

**TOWN OF FRASER, COLORADO
PUBLIC CONTRACT FOR SERVICES**

THIS CONTRACT is made and entered into as of this _____ day of _____, 2023, by and between American Ramp Company, whose address is 601 McKinley, Joplin, MO 64801, hereinafter referred to as “Contractor”), and the Town of Fraser, a municipal corporation of the State of Colorado, whose address is 153 Fraser Avenue, P.O. Box 120, Fraser, Colorado 80442, (hereinafter referred to as “Fraser” or “Town”).

In consideration of the mutual promises and covenants set forth herein, Fraser and Contractor agree as follows:

ARTICLE 1.0 – RELATIONSHIP OF THE PARTIES

1.1 Contractor is engaged in an independent business and is being retained and engaged by Fraser only for the purposes and to the extent set forth in this contract. Contractor’s relation to Fraser and any of its affiliates shall, during the term of the contract, be that of an independent contractor and not an employee, agent, partner or engaged in a joint venture with Fraser, for all purposes including, but not limited to Federal and state tax purposes. Fraser does not require Contractor to work exclusively for Fraser, and Contractor shall retain the right to perform services for others during the term of this contract.

1.2 Fraser engages Contractor to perform duties in connection with the following specific engagement hereunder.

ARTICLE 2.0 - DESCRIPTION OF SERVICES

2.1 Contractor agrees to provide the following services for Fraser (herein referred to as the “Work”):

Bike Park and Pump Track Concept Design Package

American Ramp Company provides professional design services geared to create a completely custom bike park and pump track design that is unique to your community. Our team of Professional Skateboarders, BMX Riders, Mountain Bike Riders, Designers, Engineers, and Visual Artists will work directly with you to generate ideas and develop your park.

Our Conceptual Design services will include the following:

Community Engagement Meeting

- American Ramp Company will host a virtual meeting with your local riders or project team to formulate ideas for your concept design
- Review of samples designs with group to identify a preferred them

- Summarize meeting findings with group

Site Review

- Digitally review location of park for opportunities and constraints
- Discuss potential locations for entry, spectator viewing, and drainage flow

Design Revisions

- Revise conceptual design based on feedback from initial input (2-revisions included)
- Verify the design is responsive to the site and budget

Cost Estimate

- Provide cost estimate for construction of approved design

Material Quantity Take-offs

- Provide breakdown of material types and quantities for various areas of the park

Deliverables

- Large poster size print of final design
- Material Quantity Take-offs
- Cost Estimate

2.2 Any additional work or services not within the scope of the description set forth in Section 2.1 must be approved in advance by Fraser.

ARTICLE 3.0 - COMPENSATION

3.1 Fraser agrees to pay the following compensation to Contractor for the Work described in Article 2.0:

The total cost for the interactive professional Conceptual Design Package is Sixteen Thousand Dollars and 00/100 (\$16,000.00).

Additional Considerations

- Topography Map of the area with 1' contour lines is required. If client can't provide, Contractor can have it done for additional \$2,000.00
- Utility Map is not required but recommended. If Contractor does not have this, Contractor will assume no utilities are in the way.
- Geotechnical Report is not required but recommended. If Contractor does not have this, Contractor will assume the site is suitable to build on as-is.

Design	\$16,000.00
Topography Map	\$2,000.00
Utility Map	"TBD"
Geotech Report	"TBD"
Sales Tax	"NA"
Sourcewell Discount	(\$1,260.00)
Total Cost	\$16,740.00

3.2 Such compensation shall be payable as follows:

Terms are 100% due upon signing since most of the expense is borne early in the planning and design process.

3.3 Fraser hereby states that it has appropriated sufficient funds to pay the anticipated compensation due to Contractor hereunder for the current fiscal year.¹

3.4 This contract prohibits issuance of any contract modification or other form of modification or directive by the public entity requiring additional compensable work to be performed, which work causes the aggregate amount payable under the contract to exceed the amount appropriated for the original contract, unless the Contractor is given written assurance by the Town that lawful appropriations to cover the costs of the additional work have been made and the appropriations are available prior to performance of the additional work or unless such work is covered under a remedy-granting provision in this contract.² Contract modification means any written alteration of a contract accomplished in accordance with the terms of that contract.³

3.5 For any form of modification or directive by the Town requiring additional compensable work to be performed, the Town shall reimburse the contractor for the contractor's costs on a periodic basis, as those terms are defined in the contract, for all additional directed work performed until a contract modification is finalized. In no instance shall the periodic reimbursement be required before the contractor has submitted an estimate of cost to the Town for the additional compensable work to be performed.⁴

¹ Colo. Rev. Stat. Ann. § 24-91-103.6(2)(a) (West).

² Colo. Rev. Stat. Ann. § 24-91-103.6(2)(b) (West).

³ Colo. Rev. Stat. Ann. § 24-101-301(10) (West).

⁴ Colo. Rev. Stat. Ann. § 24-91-103.6(2)(c) (West).

ARTICLE 4.0 - TERM

4.1 This Contract shall be effective as of the date first mentioned above and shall continue in effect until terminated by either party.

4.2 Either party may terminate this contract without cause upon not less than thirty (30) days written notice to the other party.

ARTICLE 5.0 - CONTRACTOR'S RESPONSIBILITIES

5.1 Contractor shall provide and pay for all labor, materials, equipment, facilities and services necessary for the proper completion of the Work.

5.2 Contractor will pay and be responsible for all costs incurred by Contractor relating to or in connection with the performance of duties under this contract, including, but not limited to, any overhead costs, any fees, fines, licenses, bonds or taxes required of or imposed against Contractor and all other of Contractor's costs of doing business.

5.3 Contractor assumes full responsibility for acts, negligence or omissions of all its employees engaged in performing the Work or any part thereof; for those of his subcontractors and their employees; and for those of all other persons performing work under a contract with him.

5.4 Contractor shall comply with all Federal, state and local laws regarding business permits and licenses that may be needed to carry out any duties to be performed under this contract.

ARTICLE 6.0 - INDEMNIFICATION AND INSURANCE

6.1 To the fullest extent permitted by law, Contractor agrees to indemnify the Town as follows:

6.1.1 Indemnification for General Liability/Non-Professional Negligence.

The Contractor shall defend, indemnify and hold harmless the Town and any of its agencies, officials, officers or employees from and against damages, liability, losses, costs and expenses including reasonable attorneys' fees arising out of or resulting from the negligence of the Contractor its employees, agents, subcontractors or others for whom the Contractor is legally liable provided that such damage, liability, loss, cost or expense is: A. Attributable to bodily injury, sickness, disease or death or to injury to or destruction of tangible property including loss of use resulting there from; and B. Not the result of professional negligence.

6.1.2 Indemnification for Professional Negligence. The Contractor shall defend, indemnify and hold harmless the Town and any of its agencies, officials, officers or employees from and against damages, liability, losses and costs and expenses including reasonable attorneys' fees which are incurred by the Town but only to the extent caused by the negligent acts, errors, or omissions of the Contractor, its employees, agents, subcontractors or others for whom the Contractor is legally liable in the performance of professional services under this Agreement. The Contractor shall not be obligated to indemnify the Town for the negligent acts of the Town or any of its agencies, officials, officers, employees, subcontractors or subconsultants.

The foregoing indemnification provisions are intended to comply with C.R.S. 13-21-111.5(6) and C.R.S. 13-50.5-102(8) and shall be read as broadly as permitted to satisfy that intent.

6.2 Contractor shall procure and maintain, and shall cause any subcontractor of Contractor to procure and maintain (or shall insure the activity of Contractor's subcontractors in Contractor's own policies with respect to), the minimum insurance coverages listed below. Such coverages shall be procured and maintained with forms and insurers acceptable to Fraser. All coverages shall be continuously maintained from the date of commencement of the Work. In case of any claims-made policy, the necessary retroactive dates and extended reporting periods shall be procured to maintain such continuous coverage. The required coverages are as follows:

6.2.1 Workers' Compensation insurance to cover obligations imposed by the Workers' Compensation Act of Colorado and any other applicable laws for any employee engaged in the performance of Work under this contract, and Employers' Liability insurance with minimum limits of FIVE HUNDRED THOUSAND DOLLARS (\$500,000) each accident, FIVE HUNDRED THOUSAND DOLLARS (\$500,000) disease - policy limit, and FIVE HUNDRED THOUSAND DOLLARS (\$500,000) disease - each employee.

6.2.2 Commercial General Liability insurance with minimum combined single limits of ONE MILLION DOLLARS (\$1,000,000) each occurrence and TWO MILLION DOLLARS (\$2,000,000) aggregate. The policy shall be applicable to all premises and operations. The policy shall include coverage for bodily injury, broad form property damage (including completed operations), personal injury (including coverage for contractual and employee acts), blanket contractual, independent contractors, products, and completed operations. The policy shall include coverage for explosion, collapse, and underground hazards and shall contain a severability of interests provision.

6.2.3 Comprehensive Automobile Liability insurance with minimum combined single limits for bodily injury and property damage of not less than ONE MILLION DOLLARS (\$1,000,000) each occurrence and ONE MILLION DOLLARS (\$1,000,000)

aggregate with respect to each of Contractor's owned, hired and/or non-owned vehicles assigned to or used in performance of the Work hereunder. The policy shall contain a severability of interests provision.

6.2.4 Contractor shall maintain professional liability insurance with minimum combined single limits of Five-Hundred Thousand Dollars (\$500,000) for each claim and Five-Hundred Thousand Dollars (\$500,000) aggregate.

6.3 The policy or policies required by subsections 6.2.2 and 6.2.3 above shall be endorsed to include Fraser as an additional insured. Every policy required above shall be primary insurance, and any insurance carried by Fraser, its officers or employees, or carried by or provided through any insurance pool shall be excess and not contributory insurance to that provided by Contractor. Contractor shall be solely responsible for any deductible losses under any policy or policies required herein. Upon Fraser's request, Contractor shall promptly furnish Fraser with a certificate of insurance evidencing the insurance coverage required by this Article.

6.4 Failure on the part of Contractor to procure or maintain policies providing the required insurance coverages, conditions and minimum limits provided herein shall constitute a material breach of this Contract, for which Fraser may immediately terminate this Contract, or at its discretion, Fraser may procure or renew any such policy or any extended reporting period thereto and may pay any and all premiums in connection therewith, and all sums so paid by Fraser shall be repaid by Contractor to Fraser upon demand, or Fraser may offset the cost of the premiums against any monies due to Contractor from Fraser.

6.5 Fraser and Contractor understand and agree that Fraser is relying on, and does not waive or intend to waive by any provision of this Contract, the monetary limitations or any other rights, immunities and protections provided by the Colorado Governmental Immunity Act, Section 24-10-101, *et seq.*, Colorado Revised Statutes, as the same may from time to time be amended, or otherwise available to Fraser, its officers or employees.

ARTICLE 7.0 - ADDITIONAL PROVISIONS

7.1 Contractor understands that Contractor will be liable for Federal, state and local income taxes and Federal self employment tax relating to income received under this contract. Fraser will not: withhold FICA (Social Security) from Contractor's payments; make State or Federal unemployment insurance contributions on Contractor's behalf; withhold State or Federal income tax from payments to Contractor; or obtain Worker's Compensation insurance on behalf of Contractor.

7.2 Fraser shall not provide in any way training to or for Contractor hereunder.

7.3 Contractor is engaged hereunder as an independent contractor and, as such, Contractor shall not have any authority to accept engagements on behalf of or to, in any other way, bind Fraser.

7.4 This Contract contains the entire agreement and understanding between the parties and may not be changed or modified orally, but only by a written instrument signed by both Fraser and Contractor.

7.5 Neither this Contract or any interest therein, nor any claim thereunder, shall be assigned or transferred by Contractor to any other party or parties.

7.6 In the event of any litigation relating to or arising out of this Contract, the court shall award to the prevailing party all reasonable costs and expenses incurred in connection with such litigation, including attorney fees. This Contract shall be interpreted and enforced in accordance with the laws of the State of Colorado; and the courts of Grand County, Colorado, shall have exclusive jurisdiction over any court action arising hereunder.

IN WITNESS WHEREOF, Fraser and Contractor have executed this Contract effective the date first above written.

FRASER

CONTRACTOR

TOWN OF FRASER, a municipal corporation of the State of Colorado

BY: _____
Town Manager

BY: _____
TITLE: _____

ATTEST:

Town Clerk

(SEAL)