

# TOWN OF OCEAN CITY, MARYLAND



PROCUREMENT DEPARTMENT

## PROPOSAL DOCUMENT FOR OC BOARDWALK PLAYGROUND EQUIPMENT

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<b>BID TIMELINE OF EVENTS</b>
<b>Pre-Bid Meeting:</b> 11:00 a.m. on Wednesday, October 12, 2016 at Beach Patrol Headquarters located at 109 Talbot Street, Ocean City, MD 21842
<b>Last Day for Questions:</b> Noon on Friday, October 14, 2016
<b>Addendum:</b> COB, Monday, October 17, 2016
<b>Bid Opening Date &amp; Time:</b> November 03, 2016 at 1:00 pm
<b>Bid Opening Location:</b> 204 65 <sup>th</sup> Street, Bldg. A, Ocean City, MD 21842
<b>Ad Run:</b> 10/06/16

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## SECTION I: INTRODUCTION

1. PURPOSE
  - 1.1. The purpose of this Request for Proposal is for the Town of Ocean City ("Town") to contract for design and installation of boardwalk playground structure ("Equipment") and for said Equipment to be in conformity with the requirements contained herein ("Proposal Document(s)").
2. CLARIFICATION OF TERMS
  - 2.1. Professional firms, organizations, or individuals that submit a bid for award of a contract ("Contract") are referred to as vendors ("Vendors") in this Proposal Document. The Vendor that is awarded the Contract is herein referred to as the ("Successful Vendor").
3. QUESTIONS AND INQUIRIES
  - 3.1. For information regarding Proposal Documents and bidding requirements, please contact Catrice Parsons at [cparsons@oceancitymd.gov](mailto:cparsons@oceancitymd.gov) or call 410-723-6647.
  - 3.2. Copies of the Proposal Documents are available on the Town's [website](#) or by calling (410) 723-6647 during normal business hours.
4. FILLING OUT PROPOSAL DOCUMENTS
  - 4.1. Use only forms supplied by the Town.
  - 4.2. Submit seven (7) unbound originals.
  - 4.3. Bids Documents should be compiled as follows: (1) Cover letter, (2) Form of Bid, (3) References, (4) Exceptions Document, (5) Individual Principal Document, (6) Vendor's Affidavit of Qualification to Bid (7) Non-Collusive Affidavit, (8) Signed addenda, if necessary, and (9) Vendor's Supporting Documentation as outlined in the Scope of Work.
  - 4.4. All blanks on the Proposal Documents will need to be filled in electronically or manually in ink.
  - 4.5. Where so indicated by the make-up of the Proposal Documents, sums will be expressed in both words and figures, and in the case of a discrepancy between the two, the amount written in words will govern.
  - 4.6. Any interlineation, alteration, or erasure will be initialed by the signer of the Proposal Documents.
  - 4.7. Each copy of the Proposal Documents will be signed by the person(s) legally authorized to bind the Vendor to a contract, using the legal name of the signer. Proposal Documents submitted by an agent will have a current Power of Attorney attached certifying the agent's authority to bind the Vendor.
  - 4.8. Vendor will supply all information and submittals required by the Proposal Documents to constitute a proper and responsible "Completed Proposal Document" package.
  - 4.9. Any ambiguity in the Proposal Documents as a result of omission, error, lack of clarity or non-compliance by the Vendor with specifications, instructions, and/or all conditions of bidding will be construed in the light most favorable to the Town.
5. SUBMISSION OF PROPOSAL DOCUMENTS
  - 5.1. All copies of the Proposal Documents and any other documents required to be submitted with the Proposal Documents will be enclosed in a **sealed envelope**. The envelope will be addressed to the Town of Ocean City, Attn: Procurement Department, 204 65<sup>th</sup> Street, Bldg. A, Ocean City, MD 21842 and will be identified with the Solicitation name: **OC BOARDWALK PLAYGROUND EQUIPMENT** and the Vendor's name, address, and license number. If the Proposal Documents are sent by mail, the sealed envelope will be enclosed in a separate mailing envelope with the notation "**SEALED PROPOSAL DOCUMENTS ENCLOSED-OC Boardwalk Playground Equipment**" on the face thereof.
    - 5.1.1. **Sealed Proposal Documents are due no later than Thursday, November 03, 2016 at 1:00 p.m. at which time they will be opened and read.**
    - 5.1.2. **Sealed Proposal Documents will be sent to 204 65<sup>th</sup> Street, Bldg. A, Ocean City, MD 21842.**
  - 5.2. Proposal Documents will be deposited at the designated location prior to the time and date for receipt of Proposal Documents as indicated in the Advertisement or Request for Proposal, or any extension made by Addendum. Proposal Documents received after the time and date for receipt will be returned unopened.

- 5.3. Vendor will assume full responsibility for taking whatever measures necessary to ensure that the Proposal Documents reach the Town's office prior to the local time and date specified for receipt of Proposal Documents. The Town will NOT BE RESPONSIBLE for any Proposal Document delayed in the postal or other delivery service nor any late Proposal Document, amendment, or request for withdrawal of Proposal Document, received after the Proposal Document submission date.
- 5.4. Vendors, or their authorized agents, are expected to fully inform themselves as to the conditions, requirements, and specifications before submitting Proposal Documents; failure to do so will be at the Vendor's own risk.
- 5.5. A fully executed Affidavit of Qualification to Bid will be attached to each Proposal Document.
- 5.6. MINORITY VENDORS ARE ENCOURAGED TO PARTICIPATE.
- 5.7. All Vendor submitted Proposal Documents will be valid for a minimum of one hundred and twenty (120) days from the date of Proposal Document opening. Vendors cannot withdraw their Proposal Documents within one hundred and twenty (120) days after the Bid Opening Date.
- 5.8. Email or faxed Proposal Documents will not be accepted.
6. OPENING OF PROPOSAL DOCUMENTS
  - 6.1. Proposal Documents received on time will be opened publicly and vendors' names will be read aloud for the record.
  - 6.2. The Contract will be awarded or all Proposal Documents will be rejected within one hundred twenty (120) days from the date of the Proposal Document opening.
7. ACCEPTANCE OR REJECTION OF PROPOSAL DOCUMENTS
  - 7.1. Unless otherwise specified, the Contract will be awarded to the most RESPONSIBLE and RESPONSIVE Vendor complying with the provisions of the Proposal Documents, provided the Bid price is reasonable, does not exceed the funds available, and it is in the best interest of the Town to accept it. The Town reserves the right to reject the Proposal Documents of any Vendor who has previously failed to perform properly in any way or complete on time contracts of a similar nature; or a Proposal Document from a Vendor who, investigation shows, is not in a position to perform the Contract; or Proposal Documents from any person, firm, or corporation which is in arrears or in default to the Town for any debt or contract.
  - 7.2. Completed Proposal Documents from Vendors debarred from doing business with the State of Maryland or the Federal Government will not be accepted.
  - 7.3. Conditional or qualified bids will not be accepted.
  - 7.4. In determining a Vendor's RESPONSIBILITY, the Town may consider the following qualifications, in addition to price:
    - 7.4.1. Ability, capacity, and skill to provide the commodities or services required within the specified time, including future maintenance and service, and including current financial statement or other evidence of pecuniary resources and necessary facilities.
    - 7.4.2. Character, integrity, reputation, experience and efficiency.
    - 7.4.3. A minimum of Five (5) years providing the goods/services described in this Proposal Document under the Vendor name that is submitting a Completed Proposal Document, with references to validate this requirement.
    - 7.4.4. Quality of past performance on previous or existing contracts, including a list of current and past contracts and other evidence of performance ability.
    - 7.4.5. Previous and existing compliance with laws and ordinances relating to contracts with the Town and to the Vendor's employment practices.
    - 7.4.6. Evidence of adequate insurance to comply with Contract terms and conditions.
    - 7.4.7. Statement of current work load and capacity to perform/provide the Goods and/or Services.
    - 7.4.8. Explanation of methods to be used in fulfilling the Contract.

- 7.4.9. The Vendor, if requested, will be prepared to supply evidence of its qualifications, listed above, and its capacity to provide/perform the Goods and/or Services; such evidence to be supplied within a specified time and to the satisfaction of the Town.
- 7.5. In determining a Vendor's RESPONSIVENESS, the Town will consider whether the Proposal Document conforms in all material respects to the Proposal Documents. The Town reserves the right to waive any irregularities that may be in its best interest to do so.
- 7.6. The Town will have the right to reject any and all Proposal Documents, where applicable to accept in whole or in part, to add or delete quantities, to waive any informalities or irregularities in the Proposal Document received, to reject a Proposal Document not accompanied by required Bid security or other data required by the Proposal Documents, and to accept or reject any Proposal Document which deviates from specifications when in the best interest of the Town. Irrespective of any of the foregoing, the Town will have the right to award the Contract in its own best interests.
8. NOTICE TO VENDORS
- 8.1. Before a Vendor submits the Proposal Documents it will need to become fully informed as to the extent and character of the Work required and are expected to completely familiarize themselves with the requirements of this Proposal Document's specifications including examination of site, review of drawings, and any Addenda. Failure to do so will not relieve the Vendor of the responsibility to fully perform in accordance therewith. No consideration will be granted for any alleged misunderstanding of the material to be furnished or the Work to be performed, it being understood that the submission of a Proposal Document is an agreement with all of the items and conditions referred to herein.
- 8.2. The Successful Vendor will supply the names and addresses of major material suppliers and subcontractors when requested to do so by the Town.
9. PRE-BID MEETING
- 9.1. A pre-bid meeting will be held in the Conference Room located at Beach Patrol Headquarters, the address is 109 Talbot Street, Ocean City, MD 21842 on Wednesday, October 12, 2016 at 11:00 a.m. for any questions concerning the Proposal Documents and for a site visit where the Equipment will be located.

**END OF SECTION**

## **SECTION II: GENERAL INFORMATION**

1. ECONOMY OF PROPOSAL DOCUMENTS
  - 1.1. Proposal Documents will be prepared simply and economically, providing straightforward and concise description of the Vendor's capabilities to satisfy the requirements of the Proposal Documents. Emphasis should be on completeness and clarity of content. Elaborate brochures and other representations beyond that sufficient to present a complete and effective Proposal Document are neither required nor desired.
2. RESPONSIBILITIES OF THE VENDOR
  - 2.1. The Vendor will be responsible for the professional quality and technical accuracy of their advice and other Work furnished in the Proposal Documents. The Vendor will perform the Work with the degree of skill that is normally exercised by recognized professionals as the Standard of Care with respect to Work of a similar nature.
  - 2.2. Neither the Town's review, approval or acceptance of, nor payment for, any of the Work required under the awarded Contract will be construed to operate as a waiver of any rights under the Contract or any cause of action arising out of the performance of the Contract, and the Vendor will be liable to the Town in accordance with applicable law for all damages to the Town caused by the Vendor's negligent performance of any of the Work furnished under the Contract.
  - 2.3. The rights of the Town provided for under the awarded Contract are in addition to any rights and remedies provided by law.
3. PROPRIETARY INFORMATION OR TRADE SECRETS
  - 3.1. The Vendor may invoke proprietary information or trade secret protection for submission of any data/material by (1) identifying the data/material in a written description, (2) clearly marking the data/material as proprietary, and (3) provide a written statement detailing the reasons why protection is necessary. The Town reserves the right to ask for additional clarification prior to establishing protection.
4. OWNERSHIP OF MATERIALS
  - 4.1. Ownership of all material and documentation originated and prepared pursuant to the Proposal Documents will belong exclusively to the Town and is subject to public inspection in accordance with the Freedom of Information Act. Trade secrets or proprietary information submitted by a Vendor in connection with a procurement transaction will not be subject to disclosure under the Freedom of Information Act. However, the Vendor must invoke the protections of this section and be in accordance with Section 3.1.
5. CONTRACT AWARD
  - 5.1. A written award by the Town to the Successful Vendor in the form of a Purchase Order or other contract document will result in a binding Contract. If the Successful Vendor fails or refuses to sign and deliver the Contract and the required insurance documentation, the Town will have the right to award to the next responsible and responsive Vendor. The Successful Vendor will be required to execute the Contract within fourteen (14) calendar days from the date on the Notice of Award letter. The Town will send the Contract with the Notice of Award letter.
  - 5.2. Proposal Documents and Contracts issued by the Town will bind the Vendor to applicable conditions and requirements herein set forth, unless otherwise specified in the Proposal Documents, and are subject to all federal, state, and municipal laws, rules, regulations, and limitations.
  - 5.3. Town personal property taxes ("Taxes") must be on a current basis; if any such Taxes are delinquent, they must be paid before award of Contract. Failure to pay will result in the award of Contract to another Vendor.
  - 5.4. The Town reserves the right to engage in individual discussions and interviews with those Vendors deemed fully qualified, responsible, suitable and professionally competent to provide the required Work should the Work size warrant it. Vendors will be encouraged to elaborate on their qualifications,

performance data, and staff expertise. Proprietary information from competing Vendors will not be disclosed to the public or to competitors.

6. NOTICE TO PROCEED

6.1. The Town will issue a Notice to Proceed within ten (10) calendar days from the execution of the Contract.

If for any reason the Notice to Proceed cannot be issued within ten (10) days, from the execution of the Contract, the Town and the Vendor, upon mutual agreement, will extend the Contract Time.

6.2. If the Town does not issue the Notice to Proceed within the ten (10) day period or within the period mutually agreed upon, the Vendor may terminate the Contract without further liability on the part of either party.

7. AUDIT

7.1. The Successful Vendor agrees to retain all books, records, and other documents relative to the awarded Contract for five (5) years after final payment, or until audited. The Town, its authorized agents, and/or State auditors will have full access to and the right to examine any of said materials during said period.

8. NONPERFORMANCE

8.1. The Town reserves the right to inspect all operations and to withhold payment for any goods not performed or not performed in accordance with the specifications in this Proposal Document. Errors, omissions or mistakes in performance will be corrected at no cost to the Town. Failure to do so will be cause for withholding of payment for the Work. In addition, if deficiencies are not corrected in a timely manner, the Town may characterize the Successful Vendor as uncooperative, which may jeopardize future solicitations.

9. MODIFICATION OR WITHDRAWAL OF PROPOSAL DOCUMENTS

9.1. A Proposal Document may not be modified, withdrawn, or cancelled by the Vendor during the stipulated time period following the time and date designated for the receipt of Proposal Documents, and each Vendor so agrees in submitting Proposal Documents.

10. DEFAULT

10.1. The Contract may be cancelled or annulled by the Town in whole or in part by written notice of default to the Successful Vendor upon non-performance, violation of Contract terms, delivery failure, bankruptcy or insolvency, any violation of state or local laws, or the making of an assignment for the benefit of creditors. An award may then be made to the next most highly rated Vendor, or when time is of the essence, similar commodities and/or service may be purchased on the open market. In either event, the defaulting Vendor (or its surety) will be liable to the Town for cost to the Town in excess of the defaulted Contract price.

11. COLLUSION/FINANCIAL BENEFIT

11.1. The Vendor certifies that its Completed Proposal Document is made without any previous understanding, agreement, or connection with any person, firm, or corporation making a Proposal Document for the same Work; without prior knowledge of competitive prices; and is in all respects fair, without outside control, collusion, fraud, or otherwise illegal action.

11.2. Upon signing the Proposal Document, Vendor certifies that no member of the governing body of the Town, or members of his/her immediate family, including spouse, parents or children, or any other officer or employee of the Town, or any member or employee of a Commission, Board, or Corporation controlled or appointed by the Mayor or Council has received or has been promised, directly or indirectly, any financial benefit, related to this Proposal Document and subsequent Contract.

12. TAX EXEMPTION

12.1. The Town is exempt from Federal Excise Taxes, Maryland Sales and Use Taxes, and Transportation Taxes. This exemption cannot be used by Vendors doing business with the Town. Vendors are responsible for State Sales Tax of real property furnished and installed or constructed for the Town.

13. EQUAL EMPLOYMENT OPPORTUNITY AND NON-DISCRIMINATION

- 13.1. All Vendors are subject to, and must comply with, the provisions of all applicable state and federal anti-discrimination laws. The Town encourages equal employment opportunity to businesses owned and controlled by minorities and women.
  - 13.2. The Successful Vendor will not discriminate against any employee or applicant for employment or any member of the public because of race, color, creed, religion, national origin, sex, sexual preference, disability, marital status, age; or otherwise commit an unfair employment practice. Vendor further agrees that this nondiscriminatory agreement will be incorporated by the Vendor in all contracts entered into with suppliers of commodities and services, contractors and subcontractors, and all labor organizations furnishing skilled, unskilled, and craft union skilled labor, or who may perform any such labor or services in connection with the Contract.
14. STATUS OF VENDOR
- 14.1. The Vendor will be responsible to the Town for acts and omissions of their employees, subcontractors, and their agents and employees, and other persons performing portions of the Work under the Contract or other arrangement with the Vendor.
  - 14.2. It is understood that the relationship of Vendor to the Town will be that of an "Independent Contractor." Nothing contained herein will be deemed or construed to (1) make the Vendor the agent, servant, or employee of the Town, or (2) create any partnership, joint venture, or other association between the Town and the Vendor.
15. APPLICABLE LAWS
- 15.1. Vendor will observe and comply with all applicable federal, state, and local laws and regulations in the performance of the Contract. The Contract will be construed and interpreted in accordance with the laws of the State of Maryland and all questions of performance hereunder will be determined in accordance with such laws.
16. SUSPENSION OR TERMINATION FOR CONVENIENCE
- 16.1. The Town will have the right, at any time by written notice, for its convenience, to suspend the Work under the Contract for such time as may be determined by the Town to be necessary or desirable up to ninety (90) days, unless a longer time is agreed upon in writing by both parties; and thereafter, to require resumption of the whole or any part of the Work without invalidating the provisions of the Contract.
  - 16.2. The Town will have the right, at any time by written notice, for its convenience, to terminate the Work in whole or in part.
  - 16.3. Any notice issued pursuant to Sections 16.1 and/or 16.2 will state the extent and effective date of such notice, except as otherwise directed, the Vendor will stop Work on the date of receipt of the Notice of Termination or other date specified in the notice; place no further orders or subcontractors for materials, services, or facilities, except as necessary for the completion of such portion of the Work not terminated.
  - 16.4. The Vendor, within thirty (30) days of the Notice of Termination, will submit a final invoice reflecting Work actually furnished pursuant to the Contract to the satisfaction of the Town and for which no previous invoice was submitted to the Town.
  - 16.5. In the event of a termination, pursuant to Section 16.2, the Town will pay the Vendor's expenses verified by final invoice as set forth in Section 16.4 for the following:
    - 16.5.1. Completed and acceptable Work executed in accordance with the Contract prior to the effective date of termination, including fair and reasonable sums for overhead and profit for such Work;
    - 16.5.2. Expenses sustained prior to the effective date of termination in performing Work and furnishing labor, materials, or equipment as required by the Contract in connection with uncompleted Work, plus fair and reasonable sums for overhead and profit.
  - 16.6. The Vendor will not be paid on account of loss of anticipated profits or revenues or for Work not completed prior to the date of termination of the Contract.
17. ADDENDUM
- 17.1. No oral statements of any person will modify or otherwise affect or interpret the meaning of the Contract specifications, or the terms, conditions, or other portions of the Contract. All modifications and

every request for any interpretation must be addressed to the Town of Ocean City's Procurement Manager and to be given consideration, must be received at the above address at least seven (7) days prior to the date fixed for the opening of Proposal Documents.

- 17.2. Any and all interpretations, corrections, revisions, and amendments will be issued by the Procurement Manager to all holders of Proposal Documents in the form of written addenda. Vendors are cautioned that any oral statements made by any Town employee that materially change any portion of the Proposal Documents will not be relied upon unless subsequently ratified by a formal written amendment to the Proposal Document.
- 17.3. All addenda will be issued so as to be received at least five (5) days prior to the time set for receipt of Proposal Documents, and will become part of the Contract and will be acknowledged in the Proposal Document form. Failure of any Vendor to receive any such addenda will not relieve said Vendor from any obligation under the Proposal Document as submitted.
- 17.4. Vendors are cautioned to refrain from including in their Proposal Document any substitutions which are not confirmed by written addenda. To find out whether the Town intends to issue an amendment reflecting an oral statement made by any employee, contact the Town of Ocean City's Procurement Manager during normal business hours.
- 17.5. The Town of Ocean City's Procurement Manager reserves the right to postpone the Proposal Document opening for any major changes occurring in the 5-day interim which would otherwise necessitate an Addendum.

**END OF SECTION**

## **SECTION III: GENERAL CONDITIONS**

1. CHANGES IN THE WORK
  - 1.1. The Town may at any time, as the need arises, order changes within the scope of the work without invalidating the Contract. If such changes increase or decrease the amount due under the Proposal Document, or in the Contract Time required for performance of the Work, an equitable adjustment will be authorized by Change Order.
  - 1.2. The Town, also, may at any time, make changes in the details of the Work. The Successful Vendor will proceed with the performance of any changes in the Work so ordered by the Town unless the Successful Vendor believes that such Change entitles it to a change in Contract Price and/or Time in which event it will give the Town Written Notice thereof within seven (7) days after the receipt of the ordered change. Thereafter the Successful Vendor will not execute such changes pending the receipt of an executed Change Order or further instruction from the Town.
2. CHANGES IN CONTRACT PRICE
  - 2.1. The Contract Price may be changed only by a Change Order. The value of any Service covered by a Change Order or of any claim for increase or decrease in the Contract Price will be determined by one or more of the following methods in the order of precedence listed below:
    - 2.1.1. Unit prices previously approved.
    - 2.1.2. An agreed lump sum.
    - 2.1.3. The actual cost for labor, direct overhead, materials, supplies equipment, and other services necessary to complete the Work. In addition there will be added an amount to be agreed upon but not to exceed fifteen (15%) percent of the actual cost of the Service(s) to cover the cost of general overhead and profit.
3. CORRECTION OF WORK
  - 3.1. The Successful Vendor will promptly correct all work rejected by the Town for failure to comply with the Proposal Documents, whether incorporated in the construction or not, and the Successful Vendor will promptly replace and re-execute the Work in accordance with the Proposal Documents and without expense to the Town and will bear the expense of making good all work.
  - 3.2. All correction and replacement work will be done at the Successful Vendor's expense. If the Successful Vendor does not take action to correct such rejected Work within ten (10) days after receipt of Written Notice, the Town may cancel the Contract and award to the next most Responsive and Responsible Vendor at the expense of the Successful Vendor.
4. SUSPENSION OF WORK, TERMINATION AND DELAY
  - 4.1. The Town may suspend the Work or any portion thereof for a period not more than ninety (90) days or such further time as agreed upon by the Successful Vendor which Stop Work Order will fix the date on which Work will be resumed. The Successful Vendor will be allowed an increase in the Contract Price or an extension of the Contract Time, or both, directly attributable to any suspension.
  - 4.2. If the Successful Vendor is adjudged a bankrupt or insolvent, or if it makes a general assignment for the benefit of its creditors, or if a trustee or receiver is appointed for the Successful Vendor or for any of its property, or if it files a petition to take advantage of any debtor's act, or to reorganize under the bankruptcy or applicable laws, or if it repeatedly fails to make prompt payments to subcontractors or for labor, materials or equipment or if it disregards laws, ordinances, rules, regulations or orders of any public body having jurisdiction of the work or if it disregards the authority of the Town, or if it otherwise violates any provision of the Proposal Documents, then the Town may, without prejudice to any other right or remedy and after giving the Successful Vendor and its surety a minimum of ten (10) days from delivery of a Written Notice, terminate the Work of the Successful Vendor and finish possession of the Work and of all materials, equipment, tools, construction equipment, and all machinery thereon owned by the Successful Vendor, and Successful Vendor will not be entitled to receive any further payment until

the Work is finished. If the unpaid balance of the Contract Price exceeds the direct and indirect costs of completing the Work, including compensation for additional professional service, such excess will be paid to the Successful Vendor. If such costs exceed such unpaid balance, the Successful Vendor will pay the difference to the Town. Such costs incurred by the Town will be determined by the Town's Project Manager and incorporated in a Change Order.

- 4.3. Where the Successful Vendor's services have been so terminated by the Town, said termination will not affect any right of the Town against the Successful Vendor then existing or which may thereafter accrue. Any retention or payment of monies by the Town due the Successful Vendor will not release the Successful Vendor from compliance with the Proposal Documents.
  - 4.4. After ten (10) days from delivery of a Written Notice to the Successful Vendor and the Town's Project Manager, the Town may, without prejudice to any other right or remedy, elect to abandon the Work and terminate the Contract. In such case, the Successful Vendor will be paid for all Work executed and any expense sustained plus reasonable profit.
  - 4.5. If, through no act or fault of the Successful Vendor, the Work is suspended for a period of more than ninety (90) days by the Town or under an order of court or other public authority, or the Town's Project Manager fails to act on any request for payment within thirty (30) days after it is submitted, or the Town fails to pay the Successful Vendor substantially the sum approved by the Town's Project Manager or awarded by arbitrators within thirty (30) days after it is submitted, or the Town fails to pay the Successful Vendor substantially the sum approved by the Town's Project Manager or awarded by arbitrators within thirty (30) days of its approval and presentation, then the Successful Vendor may, after ten (10) days from delivery of a Written Notice to the Town's Project Manager, terminate the Contract and recover from the Town payment for all Work executed and all expenses sustained. In addition and in lieu of terminating the Contract, if the Town's Project Manager has failed to act on a request for payment or if the Town has failed to make any payment as aforesaid, the Successful Vendor may upon ten (10) days Written Notice to the Town and the Town's Project Manager stop the Work until it has been paid all amounts then due, in which event and upon resumption of the Work, Change Orders will be issued for adjusting the Contract Price or extending the Contract Time or both to compensate for the cost and delays attributable to the stoppage of the Work.
  - 4.6. If the performance of all or any portion of the Work is suspended, delayed, or interrupted as a result of a failure of the Town or Town's Project Manager to act within the time specified in the Proposal Documents, or if no time is specified, within a reasonable time, an extension of the Contract Time will be made by Change Order. Extension of time will be the Successful Vendor's exclusive remedy for any delay no matter how or by whom caused.
5. BILLING AND PAYMENT
    - 5.1. Invoices are to be submitted after the performance of work to, [APFINANCE@OCEANCITYMD.GOV](mailto:APFINANCE@OCEANCITYMD.GOV).
    - 5.2. Payment will be made only after performance of work and upon receipt of proper invoice from Successful Vendor and acceptance by the Town.
      - 5.2.1. Invoices must indicated work performed.
      - 5.2.2. Invoices will be paid thirty (30) days from date on invoice, unless there are discrepancies.
  6. ACCEPTANCE OF FINAL PAYMENT AS RELEASE
    - 6.1. The acceptance by the Successful Vendor of final payments will be and will operate as a release to the Town of all claims and all liability to the Successful Vendor other than claims in stated amounts as may be specifically excepted by the Successful Vendor for all things done or furnished in connection with this work relating to or arising out of this work. Any payment, however, final or otherwise, will not release the Successful Vendor or its sureties from any obligations under the Proposal Documents.
  7. INSURANCE REQUIREMENTS
    - 7.1. Unless otherwise required by Special Conditions for this Agreement the Vendor will be required to purchase and maintain during the life of the Agreement the following types and amounts of insurance (minimum).

- 7.1.1. Commercial General Liability: \$1,000,000 (One million dollars) per occurrence \$2,000,000 (Two million dollars) aggregate for bodily injury and property damage.
    - 7.1.2. Professional Liability: \$1,000,000 (One million dollars) per claim.
    - 7.1.3. Commercial Automobile: \$1,000,000 (One million dollars) combined single limit per accident for bodily injury and property damage. Including hired, non-ownership coverage and owned vehicle coverage if company owns a vehicle.
    - 7.1.4. As mandated by the Code of the State of Maryland and Employer's Liability the Vendor will be required to provide Worker's Compensation Insurance.
  - 7.2. The Vendor will provide the Town with certificates of insurance evidencing the coverage required above. Such certificates will provide that the Town be given at least thirty (30) days prior written notice of cancellation of, intention to not renew, or material change in such coverage. Vendor will provide certificates of insurance before commencing Work in conjunction with this Agreement.
  - 7.3. Failure to provide and continue in force such insurance as required above, will be deemed a material breach of the Agreement, will cause the Vendor to be in DEFAULT, and will operate as an immediate termination thereof. The Town reserves the right to require higher limits on any Agreement. A thirty (30) day notice in writing of cancellation or non-renewal will be furnished by certified mail to the Procurement Manager at the address listed in solicitation. The Vendor agrees to be responsible for, indemnify, defend and hold harmless the Town, its officers, agents and employees from the payment of all sums of money by reason of any claim against them arising out of any and all occurrences resulting in bodily or mental injury or property damage that may happen in connection with the Goods and/or Services performed under this Agreement including, but not limited to, claims under the Worker's Compensation Act.
    - 7.3.1. ON THE COMMERCIAL GENERAL LIABILITY POLICY THE TOWN MUST BE NAMED AS ADDITIONAL INSURED AND THE INSURANCE CERTIFICATE FURNISHED TO THE TOWN WILL INDICATE SUCH COVERAGE.
    - 7.3.2. THE PROVIDING OF ANY INSURANCE REQUIRED HEREIN DOES NOT RELIEVE THE VENDOR OF ANY OF THE RESPONSIBILITIES OR OBLIGATIONS ASSUMED BY THE CONSULTANT IN THIS AGREEMENT, OR FOR WHICH THE VENDOR MAY BE LIABLE BY LAW OR OTHERWISE.
8. ASSIGNMENTS
  - 8.1. Neither the Successful Vendor nor the Town will sell, transfer, assign, or otherwise dispose of the Contract or any portion thereof, or of its right, title, or interest therein, or its obligations thereunder, without the written consent of the other party.
9. INDEMNIFICATION
  - 9.1. The Successful Vendor will indemnify and hold harmless the Town and the Town's Project Manager and their agents and employees from and against all claims, damages, losses and expenses including attorney's fees arising out of or resulting from the performance of the Work provided that any such claims, damage, loss or expense is attributable to bodily injury, sickness, disease or death, or injury to or destruction of tangible property including the loss of use resulting therefrom; and caused in whole or in part by any negligent or willful act or omission of the Successful Vendor, and subcontractor or, anyone directly or indirectly employed by any of them, or anyone for whose acts any of them may be liable, the indemnification obligation will not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for the Successful Vendor or any subcontractor or under workmen's compensation acts, disability benefit acts or other employee benefits acts.
10. SUBCONTRACTING
  - 10.1. The Successful Vendor may utilize the services of specialty subcontractors on those parts of the work which, under normal contracting practices, are performed by specialty subcontractors.
  - 10.2. The Successful Vendor will not award Work to subcontractors, in excess of fifty (50%) percent of the Contract Price, without prior written approval of the Town's Project Manager.

- 10.3. The Successful Vendor will be fully responsible to the Town for the acts and omissions of its subcontractors, and of persons either directly or indirectly employed by them, as it is for the acts and omissions of persons directly employed by it.
- 10.4. The Successful Vendor will cause appropriate provisions to be inserted in all subcontractors relative to the work to bind subcontractors to the Successful Vendor by the terms of the Proposal Documents insofar as applicable to the work of subcontractors and to give the Successful Vendor the same power as regards terminating any subcontractor that the Town may exercise over the Successful Vendor under any provision of the Proposal Documents.
- 10.5. Nothing contained in the Contract will create any contractual relation between any subcontractor or and the Town.
- 10.6. The Town's Project Manager will promptly make decisions relative to interpretation of the Proposal Documents.

## SECTION IV: SCOPE OF WORK

1. SCOPE
  - 1.1. The successful vendor will design, supply and install the piece(s) of playground equipment, including safety surfacing, that meets or exceeds the U.S. Consumer Product Safety Commission's Guidelines for Public Playgrounds and the American Society for Testing and Materials (ASTM) F-1487-01 and be certified by the International Playground Manufacturers Association (IPMA). The equipment will be designed for children ages 5 through 12. ADA access from an existing walkway to the equipment access point must be provided. Vendors will submit a maximum of two (2) proposals; proposals will be for playground equipment that does not exceed \$100,000.00 and fits within the requirements of this Proposal Document.
2. PROPOSAL REQUIREMENTS
  - 2.1. Each Proposal Document will include schematic drawings showing all dimensions and elevations, product photographs and color 3-dimensional drawings depicting at least one (1) but not more than two (2) layout options of the Equipment to be provided.
    - 2.1.1. Structure drawings will show chart listing exact number of elevated play activities, ground level activity types, ground level activity quantity, the number of elevated play activities that are ADA compliant accessible by transfer & number of elevated play activities that are ADA compliant accessible by ramp.
    - 2.1.2. The location of all signage will be clearly represented on structure drawings.
    - 2.1.3. The location of any drains and wear mats, if applicable, will be clearly represented on drawings.
  - 2.2. The Completed Proposal Document will include a list of color options for the proposed Equipment.
  - 2.3. IPEMA certification will be included for both equipment and safety surfacing for each drawing.
  - 2.4. All specifications will be included in the Completed Proposal Document.
  - 2.5. Qualifications of manufacturer and installer will be included in the Completed Proposal Document as outlined in Sub-Section 5 below.
  - 2.6. Installer insurance certificate will be included with the Completed Proposal Document.
  - 2.7. All product and workmanship warranties will be included in the Completed Proposal Document.
3. SPECIFICATIONS AND GUIDELINES
  - 3.1. The following specifications and provisions will apply to the playground design and installation:
    - 3.1.1. All play equipment specified will conform to the most current U.S. Consumer Product Safety Commission "Handbook for Public Playground Safety". All Equipment must be certified by the International Playground Equipment Manufacturers Association (IPEMA) to comply with the American Society for Testing and Materials' "Standard Consumer Safety Performance Specification for Playground Equipment for Public Use" (ASTM F 1487-11). The entire Equipment must comply with the Americans with Disabilities Act (ADA) Accessibility Guidelines.
    - 3.1.2. All playground safety surfacing must be certified by the International Playground Equipment Manufacturers Association (IPEMA) to comply with most current ASTM F-1292 for Impact Attenuation and ASTM F-1951 for Accessibility of Surfacing Systems under and around Equipment.
    - 3.1.3. Design will be void of enclosed areas that prevent a direct line of sight into the playground from all angles.
    - 3.1.4. No wood will be used in the Equipment.
    - 3.1.5. All platforms, decks and stairs will be at least 12 gauge punched steel and be PVC coated (Expanded metal is not acceptable).
    - 3.1.6. All slides will be molded plastic (no stainless steel or other metal).
    - 3.1.7. All hardware for decks will be stainless steel.
    - 3.1.8. All upright supports posts will be minimum 5-inch diameter aluminum.
    - 3.1.9. "Hard" shade structures are preferred over fabric structures.

- 3.1.10. The Equipment will, at a minimum, be accessible by wheelchair users by a transfer platform.
  - 3.1.11. The safety surfacing in the use zone will be rubber tile of a consistent thickness, as recommended by the manufacturer, to protect from a maximum fall height greater than or equal to the highest accessible designated playing surface of any component of the structure(s).
  - 3.1.12. An ADA compliant wheelchair accessible pathway will be provided in the southeast corner of the playground.
  - 3.1.13. Equipment will be enclosed with a physical barrier along the entire perimeter of the playground the correct safety distances from the playground Equipment, except in the ADA accessible entry. The barrier must comply with ASTM Public Use Playground Fencing Standard F 2049-11, if applicable.
  - 3.1.14. Playground equipment, including the safety zone with barriers will fit within the designated 30 foot by 45-foot area.
  - 3.1.15. Finished playground including the safety surfacing, pathway and barrier will be complete by May 15, 2017.
  - 3.1.16. The playground will include a custom, age appropriate sign made of a polyurethane panel with text and logo permanently routed in or molded into the plastic. The supporting posts will be aluminum and match the style and colors of the playground Equipment. The Town will provide the logo art work of the agency and text. A proof of the sign with text must be approved by the Town prior to production.
  - 3.1.17. The Successful Vendor will repair, at the Successful Vendor's expense, any and all items damaged during installation outside of the playground area. Repairs will meet the Town's standards of repair.
4. CONSIDERATIONS
- 4.1. The Successful Vendor will provide an owner's manual and tool kit with replacement parts for the Equipment after final inspection.
  - 4.2. After installation is complete, a playground audit will be performed for the Equipment by a National Playground Safety Institute certified inspector. A copy of the audit form verifying a satisfactory inspection must be issued prior to final payment. The playground audit will be the responsibility of the Successful Vendor.
  - 4.3. Equipment installers will certify that the Equipment has been installed in compliance with the manufacturer's specifications.
  - 4.4. Upon award, Successful Vendor will provide manufacturers insurance certificate.
5. VENDOR QUALIFICATIONS
- 5.1. Vendor will provide a statement indicating its ability and expertise in designing and installing the Equipment.
  - 5.2. Vendor's references will be within 150 miles of Ocean City, Maryland.
  - 5.3. Equipment will be installed by factory certified installers with a minimum 5 years' experience; a copy of certificate will be included in Completed Proposal Document.
  - 5.4. Equipment installers will be supervised by a National Playground Safety Institute (NPSI) certified playground safety inspector. A copy of the supervisor's certification will be provided upon request. A list of personnel or subcontractors who will actually perform the work along with resumes of the construction site supervisors will be provided with the Completed Proposal Document.
6. LIQUIDATED DAMAGES
- 6.1. If the vendor fails to complete the project by the May 15, 2017 deadline, then the Town will subtract \$100.00 per day for each calendar day the project is not completed after May 15, 2017 from the vendor's payment.

**END OF SECTION**  
**SECTION V: EVALUATION AND SELECTION PROCESS**

1. EVALUATION

1.1. All Vendors are advised that in the event of a receipt of adequate number of Proposal Documents which, in the opinion of the Town, require no clarification and/or supplementary information, such Proposal Documents may be evaluated without discussion. Hence, Proposal Documents should be initially submitted on the most complete and favorable terms which Vendors are capable of offering the Town. Proposal Documents will be evaluated using the following criteria:

<u>Weighting Factor</u>	<u>Criterion</u>
20%	Creativity of Design – drawings illustrate a professional, custom design that stimulates the interest of the evaluators
20%	Number of Components and Accessibility for Disabled and Handicapped Patrons - proposed equipment must be ADA compliant
20%	Safety of Design – Design meets CPSC guidelines, ASTM standards and is IPEMA certified
20%	Quality of Materials – quality of materials meets or exceeds those outlined in this Proposal Document
5%	Content of Proposal – Proposal contains all requirements as set forth in this Proposal Document
5%	Presentation of Proposal – documents are presented in a professional style in the order they are listed in Section IV, Sub-Section 2 entitled PROPOSAL REQUIREMENTS
5%	Qualifications of Manufacturer – Proposers will provide 3 references, located within 150 miles of Ocean City, Maryland. Contact name, address, and telephone numbers will be provided
5%	Qualifications of Installer(s) - Equipment will be installed by a factory certified installer with a minimum 5 years’ experience in playground installations

1.2. Each Vendor will be rated for each criterion on a scale of zero to four as described below.

Unacceptable	0
Poor	1
Fair	2
Good	3
Superior	4

1.2.1. A Vendor’s final grade will be the sum of each criterion’s rating multiplied by the weighting factor listed above.

**THIS AND PREVIOUS SECTIONS DO NOT NEED TO BE RETURNED WITH SUBMITTAL.**

# FORM OF BID

To whom it may concern:

We, \_\_\_\_\_, organized and existing under the laws of the State of \_\_\_\_\_ doing business as a/an **sole proprietorship/partnership/corporation**, hereby submit our Completed Proposal Documents for the OC Boardwalk Playground Equipment as indicated in the Proposal Documents.

Having carefully examined and being in compliance with the Town's Proposal Documents and having received clarification on all items of conflict or upon which any doubt arose, the undersigned hereby requests consideration of our Completed Proposal Documents and propose to perform all work for the OC Boardwalk Playground Equipment in strict accordance with the Proposal Documents, within the time set forth therein, and at the prices stated below.

Vendor hereby agrees to commence work under the Contract on or before a date to be specified in the Notice to Proceed and to fully complete the work by May 15, 2017.

Is your company currently involved in any active litigation? (Yes)\_\_\_\_ (No)\_\_\_\_ CHECK One.

Is your company currently involved in any mergers or acquisitions? (Yes)\_\_\_\_ (No)\_\_\_\_ CHECK One.

**\*If you answered Yes to either of the above questions please attach documentation to your Proposal describing further.**

An Ocean City Business License is required for this project. Are you in agreement to get an Ocean City Business Licenses when you receive the Notice of Award? (Yes)\_\_\_\_ (No)\_\_\_\_ CHECK One.

Will your organization meet or exceed installation deadline of May 15, 2017? (Yes)\_\_\_\_ (No)\_\_\_\_ CHECK One.

**NOTE: THIS BID FORM MUST BE SIGNED BY AN OFFICER OF YOUR COMPANY OR AN AUTHORIZED AGENT FOR THIS BID TO BE CONSIDERED VALID.**

**NOTE: Completed Proposal Documents will include all applicable fees.**

**\*\*Provide a copy of the Contract your organization would like to use for this work.**

**TOTAL PROPOSAL ONE (1) PRICE** \_\_\_\_\_  
(EXPRESSED ALPHANUMERICALLY)

**TOTAL PROPOSAL ONE (1) PRICE** \_\_\_\_\_  
(EXPRESSED NUMERICALLY)

**TOTAL PROPOSAL TWO (2) PRICE** \_\_\_\_\_  
(EXPRESSED ALPHANUMERICALLY)

**TOTAL PROPOSAL TWO (2) PRICE** \_\_\_\_\_  
(EXPRESSED NUMERICALLY)

Respectfully submitted,

\_\_\_\_\_  
Signature

\_\_\_\_\_  
License Number

\_\_\_\_\_  
Address

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

(Affix Corporate Seal)

## REFERENCES

List three (3) references for similar Equipment successfully completed within 100 miles of Ocean City, Maryland similar to what the Town is requesting. Include contact name, address, telephone number and goods sold.

Company Name:		Company Name:	
Type of Work:		Type of Work:	
Address:		Address:	
Town, State, Zip Code:		Town, State, Zip Code:	
Contact Person:		Contact Person:	
Telephone Number:		Telephone Number:	
Date of Service:		Date of Service:	
Company Name:			
Type of Work:			
Address:			
Town, State, Zip Code:			
Contact Person:			
Telephone Number:			
Date of Service:			

\_\_\_\_\_

Sign for Identification

\_\_\_\_\_

Printed Name

## EXCEPTIONS

The undersigned hereby certifies that, except as listed below, or on separate sheets attached hereto, the enclosed Completed Proposal Document covers all items as specified.

**EXCEPTIONS:**

(If none, write NONE) \_\_\_\_\_

THE VENDOR HEREBY ACKNOWLEDGES RECEIPT OF THE FOLLOWING ADDENDA.

<u>Number</u>	<u>Date</u>	<u>Initials</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____

\_\_\_\_\_  
Sign for Identification

\_\_\_\_\_  
Printed Name

**INDIVIDUAL PRINCIPAL**

Vendor Name: \_\_\_\_\_

Signed By: \_\_\_\_\_ In the presence of: \_\_\_\_\_

Address of Vendor: \_\_\_\_\_ Town, State, Zip

\_\_\_\_\_

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

\*\*\*\*\*

CO-PARTNERSHIP PRINCIPAL

Name of Co-Partnership: \_\_\_\_\_

Address: \_\_\_\_\_ Town, State, Zip \_\_\_\_\_

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

Signed By: \_\_\_\_\_ In the presence of: \_\_\_\_\_

Partner

Witness

Signed By: \_\_\_\_\_ In the presence of: \_\_\_\_\_

Partner

Witness

Signed By: \_\_\_\_\_ In the presence of: \_\_\_\_\_

Partner

Witness

\*\*\*\*\*

CORPORATE PRINCIPAL

Name of Corporation: \_\_\_\_\_

Address: \_\_\_\_\_ Town, State, Zip

\_\_\_\_\_

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

Signed By: \_\_\_\_\_ In the presence of: \_\_\_\_\_

President

Witness

Attest: \_\_\_\_\_

Corporate Secretary

Affix Corporate Seal

## VENDOR'S AFFIDAVIT OF QUALIFICATION TO BID

I HEREBY AFFIRM THAT:

I, \_\_\_\_\_ am the \_\_\_\_\_  
(Printed Name) (title)  
and the duly authorized representative of the Vendor of  
\_\_\_\_\_ whose address is  
(name of corporation)  
\_\_\_\_\_

and that I possess the legal authority to make this affidavit on behalf of myself and the Vendor for which I am acting.

Except as described in paragraph 3 below, neither I nor the above Vendor, nor to the best of my knowledge and of its officers, directors or partners, or any of its employees directly involved in obtaining contracts with the State or any county, bi-county or multi-county agency, or subdivision of the State have been convicted of, or have pleaded nolo-contendere to a charge of, or have during the course of an official investigation or other proceeding admitted in writing or under oath acts or omissions which constitute bribery, attempted bribery, or conspiracy to bribe under the provisions of Article 27 of the Annotated Code of Maryland or under the laws of any state or federal government (conduct prior to July 1, 1977 is not required to be reported).

(State "none" or, as appropriate, list any conviction, plea or admission described in paragraph 2 above, with the date, court, official or administrative body, the individuals involved and their position with the Vendor, and the sentence or disposition, if any.)

\_\_\_\_\_

\_\_\_\_\_

I acknowledge that this affidavit is to be furnished to the Town, I acknowledge that, if the representations set forth in this affidavit are not true and correct, the Town may terminate any Contract awarded and take any other appropriate action. I further acknowledge that I am executing this affidavit in compliance with section 16D of Article 78A of the Annotated Code of Maryland, which provides that certain persons who have been convicted of or have admitted to bribery, attempted bribery or conspiracy to bribe may be disqualified, either by operation of law or after a hearing, from entering into contracts with the State or any of its agencies or subdivisions.

I do solemnly declare and affirm under the penalties of perjury that the contents of this affidavit are true and correct.

\_\_\_\_\_  
Sign for Identification

\_\_\_\_\_  
Printed Name

**NON-COLLUSIVE AFFIDAVIT**

\_\_\_\_\_ being first duly sworn,  
deposes and says that:

1. He/she is the \_\_\_\_\_, (Owner, Partner, Officer, Representative or Agent) of \_\_\_\_\_, the Vendor that has submitted the attached Proposal Documents;
2. He/she is fully informed respecting the preparation and contents of the attached Proposal Document and of all pertinent circumstances respecting such Proposal Documents;
3. Such Proposal Document is genuine and is not a collusive or sham Proposal Document;
4. Neither the said Vendor nor any of its officers, partners, owners, agents, representatives, employees or parties in interest, including this affiant, have in any way colluded, conspired, connived or agreed, directly or indirectly, with any other Vendor, firm, or person to submit a collusive or sham Proposal Document in connection with the Work for which the attached Proposal Document has been submitted; or to refrain from bidding in connection with such Work; or have in any manner, directly or indirectly, sought by agreement or collusion, or communication, or conference with any Vendor, firm, or person to fix the price or prices in the attached Proposal Document or of any other Vendor, or to fix any overhead, profit, or cost elements on the Proposal Document price or the Proposal Document price of any other Vendor, or to secure through any collusion, conspiracy, connivance, or unlawful agreement any disadvantage against (Recipient), or any person interested in the Work;
5. The price or prices quoted in the attached Proposal Document are fair and proper and are not tainted by any collusion, conspiracy, connivance, or unlawful agreement on the part of the Vendor or any other of its agents, representatives, owners, employees or parties in interest, including this affiant.

Signed, sealed and delivered in the presence of:

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Witness

By: \_\_\_\_\_  
Signature

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Title

**NOTICE TO PROCEED**

To:

Date:

Work: OC Boardwalk Playground Equipment

You are hereby notified to commence WORK in accordance with the Contract dated \_\_\_\_\_ on or before \_\_\_\_\_ you are to complete the WORK by May 15, 2017.

TOWN OF OCEAN CITY  
BY \_\_\_\_\_  
Catrice Parsons, CPSM, CPPB  
Procurement Manager

**NOTICE TO PROCEED**

Receipt of the above NOTICE TO PROCEED is hereby acknowledged by

\_\_\_\_\_

this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

By \_\_\_\_\_

Title \_\_\_\_\_