Company may terminate this Agreement for any reason at any time by giving at least fifteen (15) days' notice in writing to the Artist. If the Agreement is terminated by the Company as provided herein, the Company shall compensate the Artist for all phases of the Scope of Services the Artist has completed up to the date of written notice of termination and any additional services and materials performed or supplied prior to termination, less payments of compensation the Company has previously made, not to exceed the amount set forth in Section 4, i.e., \$500. If payments the Company has previously made exceed the amount of compensation due hereunder, the Artist shall immediately refund the unearned balance to the Company. If the Company terminates this Agreement due to the fault of Artist, Section 25 hereof relative to termination shall apply. In no event shall PRTC be liable for any costs or damages for a termination pursuant to this provision.

27. Force Majeure. Neither the Artist nor the Company nor PRTC shall be considered in default in the performance of its obligations hereunder to the extent that performance of such obligations is delayed, hindered, or prevented by "force majeure". "Force majeure" shall be any cause beyond the control of the parties hereto which they could not reasonably have foreseen and guarded against. Force majeure shall include, without limitation, acts of God, strikes, lockouts, fires, riots, civil commotion or civil unrest, incendiarism, interference by civil or military authorities, compliance with the regulations or orders of any governmental authorities which were not in effect at the time of the execution of this Agreement, and acts of war (declared or undeclared).

28. Severability. If any provision of this Agreement or application thereof is held invalid, such invalidity will not affect other provisions or applications of this Agreement which can be given effect without the invalid provision or application, and to that end, the provisions hereof are declared to be severable.

29. Party Representatives. For purposes of this Agreement the following persons or their designees shall act as party representatives:

Keep Prince William Beautiful:
Rico Fleshman, Executive Director

PRTC:
Name: _____

Title: _____

Artist:
Name: _____

30. Successors and Assigns. All of the terms, provisions, covenants and conditions of this Agreement shall inure to the benefit of and be binding upon each party and their successors, assigns, legal representatives, heirs, executors and administrators.

31. Method of Payment. The Company shall be responsible for receipt and approval of invoices, and for disbursement of funds to the Artist.

32. Effective Date. The effective date of this Agreement shall be upon the Parties' mutual acceptance of this Agreement.

33. Notices. Written notices to the Parties shall be given by registered or certified mail, postage prepaid, and addressed to said Parties at the addresses below, unless otherwise designated by written notice to the other party:

Keep Prince William Beautiful
4391 Ridgewood Center Drive, Suite F
Woodbridge, VA 22192

All such notices, except as otherwise provided, may either be delivered personally deposited in the United States mail, properly addressed with postage fully prepaid by certified or registered mail, return receipt requested, and shall be effective five (5) days after deposit in the mail.

Keep Prince William Beautiful:

Rico Fleshman
Executive Director

Signature: _____

Date: _____

PRTC:

Name: _____

Title: _____

Signature: _____

Date: _____

Artist:

Name: _____

Signature: _____

Date: _____