

**Emergency Resolution to Authorize a Contract with Playground Specialists, Inc. to Provide the Martin Luther King Community Park Playground Equipment R-48-2015**

**City Council of the City of Glenarden, Maryland  
2015 Legislation**

**Resolution No:** R-48-2015  
**Introduced By:** Carolyn Smallwood, Council President  
**Co-Sponsors:** At the Request of the Administration  
**Session:** Regular Session  
**Date of Introduction:** May 11, 2015

**Emergency Resolution to Authorize a Contract with Playground Specialists, Inc. to Provide the Martin Luther King Community Park Playground Equipment**

**WHEREAS**, the Council of the City of Glenarden has determined that it is in the public interest to support parks and recreation in the City; and

**WHEREAS** the City has applied for a Maryland Department of Natural Resources Program Open Space grant to purchase new playground equipment, safety surfacing, picnic area equipment, tennis/basketball court paving, and fencing, lighting, parking lot resurfacing, pathways and landscaping for the Martin Luther King Community Park; and

**WHEREAS**, a Program Open Space (“POS”) grant in the amount of \$214,000.00 has been approved by the General Assembly and the Board of Public Works for the said improvements to Martin Luther King Community Park; and

**WHEREAS**, Playground Specialists, Inc. has provided a proposal for playground equipment, freight charges and installation charges for the Martin Luther King site, a copy of which is attached as Exhibit A; and

**WHEREAS**, an investigation of Playground Specialists, Inc. has been conducted and references have been consulted and it has been determined that the company has provided acceptable service to other Maryland jurisdictions at competitive rates; and

**WHEREAS**, due to the necessity to commit the POS grant funds before June 1, 2015, the Council has determined that an emergency exists that justifies an exception, under Section 826 of the City Charter, to the competitive bidding process otherwise required by Section 818 of the Charter.

**NOW, THEREFORE, BE IT RESOLVED, by the City Council of Glenarden, Maryland sitting in Regular Session this 11th day of May, 2015 as follows:**

1. That the Contract with Playground Specialists, Inc., in substantially the form attached as Exhibit A, be and it is hereby approved for not to exceed price of (10% over cost) One

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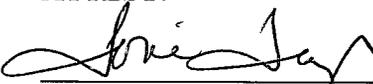
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Hundred Ninety One Thousand, Nine Hundred and Forty Dollars and Ninety-Four cents (\$191,940.94).

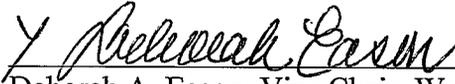
- 2. That the Mayor be and he is authorized to sign the Contract in substantially the form as attached.
- 3. That the contract amount shall be paid from the grant from Maryland Department of Natural Resources funds.
- 4. This Resolution shall take effect immediately upon passage.

Date Approved: May 11, 2015 City Council of Glenarden

ATTEST:

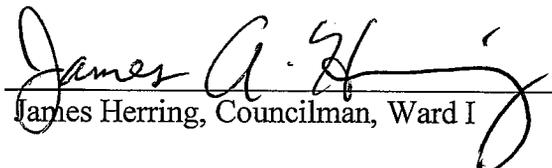
  
Toni Taylor, Council Clerk

  
Carolyn Smallwood, President, Ward I

  
Deborah A. Eason, Vice Chair, Ward II

  
Elaine A. Carter, Councilwoman, Ward II

\_\_\_\_\_  
Judy Diggs, Councilwoman, At Large

  
James Herring, Councilman, Ward I

\_\_\_\_\_  
Jennifer Jenkins, Councilwoman, Ward III

  
Maxine Phifer, Councilwoman, At Large

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- 1 Votes:
- 2 Yes 7
- 3 No 0
- 4 Abstain 0

11700 Whates Lane  
 Thurmont, MD 21788  
 (800)385-0075  
 www.playspec.com



# Proposal

ADDRESS
CITY OF GLENARDEN 8600 GLENARDEN PARKWAY GLENARDEN, MD 20706

SHIP TO
MLK PARK C/O PLAYGROUND SPECIALISTS

PROPOSAL #	DATE	EXPIRATION DATE
12021A	04/22/2015	12/31/2015

SALES REP  
 BRAD  
 STOKLEY

DESCRIPTION	QTY	RATE	AMOUNT
ALL PRICING PER FCPS CONTRACT RFP 09-MISC-10			
<b>PLAYWORLD EQUIPMENT</b>			
P022715-1B - CUSTOM CHALLENGER PLAY UNITS FOR 2-5 & 5-12 AREAS	1	59,659.00	59,659.00
<b>0192</b>	1	6,900.00	6,900.00
UNITY TEETER TUNNEL W/PERF TOP			
<b>0549</b>	1	1,333.00	1,333.00
TRAIN W/O SOUND			
<b>0557</b>	1	1,341.00	1,341.00
TRUCK W/O SOUND			
<b>0495</b>	2	126.00	252.00
COIL SPRING RIDER FOOTER FRAME			
<b>0175</b>	1	712.00	712.00
5-12 YR OLD SIGN			
<b>0185</b>	1	712.00	712.00
2-12 YEAR OLD SIGN			
<b>1620</b>	4	1,267.00	5,068.00
FAMILY FURNISHINGS BENCH W/BACK			
<b>1623</b>	3	581.00	1,743.00
FAMILY FURNISHINGS LITTER RECEPTACLE			
<b>8060</b>	3	38.00	114.00
LINER FOR TRASH CAN			
<b>DISCOUNT</b>	1	-21,793.52	-21,793.52
DISCOUNT PER FCPS CONTRACT - 28% OFF LIST			

DESCRIPTION	QTY	RATE	AMOUNT
<b>FREIGHT</b> FREIGHT CHARGES PER FCPS CONTRACT - FULL TRUCKLOAD	1	725.00	725.00
<b>INSTALLATION</b> CERTIFIED INSTALLATION OF ALL EQUIPMENT ABOVE PER FCPS CONTRACT - 28% OF LIST	1	21,793.52	21,793.52
<b>GARED EQUIPMENT</b> PK4530 - STANDARD GOOSENECK BASKETBALL SYSTEM PACKAGE	2	1,435.00	2,870.00
<b>GARED EQUIPMENT</b> GSTNPERDB - 3.5" TENNIS POSTS - BLACK PER PAIR	1	565.00	565.00
<b>GARED EQUIPMENT</b> GSTNET30LS - TENNIS NET	1	428.00	428.00
<b>GARED EQUIPMENT</b> GSTCSTRAP - TENNIS NET CENTER STRAP	1	15.00	15.00
<b>GARED EQUIPMENT</b> GSTNANCH - GROUND ANCHOR FOR STRAP	1	28.00	28.00
<b>GARED EQUIPMENT</b> GSNB0515 - 5 ROW STATIONARY ALUMINUM BLEACHER - 15' W/ANCHOR SYSTEM	1	5,376.00	5,376.00
<b>DISCOUNT</b> DISCOUNT PER FCPS CONTRACT - 10% OFF LIST	1	-928.20	-928.20
<b>FREIGHT</b> FREIGHT CHARGES PER FCPS CONTRACT	1	550.00	550.00
<b>INSTALLATION</b> CERTIFIED INSTALLATION OF GARED EQUIPMENT PER FCPS CONTRACT - 40% OF LIST	1	3,712.80	3,712.80
<b>MISC.</b> REMOVE AND DISPOSE EXISTING EQUIPMENT, DAMAGED TENNIS COURT SURFACING WHERE WEEDS ARE GROWING THRU, EXISTING TENNIS COURT FENCING, WEEDS ALONG FENCING BASKETBALL GOALS AND TENNIS COURT POST - PRICE INCLUDES DUMPSTER CHARGES	1	6,556.00	6,556.00
<b>MISC.</b> GRADE AREA TO ACCOMODATE NEW BLEACHERS	1	500.00	500.00
<b>MISC.</b> SEAL COAT EXISTING TENNIS COURTS	1	21,627.00	21,627.00
<b>MISC.</b> 3214 SQ FT PLAYGUARD CARNIVAL SERIES TILES 4.25" THICK, INCLUDES ADHESIVE, QUAD BLOCKS, EGRIP FOR QUAD BLOCKS & REDUCER EDGING	1	51,803.00	51,803.00
<b>MISC.</b> INSTALLATION OF PLAYGUARD TILES	1	12,087.60	12,087.60
<b>DISCOUNT</b> DISCOUNT PER FCPS CONTRACT - 10% OFF LIST	1	-9,257.36	-9,257.36

NET 10 W/PO

SUBTOTAL

174,491.84

TAX (0%)

0.00

TOTAL

**\$174,491.84**

Accepted By

Accepted Date

## AGREEMENT

THIS AGREEMENT is entered into this \_\_\_\_\_ day of May, 2015, by and between the City of Glenarden, Maryland (“the City”), a municipal corporation of the State of Maryland, and Playground Specialists, Inc. (“the Contractor”), a Maryland corporation.

In consideration of the mutual covenants and obligations contained herein, the sufficiency of which is hereby acknowledged, the City and the Contractor hereby agree as follows:

**1. Services Provided:** The Contractor shall provide the following services for the City:

**Design/build services for refurbishing the playground at Martin Luther King, Jr.**

**Community Park in the City of Glenarden, including supply and installation of all**

**playground equipment identified in the Contractor’s Bid Proposal** (“the Services”). All

Services shall comply with all applicable federal, State and local law, including but not limited to the Americans with Disabilities Act (ADA) and any regulations governing the receipt of any federal or State grant funds disbursed with respect to the Services, including but not limited to all laws and regulations of the Maryland Department of Natural Resources, Community Parks and Playgrounds program. The Services shall be provided as detailed in the Contract Documents listed below, which are attached hereto collectively as Appendix A and incorporated herein by reference:

- (1) Request for Proposal
- (2) Information for Bidders
- (3) Contractor’s Bid Proposal
- (4) Special Provisions
- (5) Insurance Certificate
- (6) Notice of Award
- (7) Notice to Proceed (when issued)
- (8) Equal Opportunity Employer Form
- (9) Change Orders, if any (when issued)
- (10) Specifications

The Contractor shall begin work on or before May 31, 2015 and shall complete performance of the Services within \_\_\_\_\_ ( ) days. The City retains the right to

reduce the scope of the Services as the City in its sole discretion determines the City's best interests may require. It is understood by the parties hereto that time is of the essence in the completion of the Services.

2. **Fees:** The City hereby agrees to pay the Contractor as full consideration for the Contractor's satisfactory performance of its obligations under this Agreement an amount not to exceed One Hundred Seventy Four Thousand and Four Hundred and Ninety One Dollars and Eighty-Four cents (\$174,491.84), payable in the following manner:

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Partial billings may be approved at the sole discretion of the City.

3. **Binding Effect of Agreement:** This Agreement shall be binding upon all parties hereto and their respective heirs, executors, administrators, successors and assigns.

4. **Other Payments, Taxes, Expenses:** Except as may be specifically agreed upon by the parties in writing, the Contractor shall be entitled to no fees, bonuses, contingent payments, or any other amount in connection with the services to be rendered or materials provided hereunder. The parties hereto further agree that the City shall have no obligation to reimburse, pay directly or otherwise satisfy any expenses of the Contractor in connection with the performance of his obligations under this Agreement, including, but not limited to, the cost of any insurance or license fees.

It is expressly understood and acknowledged by the parties hereto that the fees payable hereunder shall be paid in gross amount, without reduction for any Federal or State withholding or other payroll taxes, or any other governmental taxes or charges. The parties hereto further recognize that the Contractor is an independent contractor of the City and is therefore responsible for directly assuming and remitting any applicable Federal or State withholding taxes, estimated

tax payments, or any other fees, taxes or expenses whatsoever. In the event that the Contractor is deemed not to be an independent contractor by any local, state or federal government agency, the Contractor agrees to indemnify and hold harmless the City for any and all fees, costs and expenses, including but not limited to, attorneys' fees, incurred thereby.

**5. Insurance:** The Contractor covenants to maintain all applicable insurance the amounts set forth herein. The Contractor further agrees to provide evidence of such insurance within ten (10) days from notice of award. The Certificates of Insurance shall provide that the City shall be given at least thirty (30) days prior written notice of the cancellation of, intention not to renew, or material change in the coverage. Contractor must provide Certificates of Insurance to the City before commencing any work pursuant to this Agreement. All insurance must name the City as an additional insured, not just a certificate holder.

PROVISION OF ANY INSURANCE REQUIRED HEREIN DOES NOT RELIEVE THE CONTRACTOR OF ANY OF THE RESPONSIBILITIES OR OBLIGATIONS ASSUMED BY THE CONTRACTOR IN THE CONTRACT AWARDED, OR FOR WHICH THE CONTRACTOR MAY BE LIABLE BY LAW OR OTHERWISE.

A. **Workers' Compensation Insurance:** Contractor shall comply with the requirements and benefits established by the State of Maryland for the provision of Workers' Compensation Insurance.

B. **Comprehensive General Liability Insurance:** The Contractor shall provide general liability insurance in the amount set forth herein. Coverage shall include completed operations and contractual liability coverage and shall be issued on an occurrences basis.

(1) **Personal injury liability insurance** with a limit of \$1,000,000.00 for each occurrence and \$1,000,000.00 aggregate, where insurance aggregates apply;

(2) Property damage liability insurance with limits of \$250,000.00 for each occurrence and \$500,000.00 aggregate, where aggregates apply. Property damage insurance shall specifically include explosion, collapse and underground damage (X, C, U).

C. Automobile Liability Insurance. Motor vehicle insurance meeting the requirements of Maryland law and covering every vehicle and driver involved in providing the services, in the following amounts:

(1) Bodily injury liability with limits of \$500,000.00 each person and \$1,000,000.00 each accident;

(2) Property damage liability with a limit of \$100,000 each accident.

6. **Doing Business in Maryland:** The Contractor warrants and represents that (1) if it is a corporate entity, it is either (a) incorporated in Maryland or (b) registered or qualified by the Maryland State Department of Assessments and Taxation (SDAT) as required by the Maryland Annotated Code, Corps. & Assocs. Article, to do business in Maryland and (2) it is in good standing with SDAT and has paid all taxes (including but not limited to income, real property, and personal property taxes) due the State of Maryland or any other governmental entity.

7. **Grant Funding:** The Contractor acknowledges and understands that funding for this Agreement is provided, in whole or in part, using grant funds from the Department of Natural Resources under Program Open Space and is therefore subject to conditions imposed by regulations of the governmental entity providing such funds. It is the Bidder's responsibility to determine the scope and requirements of and to comply with the terms of any regulations relating to or governing the use of such grant funds. Such regulations may under certain circumstances include, but are not limited to, payment of prevailing wage rates, the purchase of materials

manufactured in the United States, the maintenance of specific records for specific periods of time, and/or approval of subcontracts.

**9. Compliance with Laws:** The Contractor shall, without any additional expense to the City, be responsible for complying with any and all applicable laws, codes and regulations in connection with the services provided by the Contractor, including but not limited to obtaining any licenses required by the Contractor to perform the services herein contracted for.

**10. Indemnification:** The Contractor shall be responsible for and indemnify, defend and hold the City harmless from and against any and all claims or judgments for loss, personal injury and/or property damage that may be suffered as a result of the Contractor's negligence or willful misconduct in the Contractor's performance of the Services or for any failure of the materials supplied under this Agreement or for any failure by the Contractor to perform the obligations of this Agreement. This indemnification includes, but is not limited to, attorneys' fees and any cost incurred by the City in defending any such claim.

**11. Not Assignable:** The Contractor shall not assign or transfer any interest or claim under this Agreement except as may be agreed upon and authorized in writing by the City and no contract shall be made by the Contractor with any other party for furnishing any of the services herein contracted for without the prior approval of the City.

**12. Relief:** In the event of a breach or a threatened breach by the Contractor of any provision of the Agreement, the Contractor recognizes the substantial and immediate harm that a breach or threatened breach will impose upon the City, and further recognizes that in such event monetary damages will be inadequate to fully protect the City. Accordingly, in the event of a breach or threatened breach of this Agreement, the Contractor consents to the City's entitlement to such ex parte, preliminary, interlocutory, temporary or permanent injunctive, or any other equitable

relief, protecting and fully enforcing the City's rights hereunder and preventing the Contractor from further breaching any of his obligations set forth herein. The Contractor expressly waives any requirement based on any statute, rule of procedure, or other source, that the City post a bond as a condition of obtaining any of the above-described remedies. Nothing herein shall be construed as prohibiting the City from pursuing any other remedies available to the City at law or in equity for such breach or threatened breach, including the recovery of damages from the Contractor.

**13. City's Right to Terminate:** This Agreement may be terminated immediately by the City upon written notice in whole or in part, when the City, in its sole and absolute discretion, determines such action to be in its best interests. Upon such termination, the City shall be liable to the Contractor only for payment for services actually provided prior to the effective date of the termination. The Agreement shall be terminated under this Section whenever adequate funds have not been appropriated by the Common Council in the annual budget for the purpose set forth herein.

**14. Entire Understanding:** This Agreement contains the entire understanding between the parties, and any additions or modifications hereto may only be made in writing, executed by both parties.

**15. Applicable Law:** This Agreement shall be interpreted in accordance with the laws of the State of Maryland. Any suit to enforce the terms hereof or for damages or other remedy for breach hereof shall be brought exclusively in the courts of the State of Maryland for Prince George's County and the parties expressly consent to the jurisdiction thereof, acknowledge that jurisdiction and venue are proper therein, and waive any right that they may otherwise have to bring such action in or transfer or remove such suit to the courts of any other jurisdiction.



WITNESS:

CITY OF BOWIE, MARYLAND

\_\_\_\_\_  
M. Toni Taylor, City Clerk

BY:

\_\_\_\_\_  
Dennis Smith, Mayor

Approved as to Form and Legal Sufficiency:

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

\_\_\_\_\_  
Elissa D. Levan, City Attorney