

**PUBLIC BUILDING COMMISSION OF CHICAGO**



**PROFESSIONAL SERVICES AGREEMENT  
CONTRACT NUMBER PS1119  
WITH  
PLAYWORLD SYSTEMS INC. and LET'S GO PLAY, INC.  
FOR  
PLAYGROUND EQUIPMENT AND SERVICES**

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**Mayor Richard M. Daley  
Chairman**

Montel M. Gayles  
Executive Director

Richard J. Daley Center, Room 200  
50 W. Washington Street  
Chicago, Illinois 60602  
[www.pbcchicago.com](http://www.pbcchicago.com)

**EXECUTION PAGE**  
**PROFESSIONAL SERVICES AGREEMENT**  
**FOR**  
**PLAYGROUND EQUIPMENT AND SERVICES**  
**CONTRACT NUMBER PS1119**

**THIS AGREEMENT** for Playground Equipment and Services (the "**Agreement**") dated as of June 12, 2007 but actually executed on the date witnessed, is entered into by and between the **Public Building Commission of Chicago**, a municipal corporation of the State of Illinois, having its principal office at Room 200, Richard J. Daley Center, 50 West Washington Street, Chicago, Illinois 60602, (the "**Commission**"), and Playworld Systems Inc., a Pennsylvania corporation with offices at 1000 Buffalo Rd., Lewisburg, PA 17837, and Let's Go Play Inc. an Illinois corporation with offices at 8535 Koehler Dr., Tinley Park, IL 60477 (the "**PROVIDER**").

**BACKGROUND INFORMATION**

**THE COMMISSION** requires certain playground equipment and services, described in this **Agreement** and in described in more detail in **Exhibit 1 - Scope of Services** (the "**Services**"), and desires to retain the Provider on the terms and conditions set forth in this Agreement to provide such playground equipment and perform such Services.

**THE PROVIDER** desires to be so retained by the Commission and represents to the Commission that the Provider has the knowledge, skill, experience and other resources necessary to provide the playground equipment and perform the Services in the manner provided by this Agreement.

**THE PROVIDER** consulted with the Commission, reviewed this Agreement and took such other actions as the Provider deemed necessary or advisable to familiarize itself with the scope and requirements of the Agreement and presented itself to the Commission as being fully knowledgeable and capable of providing the playground equipment and rendering the Services.

**THE COMMISSION** relies upon the Provider's representations in selecting the Provider to provide the playground equipment and the Services.

**NOW THEREFORE**, The parties agree on the Terms that follow:

SIGNED on: 10 / 18 / 2007

PUBLIC BUILDING COMMISSION OF CHICAGO

*Richard M. Daley*  
Chairman

ATTEST:

*Edward J. John*  
Secretary

PROVIDER: Playworld Systems Inc.

BY: *Kelly C. Barrick*  
Secretary/Assistant Secretary

BY: *Matthew Miller*  
President/Vice President

AFFIX CORPORATE  
SEAL, IF ANY, HERE

County of: Union

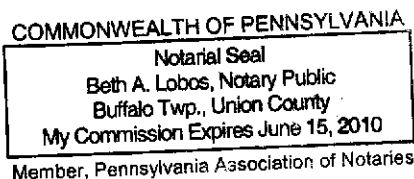
State of: Pennsylvania

Subscribed and sworn to before me by Kelly Barrick and Matthew Miller  
on behalf of the Provider this 19<sup>th</sup> day of September, 2007.

*Beth A. Lobos*  
Notary Public

My Commission expires:

(SEAL OF NOTARY)



PROVIDER: Let's Go Play Inc.

BY: *[Signature]*  
Secretary/Assistant Secretary

BY: *[Signature]*  
President/Vice President

AFFIX CORPORATE  
SEAL, IF ANY, HERE

County of: COOK

State of: ILLINOIS

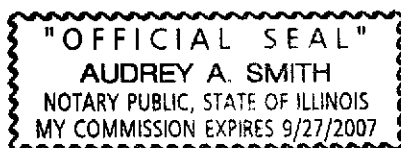
Subscribed and sworn to before me by Ana Garcia-Fiore and \_\_\_\_\_

on behalf of the Provider this 17 day of September, 2007.

Audrey A. Smith  
Notary Public

My Commission expires:

(SEAL OF NOTARY)



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## TERMS AND CONDITIONS

### ARTICLE 1. INCORPORATION OF RECITALS AND EXHIBITS

#### 1.1 Recitals

The matters recited above are incorporated in and made a part of the Agreement.

#### 1.2 Incorporation of Exhibits

(a) The following attached Exhibits are made a part of this Agreement:

- (i) EXHIBIT 1     Scope of Services
- (ii) EXHIBIT 2     Schedule of Compensation
- (iii) EXHIBIT 3     Key Personnel
- (iv) EXHIBIT 4     Insurance Requirements and Evidence of Insurance
- (v) EXHIBIT 5     Disclosure Affidavit
- (vi) EXHIBIT 6     Disclosure of Retained Parties
- (vii) EXHIBIT 7     MBE/WBE Special Conditions

(b) By executing this Agreement, the Provider acknowledges that it is familiar with the contents of each of such documents and will comply fully with all applicable portions of them in performing the Services.

### ARTICLE 2. DEFINITIONS

#### 2.1 Definitions

The following words and phrases have the following meanings for purposes of this Agreement:

(a) **Additional Services.** Those services which are within the general scope of Services of this Agreement, but beyond the description of services required under Section 3.1, and all services reasonably necessary to complete the Additional Services to the standards of performance required by this Agreement. Any Additional Services require the approval of the Commission in a written amendment under Section 10.3 of this Agreement before the Provider is obligated to perform those Additional Services and before the Commission becomes obligated to pay for those Additional Services.

(b) **Agreement.** This Agreement for Playground Equipment and Services, between the Commission and the Provider, including all attached exhibits, schedules and documents and all such exhibits, schedules and documents incorporated by reference, all component parts and all amendments, modifications, or revisions made in accordance with its terms.

(c) **Authorized Commission Representative.** One or more persons designated in writing by the Executive Director for the purposes of assisting the Commission in managing the Project. As specifically directed by the Commission, the Authorized Commission Representative will act on behalf of the Commission.

(d) **Commission.** The Public Building Commission of Chicago, a municipal corporation, acting by and through its Chairman, Secretary, Assistant Secretary, Executive Director, including the Commission's Authorized Representative, as designated by the Executive Director in writing.

(e) **Deliverables.** Collectively, all Playground Equipment and the documents described in Article 3 and Exhibit 1 - Scope of Services of this Agreement, in any format (electronic or hard copy) requested by the Commission, including technical specifications, designs, drawings, plans, reports, forms, recommendations, analyses, material lists, minutes, instructions, guidelines, checklists, punch lists, warranties and interpretations, the Provider is required, under this Agreement, to provide to the Commission.

(f) **Designs.** Layouts, specifications and material lists requested by the Commission or a User Agency for specific Task Orders, provided and/or created by the Provider.

(g) **Playground Equipment.** Equipment, components, materials or parts provided under this Agreement.

(h) **Executive Director.** The authorized representative for the Commission.

(i) **Key Personnel.** Those job titles and individuals identified in EXHIBIT 3 - Key Personnel and referred to in Section 3.5 - Personnel of this Agreement, including the Provider's authorized representative.

(j) **Project Data.** Collectively all Deliverables, data, findings or information in any form prepared, assembled or encountered by or provided to or by the Provider in connection with a Task Order, this Agreement, the Services and/or Deliverables.

(k) **Provider.** The company or other entity identified in the Agreement, and such successors or assigns, if any, as may be authorized by the terms and conditions of the Agreement.

(l) **Repairs.** Ordinary repairs required for Playground Equipment.

(m) **Services.** Collectively, the services, duties, tasks and responsibilities described in Article 3 and EXHIBIT 1 - Scope of Services of this Agreement and any and all work necessary to complete them or carry them out fully and to the standard of performance required in this Agreement.

(n) **Subconsultant or Subcontractor.** Any person or entity hired or engaged by the Provider to provide any part of the Services required under the terms of this Agreement.

(o) **Task Order.** A Purchase Order, Request for Services or Deliverables under this Agreement issued by the Commission or a specific User Agency.

(p) **User Agency.** A governmental agency or agencies that issued or requested the Commission issue a Task Order under this Agreement.

## **2.2 Interpretation**

(a) The term "include" (in all its forms) means "include, without limitation" unless the context clearly states otherwise.

(b) All references in this Agreement to Articles, Sections or Exhibits, unless otherwise expressed or indicated are to the Articles, Sections or Exhibits of this Agreement.

(c) Words importing persons include firms, associations, partnerships, trusts, corporations and other legal entities, including public bodies, as well as natural persons.

(d) Any headings preceding the text of the Articles and Sections of this Agreement, and any table of contents or marginal notes appended to it, are solely for convenience or reference and do not constitute a part of this Agreement, nor do they affect the meaning, construction or effect of this Agreement.



(e) Words importing the singular include the plural and vice versa. Words of the masculine gender include the correlative words of the feminine and neuter genders.

(f) All references to a number of days mean calendar days, unless indicated otherwise.

(g) References to "approved by the Commission" or to "approval by the Commission" are not intended to and must not be interpreted to absolve the Provider from liability due to errors and omissions.

### **ARTICLE 3. DUTIES AND RESPONSIBILITIES OF THE PROVIDER**

#### **3.1 Scope of Services**

(a) This professional services agreement between the Commission and the Provider is for performance of the Services necessary for the design, acquisition, installation and maintenance of Playground Equipment as requested in specific Task Orders. This description of Services is intended to be general in nature and is neither a complete description of the Services nor a limitation on the Services that the Provider is to provide under this Agreement.

(b) The Provider must provide the Services in accordance with the standards of performance set forth in Section 3.4. The Services that the Provider must provide include those described in EXHIBIT 1 - Scope of Services which is attached to this Agreement and incorporated by reference as if fully set forth here.

(c) The Key Personnel and personnel engaged in performing or knowledgeable of the Services will attend a minimum of 3 meetings per Task Order (planning, inspection, and close-out) unless excused by the Executive Director. The Provider will present the Deliverables due, take the minutes and distribute the minutes within 5 days of the meeting.

(d) The Provider must notify the Commission immediately in the event the Provider obtains knowledge of an issue or circumstances which could result in a delay in providing the Deliverables or performing the Services.

#### **3.2 Community Involvement**

The Commission and the User Agencies may seek community involvement, or development of apprenticeships and mentoring opportunities during the term of this agreement. The Provider will be expected to participate in these projects as trainers and mentors.

#### **3.3 Deliverables**

(a) In carrying out its Services and as requested by specific Task Orders, the Provider must prepare or provide to the Executive Director various Deliverables as described in EXHIBIT 1 - Scope of Services.

(b) The Executive Director may reject Deliverables that fail to comply with the requirements of this Agreement. If the Executive Director determines that the Provider has failed to comply with the standards set forth in Section 3.4, he will notify the Provider. If the Provider does not correct the failure, if it is possible to do so, within 30 days after receipt of notice from the Executive Director specifying the failure, then the Executive Director, by written notice, may treat the failure as a default of this Agreement under Section 9.1.

(c) Partial or incomplete Deliverables may be accepted for review only when required for a specific and well-defined purpose for the benefit of the Commission and when consented to in advance by the Executive Director. Such Deliverables will not be considered

as satisfying the requirements of this Agreement and partial or incomplete Deliverables in no way relieve the Provider of its obligations under this Agreement.

### **3.4 Standards and for Playground Equipment, Manufacturer and Services of the Provider**

(a) The Playground Equipment must be a high-quality, safe and attractive product. Assemblages or combinations of Playground Equipment from 2 or more manufacturers will not be accepted.

(b) The manufacturer shall provide the following:

- (i) Limited lifetime warranty on all steel deck posts, clamp system and associated fastening hardware against structural failure caused by corrosion or deterioration from exposure to weather or by defective materials, or defective workmanship;
- (ii) Limited 15 years warranty on all steel support legs and decks against structural failure caused by corrosion, defective materials or defective workmanship; and
- (iii) Limited 15 years warranty on all play system steel components including railings, rungs rigid climbers, and plastic against structural failure caused by defective materials or defective workmanship.
- (iv) Three years full replacement after purchase under the agreement of any component part or assembly that fails to perform up to specification for any reason.
- (v) Labor warranty, for labor and reasonable collateral expenses for three years from date of delivery of the equipment. Warranty repairs and collateral work will be performed by Proposer.
- (vi) Warranty including labor and reasonable collateral expense should any Manufacturer's product recalls or retrofits occur during the first 5 years after delivery of the equipment or parts. Warranty repairs and collateral work will be performed by Proposer.

(c) Playground equipment replacement and repair parts or equivalent/compatible parts must be available from the manufacturer throughout the warranty period.

(d) The manufacturing processes must meet the current and relevant standards for such processes and the standards and requirements of this Agreement.

(e) **American Standards for Testing and Materials (ASTM).** All Playground Equipment must as a minimum meet the relevant ASTM standards for Equipment, components and materials, including ASTM F1487 - Structural Integrity Requirements for Equipment.

(f) **Americans with Disabilities Act (ADA).** All Playground Equipment and Designs must as a minimum meet the standards of the Americans with Disabilities Act (ADA), as understood by most recent administrative and judicial rulings and clarification(s) at the time of installation.

(g) **Consumer Products Safety Commission (CPSC).** All Playground Equipment and Designs must as a minimum meet the standards of the most recent version of the Consumer Products Safety Commission, Handbook for Public Playground Safety.

(h) **International Playground Equipment Manufacturers Association (IPEMA).** All Playground Equipment and Designs must as a minimum meet the standards of the most recent version of the International Playground Equipment Manufacturers Association. The manufacturer of the Playground Equipment must be a member of the IPEMA.

(i) **The Chicago Standard.** The City of Chicago has adopted The Chicago Standard, a set of construction standards for public buildings. The Chicago Standard was developed to guide the design, construction and renovation of municipal facilities in a manner that provides healthier indoor environments, reduces operating costs and conserves energy resources. It also includes provisions for outfitting, operating and maintaining those facilities. The Chicago Standard takes advantage of new building technologies and practices to enhance the well-being and quality of life of everyone working in and using these buildings, as well as the neighborhoods in which they are located. The Provider will create or provide Designs that comply with The Chicago Standard, as applicable to each Task Order.

(j) **Mayor's Office for People with Disabilities.** When directed by the Executive Director, the Provider will consult with Mayor's Office of Persons with Disabilities (MOPD) Architectural Services Unit (ASU) regarding the ASU recommendation for a Task Order. The Provider will advise the Commission and the specific User Agency regarding the ASU recommendations before submitting the final Design to the Commission or specific User Agency.

(k) **Landmarks Ordinance.** When a Task Order is located in or near a Designated Chicago Landmark, the Provider will create or provide Designs that comply with the ordinances, rules and regulations in the Landmark Ordinance, as applicable to that Task Order.

(l) **Protection of the Environment.** Playground Equipment will be composed of materials and manufactured in such a manner as to protect the environment, including, but not limited to the use of recycled materials in the fabrication process.

(m) **The Provider must perform all Services required of it under this Agreement with that degree of skill, care and diligence normally shown by a professional firm or individual performing services of a scope and purpose and magnitude comparable with the nature of the Services to be provided under this Agreement.** The Provider acknowledges that it is entrusted with or has access to valuable and confidential information and records of the Commission and with respect to that information the Provider agrees to be held to the standard of care of a fiduciary.

(n) **The Provider must assure the Commission that all Services that require the exercise of professional skills or judgment are accomplished by professionals qualified and competent in the applicable discipline and appropriately licensed, if required by law.** The Provider must provide copies of any such licenses. The Provider remains responsible for the professional and technical accuracy of all Services or Deliverables furnished, whether by the Provider or its Subcontractors or others on its behalf. All Deliverables must be prepared in a form and content satisfactory to the Commission and delivered in a timely manner consistent with the requirements of this Agreement.

(o) **If the Provider fails to comply with the foregoing standards, the Provider must perform again, at its own expense, all Services required to be re-performed as a direct or indirect result of that failure.** Any review, approval, acceptance or payment for any of the Services by the Executive Director does not relieve the Provider of its responsibility for the professional skill and care and technical accuracy of its Services and Deliverables. This

provision in no way limits the Commission's rights against the Provider either under this Agreement, at law or in equity.

### **3.5 Personnel**

#### **(a) General.**

The Provider must investigate, evaluate, employ or engage, compensate, supervise and discharge, such employees and personnel as may be required in the discretion of the Provider for the proper performance of the Services and the protection of the Commission's interests in the Equipment. All such employees will be employees of the Provider or of a third party contractor engaged by the Provider and not of the Commission.

#### **(b) Adequate Staffing.**

The Provider must, upon receiving a fully executed copy of this Agreement, assign and maintain during the term of this Agreement and any extension of it an adequate staff of competent and trustworthy personnel that is fully equipped, licensed as appropriate, available as needed, qualified and assigned exclusively to perform the Services. The Provider must include among its staff the Key Personnel and positions as identified in Section 3.5(c) below.

#### **(c) Key Personnel**

The Provider must not reassign or replace Key Personnel without the written consent of the Executive Director, which consent the Executive Director will not unreasonably withhold. "Key Personnel" means those job titles and the persons assigned to those positions in accordance with the provisions of Section 3.5. The Executive Director may at any time in writing notify the Provider that the Executive Director will no longer accept performance of Services under this Agreement by one or more Key Personnel listed. Upon that notice the Provider must immediately suspend the services of the key person or persons and must replace him or them in accordance with the terms of this Agreement. Key Personnel, if any, are identified in EXHIBIT 3 - Key Personnel.

#### **(d) Salaries and Wages**

The Provider and Subcontractors must pay all salaries and wages due all employees performing Services under this Agreement unconditionally and at least once a month without deduction or rebate on any account, except only for those payroll deductions that are mandatory by law or are permitted under applicable law and regulations. If in the performance of this Agreement the Provider underpays any such salaries or wages, the Executive Director may withhold, out of payments due to the Provider, an amount sufficient to pay to employees underpaid the difference between the salaries or wages required to be paid under this Agreement and the salaries or wages actually paid these employees for the total number of hours worked. The amounts withheld may be disbursed by the Executive Director for and on account of the Provider to the respective employees to whom they are due, as determined by the Executive Director in his sole discretion. The parties acknowledge that this Section 3.5(c) is solely for the benefit of the Commission and that it does not grant any third party beneficiary rights.

### **3.6 Minority and Women's Business Enterprises Commitment**

In the performance of this Agreement, including the procurement and lease of materials or equipment, the Provider must use every reasonable effort to utilize minority business enterprises for not less than 25% and women business enterprises for not less than 5% of the value of the Agreement, in accordance with the Resolution passed by the Board of

Commissioners of the Public Building Commission of Chicago on October 1, 2004, set forth in EXHIBIT 7, concerning participation of minority business enterprises and women business enterprises on contracts, other than construction contracts, awarded by the Commission and to furnish to the Commission, such reports and other information concerning compliance with such Resolution as may be requested by the Commission from time to time, except to the extent waived by the Commission.

### **3.7 Insurance**

The Provider must purchase and maintain at all times during the term of this Agreement and any time period following expiration if the Provider is required to return and perform any of the Services or Additional Services under this Agreement, for the benefit of the Commission the insurance coverage set forth in EXHIBIT 4 - Insurance Requirements and Evidence of Insurance of this Agreement.

### **3.8 Indemnification**

(a) The Provider must defend, indemnify, keep and save harmless the Commissioners, officers, officials and employees of the Commission from and against any and all Losses, including those related to:

- (i) injury, death or damage of or to any person or property;
- (ii) any infringement or violation of any property right (including any patent, trademark or copyright);
- (iii) the Provider's failure to perform or cause to be performed the Provider's covenants and obligations as and when required under this Agreement, including Environmental Covenants and the Provider's failure to perform its obligations to any Subcontractor;
- (iv) the Commission's exercise of its rights and remedies under Section 9.2 of this Agreement; and
- (v) injuries to or death of any employee of the Provider or any Subcontractor under any workers compensation statute.

(b) "Losses" means, individually and collectively, liabilities of every kind, including losses, damages and reasonable costs, payments and expenses (such as court costs, investigation and expert fees and reasonable attorneys' fees and disbursements), claims, demands, actions, suits, proceedings, judgments or settlements, any or all of which in any way arise out of or relate to the Provider's performance or non-performance of its Services breach of this Agreement or to the Provider's negligent or otherwise wrongful (including negligent or tortious) acts or omissions or those of its officers, agents, employees, consultants, Subcontractors or licensees or invitees.

(c) At the Commission's option, the Provider must defend all suits brought upon all such Losses and must pay all costs and expenses incidental to them, but the Commission has the right, at its option, to participate, at its own cost, in the defense of any suit, without relieving the Provider of any of its obligations under this Agreement. Any settlement must be made only with the prior written consent of the Commission, if the settlement requires any action on the part of the Commission.

(d) To the extent permissible by law, the Provider waives any limits to the amount of its obligations to indemnify, defend or contribute to any sums due under any Losses, including any claim by any employee of the Provider that may be subject to the Workers Compensation Act, 820 ILCS 305/1 *et seq.* or any other related law or judicial decision (such

as, *Kotecki v. Cyclops Welding Corporation*, 146 Ill. 2d 155 (1991)). The Commission, however, does not waive any limitations it may have on its liability under the Illinois Workers Compensation Act, the Illinois Pension Code, any other statute or judicial decision.

(e) The indemnities in this section survive expiration or termination of this Agreement for matters occurring or arising during the term of this Agreement or as the result of or during the Provider's performance of Services beyond the term. The Provider acknowledges that the requirements set forth in this section to indemnify, keep and save harmless and defend the Commission are apart from and not limited by the Provider's duties under this Agreement, including the insurance requirements in EXHIBIT 4 - Insurance Requirements and Evidence of Insurance of this Agreement.

### **3.9 Indemnity by Third Parties**

Upon written request by the Provider, the Commission may require, by appropriate provision in contracts let by the Commission after the date of this Agreement with respect to the Playground Equipment that the contractor(s) and consultant(s) under such contracts must indemnify, save and hold harmless the Commission, the specific User Agency and the Provider, and each of them, and their respective commissioners, board members, officers, officials and employees, from all claims, demands, suits, actions, losses, costs and the like, of every nature and description, made or instituted by third parties, arising or alleged to arise out of the work under such contract, and that the contractor(s) and consultant(s) under such contracts will purchase and maintain during the life of such contract such insurance as the Commission may require. The amount and insurer for such insurance are subject to approval by the Commission.

### **3.10 Ownership of Documents**

All Deliverables, data, findings or information in any form prepared, assembled or encountered by or provided to the Provider under this Agreement are property of the Commission, excluding all copyrights inherent in them or their preparation.

### **3.11 Copyright Ownership**

(a) The Provider and the Commission intend that all copyrights, statutory or otherwise, inherent in the Deliverables remain the sole property of the Provider, except as provided in Section 3.11(b).

(b) The Provider irrevocably grants to the Commission the right to use all copyrights, statutory or otherwise, inherent in the Deliverables for all purposes intended by this Agreement, including design of playground equipment by Provider for the Commission, promotion of playground equipment purchased from the Provider, and installation, use and maintenance of playground equipment purchased from the Provider.

### **3.12 Records and Audits**

#### **(a) Records**

- (i) The Provider must deliver or cause to be delivered to the Executive Director all documents, including all Deliverables prepared for the Commission under the terms of this Agreement, to the Executive Director promptly in accordance with the time limits prescribed in this Agreement, and if no time limit is specified, then upon reasonable demand for them or upon termination or completion of the Services under this Agreement. In the event of the failure by the Provider to make such delivery upon demand, then and in that event, the Provider

must pay to the **Commission** any damages the **Commission** may sustain by reason of the **Provider's** failure.

- (ii) The **Provider** must maintain any such records including Deliverables not delivered to the **Executive Director** or demanded by the **Executive Director** for a period of 5 years after the final payment made in connection with this Agreement. The **Provider** must not dispose of such documents following the expiration of this period without notification of and written approval from the **Executive Director** in accordance with **Article 11**.

(b) **Audits**

- (i) The **Provider** and any of the **Provider's** Subcontractors must furnish the **Executive Director** with all information that may be requested pertaining to the performance and cost of the Services. The **Provider** must maintain records showing actual time devoted and costs incurred. The **Provider** must keep books, documents, paper, records and accounts in connection with the Services open to audit, inspection, copying, abstracting and transcription and must make these records available to the **Executive Director** and any other interested governmental agency, at reasonable times during the performance of its Services.
- (ii) To the extent that the **Provider** conducts any business operations separate and apart from the Services required under this Agreement using, for example, personnel, equipment, supplies or facilities also used in connection with this Agreement, then the **Provider** must maintain and make similarly available to the **Executive Director** detailed records supporting the **Provider's** allocation to this Agreement of the costs and expenses attributable to any such shared usages.
- (iii) The **Provider** must maintain its books, records, documents and other evidence and adopt accounting procedures and practices sufficient to reflect properly all costs of whatever nature claimed to have been incurred and anticipated to be incurred for or in connection with the performance of this Agreement. This system of accounting must be in accordance with generally accepted accounting principles and practices, consistently applied throughout.
- (iv) No provision in this Agreement granting the **Commission** a right of access to records and documents is intended to impair, limit or affect any right of access to such records and documents which the **Commission** would have had in the absence of such provisions.
- (v) The **Commission** may in its sole discretion audit the records of the **Provider** or its Subcontractors, or both, at any time during the term of this Agreement or within five years after the Agreement ends, in connection with the goods, work, or services provided under this Agreement. Each calendar year or partial calendar year is considered an "audited period". If, as a result of such an audit, it is determined that the **Provider** or any of its Subcontractors has overcharged the **Commission** in the audited period, the **Executive Director** will notify the **Provider**. The **Provider** must then promptly reimburse the **Commission** for any amounts the **Commission** has paid the **Provider** due

to the overcharges and also some or all of the cost of the audit, as follows:

(1) If the audit has revealed overcharges to the **Commission** representing less than 5% of the total value, based on the Agreement prices, of the goods, work, or services provided in the audited period, then the **Provider** must reimburse the **Commission** for 50% of the cost of the audit and 50% of the cost of each subsequent audit that the **Commission** conducts;

(2) If, however, the audit has revealed overcharges to the **Commission** representing 5% or more of the total value, based on the Agreement prices, of the goods, work, or services provided in the audited period, then the **Provider** must reimburse the **Commission** for the full cost of the audit and of each subsequent audit.

(c) Failure of the **Provider** to reimburse the **Commission** in accordance with Section (a) or (b) above is an event of default under Section 9.1 of this Agreement, and the **Provider** will be liable for all of the **Commission's** costs of collection, including any court costs and attorneys' fees.

### **3.13 Confidentiality**

(a) Unless agreed otherwise by the **Commission** in writing, all Project Data are the property of the **Commission** and are confidential. The **Provider** will, unless specifically authorized by the **Commission** in writing or required by law, make Project Data available only to the **Executive Director** and, on a need-to-know basis, the **Provider's** employees and Subcontractors.

(b) Except as authorized in writing by the **Executive Director**, the **Provider** must not issue any publicity, news releases or grant press interviews, and except as may be required by law during or after the performance of this Agreement, disseminate any information regarding its Services or the Task Order to which the Services pertain.

(c) If the **Provider** is presented with a subpoena or a request by an administrative agency regarding Project Data, the **Provider** must immediately give notice to the **Executive Director** with the understanding that the **Commission** will have the opportunity to contest such process by any means available to it before any Project Data are submitted to the court, administrative agency, or other third party. The **Provider**, however, is not obligated to withhold the delivery beyond the time ordered by the court or administrative agency, unless the subpoena or request is quashed or the time to produce is otherwise extended.

(d) The **Provider** must implement such measures as may be necessary to ensure that its staff and its Subcontractors are bound by (a), (b) and (c) and any other confidentiality provisions in this Agreement.

### **3.14 Assignments and Subcontracts**

(a) The **Provider** must not assign, delegate or otherwise transfer all or any part of its rights or obligations under this Agreement or any part of it, unless otherwise provided for in this Agreement or without the express written consent of the **Commission**. The absence of such a provision or written consent voids the attempted assignment, delegation or transfer and is of no effect as to the Services or this Agreement. No approvals given by the **Executive Director** operate to relieve the **Provider** of any of its obligations or liabilities under this Agreement.



(b) All subcontracts and all approvals of Subcontractors are, regardless of their form, considered conditioned upon performance by the Subcontractor in accordance with the terms and conditions of this Agreement. If any Subcontractor fails to observe or perform the terms and conditions of this Agreement to the satisfaction of the **Commission**, the **Commission** has the absolute right upon written notification, given by the Executive Director, to immediately rescind approval and to require the performance of this Agreement by the **Provider** personally or through any other **Commission**-approved Subcontractor. Any approval for the use of Subcontractors in the performance of the Services under this Agreement under no circumstances operates to relieve the **Provider** of any of its obligations or liabilities under this Agreement.

(c) The **Provider**, upon entering into any agreement with a Subcontractor, must furnish a copy of that agreement to the **Commission** upon request of the **Executive Director**. All subcontracts must contain provisions that require the Services be performed in strict accordance with the requirements of this Agreement, provide that the Subcontractors are subject to all the terms of this Agreement and are subject to the approval of the **Commission**. If the agreements do not prejudice any of the **Commission's** rights under this Agreement, such agreements may contain different provisions than are provided in this Agreement with respect to extensions of schedule, time of completion, payments, guarantees and matters not affecting the quality of the Services.

(d) The **Provider** must not transfer or assign any funds or claims due or to become due under this Agreement without the prior written approval of the **Commission**. The attempted transfer or assignment of any funds, either in whole or in part, or any interest in them, which are due or to become due to the **Provider** under this Agreement, without such prior written approval, has no effect upon the **Commission**.

(e) The **Commission** reserves the right to assign or otherwise transfer all or any part of its interests under this Agreement to any successor.

#### **ARTICLE 4. TERM OF PERFORMANCE**

##### **4.1 Term of Performance**

(a) This Agreement takes effect as of September 1, 2007 ("Effective Date") and continues for 2 years or until this Agreement is terminated in accordance with its terms, whichever occurs first.

(b) This Agreement is subject to the **Commission's** right to extend it under **Section 4.3**.

##### **4.2 Timeliness of Performance**

(a) The **Provider** must provide the Services and Deliverables within the term and within the time limits required under this Agreement, pursuant to the provisions of **Section 3.1** and **EXHIBIT 1 - Scope of Services**. The **Provider** acknowledges that failure of the **Provider** to comply with the time limits in this Agreement may result in economic or other losses to the **Commission**.

(b) Neither the **Provider** or the **Provider's** agents, employees or Subcontractors are entitled to any damages from the **Commission**, nor is any party entitled to be reimbursed by the **Commission**, for damages, charges or other losses or expenses incurred by the **Provider** by reason of delays or hindrances in the performance of the Services, whether or not caused by the **Commission**.

##### **4.3 Agreement Extension Option**

The Commission may at any time before this Agreement expires elect to extend this Agreement up to 3 times for 1 year each time under the same terms and conditions as this original Agreement, by notice in writing to the Provider. If extended, sixty days prior to the end of original 2 year period, price changes, if any, will be negotiated based on appropriate indices.

## **ARTICLE 5. COMPENSATION**

### **5.1 Basis of Payment**

The Commission will pay the Provider according to the Schedule of Compensation in EXHIBIT 2 - Schedule of Compensation for the satisfactory performance of the Services.

### **5.2 Method of Payment**

The Provider must submit original monthly invoices to the Executive Director for labor and other direct costs as billed, as outlined in EXHIBIT 2 - Schedule of Compensation. The invoices must be in such detail as the Executive Director requests. The Executive Director will process payment within 60 days after receipt of invoices and all supporting documentation necessary for the Executive Director to verify the Services provided under this Agreement.

### **5.3 Non-Appropriation**

(a) If no funds or insufficient funds are appropriated and budgeted in any fiscal period of the Commission for payments to be made under this Agreement, then the Executive Director will notify the Provider in writing of that occurrence, and this Agreement will terminate on the earlier of the last day of the fiscal period for which sufficient appropriation was made or whenever the funds appropriated for payment under this Agreement are exhausted.

(b) Payments for Playground Equipment delivered and Services completed to the date of notification will be made to the Provider except that no payments will be made or due to the Provider under this Agreement beyond those amounts appropriated and budgeted by the Commission to fund payments under this Agreement.

(c) The Commission's liability hereunder is limited to the funds allocated to the Commission for the design and acquisition of the Equipment.

## **ARTICLE 6. DISPUTES**

### **6.1 General**

(a) All disputes arising under, related to or in connection with the terms of this Agreement or its interpretation, whether involving law or fact or both, including questions concerning allowability of compensation, and all claims for alleged breach of contract will be presented at the Monthly Meeting following knowledge of the event.

(b) Except as otherwise provided in this Agreement, if a dispute under this Agreement is not resolved by the parties, the Provider may present such dispute to the Executive Director for final determination.

(c) The sole and exclusive remedy to challenge the final determination of the Executive Director is judicial review by means of a common law writ of certiorari.

### **6.2 Procedure**

(a) The Provider will make all requests for determination of disputes in writing, specifically referencing this Section, and will include:

- (i) the issue(s) presented for resolution;
- (ii) a statement of the position of **Provider**;
- (iii) the facts underlying the dispute;
- (iv) reference to the applicable provisions of this Agreement by page and section;
- (v) identification of any other parties believed to be necessary to the resolution;
- (vi) all documentation which describes and relates to the dispute; and
- (vii) if the request is to the **Executive Director** for final determination, include a copy of the minutes from the Monthly Meeting at which the issue(s) was presented.

(b) The **Executive Director** may thereafter reach his determination in accordance with such other information or assistance as may be deemed reasonable, necessary or desirable.

### **6.3 Effect**

(a) The **Executive Director's** final determination will be rendered in writing no more than 45 business days after receipt by the **Executive Director**, unless the **Executive Director** notifies **Provider** that additional time for the final determination is necessary. The **Executive Director's** final determination will be conclusive, final, and binding on all parties.

(b) The **Provider** must follow the procedures set out in this Section and receive the **Executive Director's** final determination as a condition precedent to filing a complaint in the Circuit Court of Cook County or pursuing any alternative dispute resolution procedure that may be agreed by the parties.

(c) The **Provider** will not withhold performance of any Services required by the Commission under this Agreement during the dispute resolution period.

### **6.4 No Liens**

The **Provider** waives and releases, for itself and its successors, assigns, legal representatives and subcontractors, any claim of a lien of charge against the Playground Equipment with respect to Services performed or monies or other consideration due under this Agreement.

## **ARTICLE 7. COMPLIANCE WITH ALL LAWS**

### **7.1 Compliance with All Laws Generally**

(a) The **Provider** must observe and comply with all applicable federal, state, county and municipal laws, statutes, ordinances, executive orders and regulations in effect now or later and whether or not they appear in this Agreement, including those set forth in this Article 7, and the **Provider** must pay all taxes and obtain all licenses, certificates and other authorizations required by them. The **Provider** must require all Subcontractors to do so, also.

(b) The **Provider** must execute and must cause any Subcontractors to execute a Disclosure Affidavit in the form attached to this Agreement as EXHIBIT 5 - Disclosure Affidavit. The **Provider** and Subcontractors must keep current the information provided in the Disclosure Affidavit during the term of this Agreement. Notwithstanding acceptance by

the **Executive Director** of the Disclosure Affidavit, failure of the Disclosure Affidavit to include all information renders this Agreement voidable at the option of the **Commission**.

(c) Notwithstanding anything in this Agreement to the contrary, references to a statute or law are considered to be a reference to:

- (i) the statute or law as it may be amended from time to time;
- (ii) all regulations and rules pertaining to or promulgated pursuant to the statute or law; and
- (iii) all future statutes, laws, regulations, rules and executive orders pertaining to the same or similar subject matter.

## **7.2 Nondiscrimination**

(a) In performing its Services under this Agreement, the **Provider** must comply with applicable laws prohibiting discrimination against individuals and groups.

(b) In performing under this Agreement, the **Provider** will not discriminate against any worker, employee, applicant for employment, or any member of the public, because of race, color, creed, national origin, gender, age, or disability, or otherwise commit an unfair labor practice.

(c) The **Provider** certifies that it is familiar with, and will comply with, all applicable provisions of the Civil Rights Act of 1964, 28 U.S.C. § 1447, 42 U.S.C. §§ 1971, 1975a-1975d, 2000a to 2000h-6 (1992); the Age Discrimination in Employment Act of 1967, 29 U.S.C. §§ 623-634 (1992); the Americans with Disabilities Act of 1990, 29 U.S.C. § 706, 42 U.S.C. §§ 12101-12213, 47 U.S.C. §§ 152, 221, 225, 611 (1992); 41 C.F.R. § 60 (1992); 41 C.F.R. § 60 (1992); reprinted in 42 U.S.C. 2000(e) note, as amended by Executive Order No. 11,375 32 Fed. Reg. 14,303 (1967) and by Executive Order No. 12,086, 43 Fed. Reg. 46,501 (1978); the Age Discrimination Act, 43 U.S.C. Sec. 6101-6106 (1981); P.L. 101-336; 41 C.F.R. part 60 et seq. (1990); the Illinois Human Rights Act, 775 ILCS 5/1-101 et seq. (1990), as amended; the Discrimination in Public Contracts Act, 775 ILCS 10/0.01 et seq. (1990), as amended; the Environmental Barriers Act., 410 ILCS 25/1 et seq; and the Chicago Human Rights Ordinance, Chapter 2-160, Section 2-160-010 et seq. of the Municipal Code (1990), as amended.

(d) The **Provider** will furnish such reports and information as may be requested by the **Executive Director**, the Illinois Department of Human Relations, or any other administrative or governmental entity overseeing the enforcement, or administration of, or compliance with, the above mentioned laws and regulations.

(e) The **Provider** certifies that it is familiar with, and will comply with, all applicable provisions of 820 ILCS 130/0.01 through 130/12 (Prevailing Wage Act), 30 ILCS 570/1 through 570/7 (Employment of Illinois Workers on Public Works Act) and 30 ILCS 560/0.01 through 560/7 (Public Works Preference Act).

(f) The **Provider** will also comply with all applicable "Anti-Kickback" laws and regulations, including the "Anti-Kickback" Act of 1986, 41 U.S.C. §§ 51-58 (1992); 18 U.S.C. § 874 (1992); 40 U.S.C. § 276c (1986) and the Illinois Criminal Code of 1961 720 ILCS 5/33E-1 et. seq. If, in the performance of this Agreement, any direct or indirect "kick-back" is made, as defined in any of the above mentioned laws and regulations, the **Commission** may withhold from the **Provider**, out of payments due to the **Provider**, an amount sufficient to pay any underpaid employees the difference between the salaries required to be paid under the law and this Agreement and the salaries actually paid such employees for the total number of

hours worked. The amounts withheld may be disbursed by the **Commission** for and on account of the **Provider** to the respective employees to whom they are due, as determined by the **Executive Director** in his sole discretion.

(g) The **Provider** must incorporate all of this **Section 7.2** by reference in all agreements entered into with any suppliers of materials, furnisher of services, Subcontractors of any tier, and labor organizations that furnish skilled, unskilled and craft union skilled labor or that may provide any such materials.

### **7.3 Deemed Inclusion**

Provisions required by law, ordinances, rules, regulations, or executive orders to be inserted in this Agreement are deemed inserted in this Agreement whether or not they appear in this Agreement or, upon application by either party, this Agreement will be amended to make the insertion; however, in no event will the failure to insert the provisions before or after this Agreement is signed prevent its enforcement.

## **ARTICLE 8. SPECIAL CONDITIONS**

### **8.1 Warranties and Representations**

In connection with signing and carrying out this Agreement, the **Provider**:

(a) warrants that the **Provider** is appropriately licensed under Illinois law to perform the Services required under this Agreement and will perform no Services for which a professional license is required by law and for which the **Provider** is not appropriately licensed;

(b) warrants it is financially solvent; it and each of its employees, agents and Subcontractors of any tier are competent to perform the Services required under this Agreement; and the **Provider** is legally authorized to execute and perform or cause to be performed this Agreement under the terms and conditions stated in this Agreement;

(c) warrants that it will not knowingly use the services of any ineligible consultant or Subcontractor for any purpose in the performance of its Services under this Agreement;

(d) warrants that the **Provider** and its Subcontractors are not in default at the time this Agreement is signed, and have not been deemed by the **Executive Director** to have, within 5 years immediately preceding the date of this Agreement, been found to be in default on any contract awarded by the **Commission**;

(e) represents that it has carefully examined and analyzed the provisions and requirements of this Agreement; it understands the nature of the Services required; from its own analysis it has satisfied itself as to the nature of all things needed for the performance of this Agreement; this Agreement is feasible of performance in accordance with all of its provisions and requirements, and the **Provider** warrants it can and will perform, or cause to be performed, the Services in strict accordance with the provisions and requirements of this Agreement;

(f) represents that the **Provider** and, to the best of its knowledge, its Subcontractors are not in violation of the provisions of Section 2-92-320 of Chapter 2-92 of the Municipal Code of Chicago, and in connection with it, and additionally in connection with the Illinois Criminal Code, 720 ILCS 5/33E as amended, and the Illinois Municipal Code, 65 ILCS 5/11-42.1-1;

(g) warrants that neither the **Provider** nor any affiliate of the **Provider** is listed on any of the following lists maintained by the Office of Foreign Assets Control of the U.S.

Department of the Treasury, the Bureau of Industry and Security of the U.S. Department of Commerce or their successors, or on any other list of persons or entities with which the User Agency or the Commission may not do business under any applicable law, rule, regulation, order or judgment: the Specially Designated Nationals List, the Denied Persons List, the Unverified List, the Entity List and the Debarred List.

For purposes of this subparagraph (g) only, the term "affiliate," when used to indicate a relationship with a specified person or entity, means a person or entity that, directly or indirectly, through one or more intermediaries, controls, is controlled by or is under common control with such specified person or entity, and a person or entity shall be deemed to be controlled by another person or entity, if controlled in any manner whatsoever that results in control in fact by that other person or entity (or that other person or entity and any persons or entities with whom that other person or entity is acting jointly or in concert), whether directly or indirectly and whether through share ownership, a trust, a contract or otherwise; and

(h) acknowledges that any certification, affidavit or acknowledgment made under oath in connection with this Agreement is made under penalty of perjury and, if false, is also cause for termination under Sections 9.1 and 9.3 of this Agreement.

## **8.2 Ethics**

In addition to the foregoing warranties and representations, the **Provider** warrants:

(a) no officer, agent or employee of the **Commission** is employed by the **Provider** or has a financial interest directly or indirectly in this Agreement or the compensation to be paid under this Agreement except as may be permitted in writing by the Board of Ethics established under the Municipal Code of Chicago (Chapter 2-156).

(b) no payment, gratuity or offer of employment will be made in connection with this Agreement by or on behalf of any Subcontractors to the prime the **Provider** or higher tier Subcontractors or anyone associated with them, as an inducement for the award of a subcontract or order.

(c) The **Provider** further acknowledges that any Agreement entered into, negotiated or performed in violation of any of the provisions of Chapter 2-156 is voidable as to the **Commission**.

## **8.3 Joint and Several Liability**

If the **Provider**, or its successors or assigns, if any, is comprised of more than one individual or other legal entity (or a combination of them), then under this Agreement, each and every obligation or undertaking in this Agreement to be fulfilled or performed by the **Provider** is the joint and several obligation or undertaking of each such individual or other legal entity.

## **8.4 Business Documents**

At the request of the **Executive Director**, the **Provider** must provide copies of its latest articles of incorporation, by-laws and resolutions, or partnership or joint venture agreement, as applicable.

## **8.5 Conflicts of Interest**

(a) No Commissioner, employee, officer, or official of the **Commission** who exercises any functions or responsibilities in connection with the Services to which this Agreement pertains is permitted to have any personal interest, direct or indirect, in this Agreement. No member of or delegate to the Congress of the United States or the Illinois

General Assembly and no alderman of the City Of Chicago or City Of Chicago employee is allowed to be admitted to any share or part of this Agreement or to any financial benefit to arise from it.

(b) The **Provider** covenants that it, and to the best of its knowledge and after diligent inquiry, its Subcontractors if any (**Provider** and its Subcontractors will be collectively referred to in this Section 8.5 only as "**Consulting Parties**"), presently have no direct or indirect interest and will not acquire any interest, direct or indirect, in any project or contract that would conflict in any manner or degree with the performance of its Services under this Agreement.

(c) Upon the request of the **Executive Director**, Consulting Parties must disclose their past client lists and the names of any clients with whom they have an ongoing relationship to the **Executive Director**. Consulting Parties are not permitted to perform any Services for the **Commission** on applications or other documents submitted to the **Executive Director** by any of Consulting Parties' past or present clients. If Consulting Parties become aware of a conflict, they must immediately stop work on the assignment causing the conflict and notify the **Executive Director**.

(d) The **Provider** further covenants that, in the performance of this Agreement, no person having any conflicting interest will be assigned to perform any Services or have access to any confidential information, as described in Section 3.13 of this Agreement. If the **Executive Director** in his reasonable judgment, determines that any of Consulting Parties' Services for others conflict with the Services they are to render for the **Commission** under this Agreement, Consulting Parties must terminate such other services immediately upon request of the **Executive Director**.

#### **8.6 Non-Liability of Public Officials**

The **Provider** and any assignee or Subcontractor of the **Provider** must not charge any Commissioner, employee, officer or official of the **Commission** personally with any liability or expenses of defense or hold any Commissioner, employee, officer or official of the **Commission** personally liable to them under any term or provision of this Agreement or because of the **Commission's** execution, attempted execution or any breach of this Agreement or for any other reason whatsoever.

### **ARTICLE 9. EVENTS OF DEFAULT, REMEDIES, TERMINATION, SUSPENSION AND RIGHT TO OFFSET**

#### **9.1 Events of Default**

Each of the following occurrences constitutes an Event of Default by the **Provider** under this Agreement:

(a) Failure or refusal on the part of the **Provider** to duly observe or perform any obligation or agreement on the part of the **Provider** contained in this Agreement, which failure or refusal continues for a period of 10 days (or such longer period as the **Executive Director** in his sole discretion, may determine if such failure is not capable of being cured within such 10-day period) after the date on which written notice of it has been given to the **Provider** by the **Executive Director**;

(b) A materially false representation or warranty by the **Provider** in this Agreement or throughout the performance of the Services.

(c) The **Provider** becomes insolvent or ceases doing business as a going concern, or makes an assignment for the benefit of creditors, or generally fails to pay, or admits in

writing its inability to pay, its debts as they become due, or files a voluntary petition in bankruptcy, or is adjudicated a bankrupt or an insolvent, or files a petition seeking for itself any reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar arrangement under any present or future statute, law or regulation relating to bankruptcy or insolvency, or files an answer admitting the material allegations of a petition filed against it in any such proceeding, or applies for, consents to or acquiesces in the appointment of a trustee, receiver, liquidator or other custodian of it or of all or any substantial part of its assets or properties, or if it or its principals will take any action in furtherance of any of the foregoing;

(d) Any proceeding is commenced against the **Provider** seeking reorganization, arrangement, readjustment, liquidation, dissolution or similar relief under any present or future statute, law or regulation relating to bankruptcy which is not vacated, stayed, discharged, bonded or dismissed within 60 days following commencement of the proceeding, or appointment of, without the **Provider's** consent or acquiescence, any trustee, receiver, liquidator or other custodian of all or any substantial part of the **Provider's** assets and properties, and such appointment will not have been vacated, stayed, discharged, bonded or otherwise dismissed within 60 days of the appointment.

(e) The **Provider's** material failure to perform any of its obligations under this Agreement including:

- (i) Failure due to a reason or circumstance within the **Provider's** reasonable control to perform the Services with sufficient personnel, and equipment or with sufficient material to ensure the performance of the Services;
- (ii) Failure to properly perform the Services or inability to perform the Services as a result of insolvency, filing for bankruptcy or assignment for the benefit of creditors;
- (iii) Failure to promptly re-perform within a reasonable time the Services that were rejected per the Terms of this Agreement;
- (iv) Discontinuance of the Services for reasons within the **Provider's** reasonable control;
- (v) Failure to comply with a material term of this Agreement, including the provisions concerning insurance and nondiscrimination;
- (vi) Any change in ownership or control of the **Provider** without prior written approval of the **Executive Director** which approval the **Executive Director** will not unreasonably withhold;
- (vii) The **Provider's** default under any other agreement it presently may have or may enter into with the **Commission**. The **Provider** acknowledges that in event of a default under this Agreement the **Executive Director** may also declare a default under any such other agreements.
- (viii) Failure to comply with Section 7.1 in the performance of the Agreement.

## **9.2 Remedies**

(a) If an Event of Default occurs and continues, then the **Commission** may exercise any right, power or remedy permitted to it by law or in equity and has, in particular, without



limiting the generality of the foregoing, the right to terminate this Agreement upon written notice to **Provider**, in which event the **Commission** has no further obligations hereunder or liability to **Provider** except as to payment for Services actually received and accepted by the **Commission** through the effective date of termination. No courses of dealing on the part of the **Commission** or delay or failure on the part of the **Commission** to exercise any right will operate as a waiver of such right or otherwise prejudice the **Commission's** rights, powers or remedies.

(b) The occurrence of any event of default permits the Executive Director, to declare the **Provider** in default. The **Executive Director** may in his sole discretion give the **Provider** an opportunity to cure the default within a certain period of time, which period of time must not exceed 30 days, unless extended by the **Executive Director**. Whether to declare the **Provider** in default is within the sole discretion of the **Executive Director** and neither that decision nor the factual basis for it is subject to review or challenge under the Disputes provision of this Agreement.

(c) The **Executive Director** will give the **Provider** written notice of the default, either in the form of a cure notice ("Cure Notice"), or, if no opportunity to cure will be granted, a default notice ("Default Notice"). If the **Executive Director** gives a Default Notice, he will also indicate any present intent he may have to terminate this Agreement, and the decision to terminate (but not the decision not to terminate) is final and effective upon giving the notice. The **Executive Director** may give a Default Notice if the **Provider** fails to affect a cure within the cure period given in a Cure Notice. When a Default Notice with intent to terminate is given as provided in this Section 9.2 and Article 11, the **Provider** must discontinue any Services, unless otherwise directed in the notice, and deliver all materials accumulated in the performance of this Agreement, whether completed or in the process, to the **Executive Director**. After a Default Notice is issued by the Executive Director, the **Commission** may invoke any or all of the following remedies:

- (i) The right to take over and complete the Services, or any part of them, at the **Provider's** expense and as agent for the **Provider**, either directly or through others, and bill the **Provider** for the cost of the Services, and the **Provider** must pay the difference between the total amount of this bill and the amount the **Commission** would have paid the **Provider** under the terms and conditions of this Agreement for the Services that were assumed by the **Commission** as agent for the **Provider** under this Section 9.2;
- (ii) The right to terminate this Agreement as to any or all of the Services yet to be performed effective at a time specified by the Executive Director;
- (iii) The right of specific performance, an injunction or any other appropriate equitable remedy;
- (iv) The right to money damages;
- (v) The right to withhold all or any part of the **Provider's** compensation under this Agreement;
- (vi) The right to deem the **Provider** non-responsible in future contracts to be awarded by the **Commission**.

(d) If the **Executive Director** considers it to be in the **Commission's** best interests, he may elect not to declare default or to terminate this Agreement. The parties acknowledge

that this provision is solely for the benefit of the **Commission** and that if the **Executive Director** permits the **Provider** to continue to provide the Services despite one or more events of default, the **Provider** is in no way relieved of any of its responsibilities, duties or obligations under this Agreement, nor does the **Commission** waive or relinquish any of its rights.

### **9.3 Remedies Not Exclusive**

No right or remedy in this Agreement conferred upon or reserved to the **Commission** is exclusive of any right or remedy provided or permitted under this Agreement or by law or equity, but each is cumulative of every other right or remedy given in this Agreement or now or hereafter existing at law or in equity or by statute or otherwise, and may be enforced concurrently or from time to time. No delay or omission to exercise any right or power accruing upon any event of default impairs any such right or power, nor is it a waiver of any event of default nor acquiescence in it, and every such right and power may be exercised from time to time and as often as the **Executive Director** considers expedient.

### **9.4 Early Termination**

(a) In addition to termination under **Sections 9.1 and 9.2** of this Agreement, the **Commission** may terminate this Agreement, or all or any portion of the Services to be performed under it, at any time by a notice in writing from the **Executive Director** to the **Provider**. The **Executive Director** will give notice to the **Provider** in accordance with the provisions of **Article 11**. The effective date of termination will be the date the notice is received by the **Provider** or the date stated in the notice, whichever is later. If the **Commission** elects to terminate this Agreement in full, all Services to be provided under it must cease and all materials that may have been accumulated in performing this Agreement, whether completed or in the process, must be delivered to the **Executive Director** effective **10 days** after the date the notice is considered received as provided under **Article 11** of this Agreement (if no date is given) or upon the effective date stated in the notice.

(b) After the notice is received, the **Provider** must restrict its activities, and those of its Subcontractors, to winding down any reports, analyses, or other activities previously begun. No costs incurred after the effective date of the termination are allowed. Payment for any Services actually and satisfactorily performed before the effective date of the termination is on the same basis as set forth in **Article 5**, but if any compensation is described or provided for on the basis of a period longer than 10 days, then the compensation must be prorated accordingly. No amount of compensation, however, is permitted for anticipated profits on unperformed Services. The **Executive Director** and the **Provider** must attempt to agree on the amount of compensation to be paid to the **Provider**, but if not agreed on, the dispute must be settled in accordance with **Article 6** of this Agreement. The payment so made to the **Provider** is in full settlement for all Services satisfactorily performed under this Agreement.

(c) The **Provider** must include in its contracts with Subcontractors an early termination provision in form and substance equivalent to this early termination provision to prevent claims against the **Commission** arising from termination of subcontracts after the early termination. The **Provider** will not be entitled to make any early termination claims against the **Commission** resulting from any Subcontractor's claims against the **Provider** or the **Commission** to the extent inconsistent with this provision.

(d) If the **Commission's** election to terminate this Agreement for default under **Sections 9.1 and 9.2** is determined in a court of competent jurisdiction to have been

wrongful, then in that case the termination is to be considered to be an early termination under this Section 9.3.

#### **9.5 Right to Offset**

(a) In connection with performance under this Agreement, the **Commission** may offset any excess costs incurred if the **Commission**:

- (i) terminates this Agreement for default or any other reason resulting from the **Provider's** performance or non-performance;
- (ii) exercises any of its remedies under Section 9.2 of this Agreement; or
- (iii) has any credits due or has made any overpayments under this Agreement.

(b) The **Commission** may offset these excess costs by use of any payment due for Services completed before the **Commission** terminated this Agreement or before the **Commission** exercised any remedies. If the amount offset is insufficient to cover those excess costs, the **Provider** is liable for and must promptly remit to the **Commission** the balance upon written demand for it. This right to offset is in addition to and not a limitation of any other remedies available to the **Commission**.

(c) No such debt(s) will be offset from the price or compensation due under this Agreement if the **Provider**:

- (i) is contesting liability for or the amount of the debt in a pending administrative or judicial proceeding; or
- (ii) has filed a petition in bankruptcy and the debts owed the **Commission** are dischargeable in bankruptcy.

(d) In connection with any liquidated or un-liquidated claims against the **Provider**, without breaching this Agreement, the **Commission** may set off a portion of the price or compensation due under this Agreement in an amount equal to the amount of any liquidated or un-liquidated claims that the **Commission** has against the **Provider** unrelated to this Agreement.

(e) When the **Commission's** claims against the **Provider** are finally adjudicated in a court of competent jurisdiction or otherwise resolved, the **Commission** will reimburse the **Provider** to the extent of the amount the **Commission** has offset against this Agreement inconsistently with such determination or resolution.

#### **9.6 Force Majeure**

Neither of the parties will be liable to the other for any delay or failure in performance hereunder due to causes which are beyond the control of the party unable to perform. If a force majeure occurs, the party delayed or unable to perform will give prompt notice to the other party, and the **Commission** may, at any time during the continuation of the force majeure event, elect to suspend the performance of the **Provider** under this Agreement for the duration of the force majeure. The **Commission** will not be obligated to pay for the Services to the extent and for the duration that performance of the Services is delayed or prevented by force majeure, but, provided the **Provider** is not in default of any obligation of the **Provider** under this Agreement, the **Commission** will pay to the **Provider**, according to the terms of this Agreement, all compensation and reimbursements due to the **Provider** for periods up to the effective date of suspension. The term "force majeure" means an extraordinary event or effect that the parties could not have anticipated or controlled and

that renders performance impossible or impracticable for the duration of the event or effect. Such events or effects include but are not limited to: extraordinary acts of nature, such as tornadoes; or of people, such as acts of terrorism; or of governments, such as imposition of martial law. The term does not include, for example, typical Chicago inclement weather (i.e. weather the severity of which is less than a standard deviation from the 5-year mean for the O'Hare, as established by the National Oceanic and Atmospheric Administration) or labor force strikes.

## **ARTICLE 10. GENERAL CONDITIONS**

### **10.1 Entire Agreement**

#### **(a) General**

This Agreement, and the EXHIBITS attached to it and incorporated in it, constitute the entire agreement between the parties and no other terms, conditions, warranties, inducements, considerations, promises or interpretations are implied or impressed upon this Agreement that are not addressed in this Agreement.

#### **(b) No Collateral Agreements**

The **Provider** acknowledges that, except only for those representations, statements or promises contained in this Agreement and any EXHIBITS attached to it and incorporated by reference in it, no representation, statement or promise, oral or in writing, of any kind whatsoever, by the **Commission**, its respective Commissioners, officers, officials and employees, has induced the **Provider** to enter into this Agreement or has been relied upon by the **Provider**, including any with reference to:

- (i) the meaning, correctness, suitability or completeness of any provisions or requirements of this Agreement;
- (ii) the nature of the Services to be performed;
- (iii) the nature, quantity, quality or volume of any materials, equipment, labor and other facilities needed for the performance of this Agreement;
- (iv) the general conditions which may in any way affect this Agreement or its performance;
- (v) the compensation provisions of this Agreement; or
- (vi) any other matters, whether similar to or different from those referred to in (i) through (v) immediately above, affecting or having any connection with this Agreement, its negotiation, any discussions of its performance or those employed or connected or concerned with it.

#### **(c) No Omissions**

The **Provider** acknowledges that the **Provider** was given ample opportunity and time and was requested by the **Commission** to review thoroughly all documents forming this Agreement before signing this Agreement in order that it might request inclusion in this Agreement of any statement, representation, promise or provision that it desired or on that it wished to place reliance. The **Provider** did so review those documents, and either every such statement, representation, promise or provision has been included in this Agreement or else, if omitted, the **Provider** relinquishes the benefit of any such omitted statement, representation, promise or provision and is willing to perform this Agreement in its entirety without claiming reliance on it or making any other claim on account of its omission.

## **10.2 Counterparts**

This Agreement is comprised of several identical counterparts, each to be fully signed by the parties and each to be considered an original having identical legal effect.

## **10.3 Amendments**

(a) Except as provided in Section 5.3 of this Agreement, no changes, amendments, modifications or discharge of this Agreement, or any part of it are valid unless in writing and signed by the authorized agent of the **Provider** and by the **Commission**. The **Commission** incurs no liability for Additional Services without a written amendment to this Agreement under this Section 10.3.

(b) Whenever in this Agreement the **Provider** is required to obtain prior written approval, the effect of any approval that may be granted pursuant to the **Provider's** request is prospective only from the later of the date approval was requested or the date on which the action for which the approval was sought is to begin. In no event is approval permitted to apply retroactively to a date before the approval was requested.

## **10.4 Governing Law and Jurisdiction**

This Agreement is governed as to performance and interpretation in accordance with the laws of the State of Illinois. The **Provider** irrevocably submits itself to the original jurisdiction of those courts located within the County of Cook, State of Illinois, with regard to any controversy arising out of, relating to, or in any way concerning the execution or performance of this Agreement. Service of process on the **Provider** may be made, at the option of the **Commission**, either by registered or certified mail addressed to the applicable office as provided for in this Agreement, by registered or certified mail addressed to the office actually maintained by the **Provider**, or by personal delivery on any officer, director, or managing or general agent of the **Provider**. If any action is brought by the **Provider** against the **Commission** concerning this Agreement, the action must be brought only in those courts located within the County of Cook, State of Illinois.

## **10.5 Severability**

If any provision of this Agreement is held or deemed to be or is in fact invalid, illegal, inoperative or unenforceable as applied in any particular case in any jurisdiction or in all cases because it conflicts with any other provision or provisions of this Agreement or of any constitution, statute, ordinance, rule of law or public policy, or for any other reason, those circumstances do not have the effect of rendering the provision in question invalid, illegal, inoperative or unenforceable in any other case or circumstances, or of rendering any other provision or provisions in this Agreement invalid, illegal, inoperative or unenforceable to any extent whatsoever. The invalidity, illegality, inoperativeness or unenforceability of any one or more phrases, sentences, clauses or sections in this Agreement does not affect the remaining portions of this Agreement or any part of it.

## **10.6 Assigns**

Except as otherwise provided in this Agreement, all of the terms and conditions of this Agreement are binding upon and inure to the benefit of the parties and their respective legal representatives, successors and assigns.

## **10.7 Cooperation**

The **Provider** must at all times cooperate fully with the **Executive Director** and act in the **Commission's** best interests. If this Agreement is terminated for any reason, or if it is to expire on its own terms, the **Provider** must make every effort to assure an orderly transition

to another provider of the Services, if any, orderly demobilization of its own operations in connection with the Services, uninterrupted provision of Services during any transition period and must otherwise comply with the reasonable requests and requirements of the **Commission** in connection with the termination or expiration, including those requirements described in **EXHIBIT 1 - Scope of Services.**

#### **10.8 Waiver**

(a) Nothing in this Agreement authorizes the waiver of a requirement or condition contrary to law or ordinance or that would result in or promote the violation of any federal, state or local law or ordinance.

(b) Whenever under this Agreement the **Executive Director** by a proper authority waives the **Provider's** performance in any respect or waives a requirement or condition to either the **Commission's** or the **Provider's** performance, the waiver so granted, whether express or implied, only applies to the particular instance and is not a waiver forever or for subsequent instances of the performance, requirement or condition. No such waiver is a modification of this Agreement regardless of the number of times the **Executive Director** may have waived the performance, requirement or condition. Such waivers must be provided to the **Provider** in writing.

(c) The waiver by either party of any breach of this Agreement will not constitute a waiver as to any succeeding breach.

#### **10.9 Independent Contractor**

(a) Under this Agreement, the relationship of the **Provider** to the **Commission** is that of an independent contractor and the **Provider**, except to the extent expressly provided to the contrary in this Agreement, will have no right or authority to make contracts or commitments for or on behalf of the **Commission**, to sign or endorse on behalf of the **Commission** any instruments of any nature or to enter into any obligation binding upon the **Commission**.

(b) This Agreement is not intended to and will not constitute, create, give rise to, or otherwise recognize a joint venture, partnership, corporation or other formal business association or organization of any kind between the **Provider** and the **Commission**.

(c) The rights and the obligations of the parties are only those set forth in this Agreement.

### **ARTICLE 11. NOTICES**

11.1 The **Provider** will notify the **Commission** promptly in writing of all significant occurrences and circumstances affecting this Agreement or affecting in any manner the interest of the **Commission** in the Playground Equipment or Services.

11.2 In an emergency, the **Provider** will immediately notify the **Commission** in person or by telephone so that prompt arrangements may be made to address the emergency situation.

11.3 The **Provider** will notify the **Commission** promptly and forward to the **Commission** any complaints, warnings, notices, or summonses received by the **Provider** relating to compliance of the Playground Equipment or Services with requirements of any ordinance, law, rule, or regulation including environmental requirements of the city, county, state, or federal government or any other public entity having jurisdiction as identified in **Section 7.1 Compliance with All Laws Generally.**

**11.4** All notices required to be given under this Agreement must be given in writing and must be hand delivered or sent by United States certified or registered mail, postage prepaid, addressed to the **Executive Director** for the **Commission**, or the **Key Person** for the **Provider** at their respective addressed set forth above.

**11.5** If given as provided in this Agreement, such notice is deemed to have been given on the date of delivery, if delivered by hand, and on the third business day after mailing, if given by mail. Refusal to accept delivery has the same effect as receipt. The **Commission** or **Provider** may, from time to time, change the address to which notices will be sent by giving notice to the other party in the manner provided in this subparagraph.

#### **ARTICLE 12. AUTHORITY**

Execution of this Agreement by the **Provider** is authorized by a resolution of its Board of Directors, if a corporation, or similar governing document, and the signature(s) of each person signing on behalf of the **Provider** have been made with complete and full authority to commit the **Provider** to all terms and conditions of this Agreement, including each and every representation, certification and warranty contained in it, including the representations, certifications and warranties collectively incorporated by reference in it.

## EXHIBIT 1 - SCOPE OF SERVICES

This Agreement takes effect as of September 1, 2007 ("Effective Date") and continues for 2 years or until this Agreement is terminated in accordance with its terms, whichever occurs first. The Commission may at any time before this Agreement expires elect to extend this Agreement up to 3 times for 1 year each time under the same terms and conditions as this original Agreement, by notice in writing to the Provider. If extended, sixty days prior to the end of original 2 year period, price changes, if any, will be negotiated based on appropriate indices.

The Provider will provide all Services and Deliverables required to design and certify the installation and Playground Equipment for each Task Order. It is expressly understood and agreed that references in this Agreement to "approved by the Commission" or to "approval by the Commission" will not be interpreted to absolve the Provider from liability due to errors and omissions.

In this Scope of Services, regardless of whether a time limit is specified for particular tasks or duties, it is intended that the Provider will perform its Services promptly, with sufficient staffing, and all in accordance with the standard of performance in this Agreement.

The Executive Director will assist the Commission in managing the Task Order and will have the authority, as specifically directed by the Commission, to act on its behalf.

### 1) VOLUME

- a) Anticipated, the successful Proposer will provide playground equipment and services for the Commission and User Agencies at a combined total of approximately 100 new sites plus replacements and new assemblies for existing sites over the two year period.
- b) Task Orders will be issued by the Commission and the User Agencies for Playground Equipment and Services approximately 100 new sites will be constructed over the two year period. Playgrounds will vary in size, site conditions and equipment selected at the time of construction.
- c) In addition to new playground installations, Task Orders will be issued by the Commission and the User Agencies for repair and replacement parts and upgrades to existing playgrounds.

### 2) SERVICES AND DELIVERABLES

For each Task Order or as requested by the Commission or the User Agency:

- a) Provide the name and title of the primary contact person for the Commission and User Agencies at the start of each Task Order.
- b) Provide the following documents in hard copy and on CD (using Autodesk® and AutoCAD® software in authentic DWG™, DXF™, and DWF™ file format for designs, drawings, instructions and other documents as requested by the Commission or User Agency):
  - i) Task Order guidelines
  - ii) Planning checklist
  - iii) Designs in 2-dimensional plan view
  - iv) Color renderings in 3-dimensions



- v) Technical specification sheets
- vi) Installation instructions
- vii) Bill of materials
- viii) Cost estimate
- ix) Digital photos
- c) Provide the following materials:
  - i) Specimen color samples
  - ii) Maintenance kit
  - iii) Inspection certification check list
- d) Provide a written estimate of the schedule from issuance of Task Order to expected delivery date of materials.
- e) Attend the planning/design meeting. Provide a summary of the action items assigned to the Provider to either the Commission or the specific User Agency, as appropriate.
- f) When directed by the Commission, consult with the Mayor's Office of People with Disabilities (MOPD) Architectural Services Unit (ASU) regarding design and advise the Commission and the specific User Agency regarding the ASU recommendations.
- g) Place the order for Playground Equipment as directed by the Commission or the specific User Agency.
- h) Inspect the playground equipment and installation during the punch list review site inspection set for each playground by the Commission or the specific User Agency.
- i) Present certification to the Commission or the specific User Agency, a written certification of compliance and warranty for the playground equipment and installation or a written punch list of items that must be corrected before compliance and certification.
- j) 1 month after installation, replacement or repair of Playground Equipment under this Agreement, re-inspect the Playground Equipment and present a report to the Commission or the specific User Agency within 7 days of such inspection. The report will include a description of the condition of the Playground Equipment and recommendations for replacement, repair, maintenance and upgrades.

### 3) ADDITIONAL SERVICES

Those services which are within the general scope of Services of this Agreement, but beyond the description of services required under Section 3.1 of this Agreement, and all services reasonably necessary to complete the Additional Services to the standards of performance required by this Agreement. Any Additional Services require the approval of the Commission in a written amendment under Section 10.3 of this Agreement before the Provider is obligated to perform those Additional Services and before the Commission becomes obligated to pay for those Additional Services.

## EXHIBIT 2 - COMPENSATION OF THE PROVIDER

### 1) GENERAL

- a) The agreement(s) will not guarantee a minimum volume, although the Commission is interested in an optimal combination of quality, services and price and proposed volume discounts will be considered.
- b) The Services and Deliverables must be approved by the Commission or specific User Agency before any payment will be processed.
- c) Each User Agency and the Commission may choose to make purchases separately under the agreement(s). However, volume discounts will be based on the aggregate number and volume of purchases made under the agreement by the Commission and all participating User Agencies during each 12-month period, utilizing the date of the task orders, of the agreement.

### 2) CATALOG PRICING

- a) The price list will itemize every piece of Playground Equipment and replacement/repair part and its price under this Agreement.
- b) Shipping or freight charges and re-stocking fees, if any, must be described separately. Include the method of calculation for such charges and fees.
- c) The Commission or User Agency will provide a copy of the appropriate sales tax exemption letter, when issuing a Task Order for Playground Equipment.
- d) The price list may be replaced with the approval of the Executive Director, provided that the overall cost of an item or its equivalent part number previously listed does not increase.
- e) Subject to the terms of the Agreement, invoices will be paid monthly, in arrears.

### 3) VOLUME DISCOUNT

- a) Below is the volume discount, off of the catalog list pricing, matrix:

Volume	Discount Percentage
\$1-\$500,000	25%
\$500,001-\$1,000,000	27%
\$1,000,001-\$1,500,000	29%
\$1,500,001-\$2,000,000	31%
\$2,000,001-\$2,500,000	32%
\$2,500,001-\$3,000,000	34%
\$3,000,001-\$3,500,000	35%
\$3,500,001-\$4,000,000	35%
\$4,000,001-\$4,500,000	35%
\$4,500,001-\$5,000,000	35%
\$5,000,001-\$5,500,000	35%
\$5,500,001-\$6,000,000	35%
\$6,000,001- over	35%

- b) The volume discount will be applied per invoice in each 12-month period, utilizing the date of the task orders. When an invoice causes the Commission's or User Agency's aggregate yearly purchases to cross a discount threshold, the increased discount rate will be applied to that portion of the invoice over the threshold, not the entire invoice.

**4) COMPENSATION FOR BASIC SERVICES**

- a) The Provider will not be entitled to compensation for the basic Services performed pursuant to the terms of this Agreement.

**5) COMPENSATION FOR ADDITIONAL SERVICES**

- a) The Provider will be compensated at rates negotiated for Additional Services and added to this Agreement by amendment.

**EXHIBIT 3 - KEY PERSONNEL  
SUBMITTED BY THE PROVIDER  
FOLLOWS THIS PAGE**

## EXHIBIT 4 - INSURANCE REQUIREMENTS

### Playground Equipment and Services

The Provider must maintain at Provider's own expense, until expiration of the Agreement and during the time period following expiration if Provider is required to return and perform any additional work, the minimum insurance coverage and requirements specified below, insuring all operations related to the Agreement.

#### INSURANCE TO BE PROVIDED

##### 1) Workers' Compensation and Employers Liability

Workers' Compensation Insurance, as prescribed by applicable law covering all employees who are to provide a service under the Agreement and Employers Liability coverage with limits of not less than \$500,000 each accident or illness.

##### 2) Commercial General Liability (Primary and Umbrella)

Commercial General Liability Insurance or equivalent with limits of not less than \$5,000,000 per occurrence for bodily injury, personal injury, and property damage liability. Coverage must include the following: All premises and operations, products/completed operations, separation of insureds, defense, and contractual liability (with no limitation endorsement). The Public Building Commission and User Agency must be named as additional insureds on a primary, non-contributory basis for any liability arising directly or indirectly from the work.

Subcontractors performing work for Provider must maintain limits of not less than \$1,000,000 per occurrence with the same terms herein.

##### 3) Automobile Liability (Primary and Umbrella)

When any motor vehicles (owned, non-owned and hired) are used in connection with work to be performed, the Provider must provide Automobile Liability Insurance, with limits of not less than \$2,000,000 per occurrence for bodily injury and property damage. The Public Building Commission of Chicago and the User Agency must be named as additional insureds on a primary, non-contributory basis.

Subcontractors performing work for Provider must maintain limits of not less than \$1,000,000 per occurrence with the same terms herein.

##### 4) Professional Liability

When any professional consultant performs work in connection with the Agreement, Professional Liability Insurance will be maintained with limits of not less than \$2,000,000 covering acts, errors, or omissions. When policies are renewed or replaced, the policy retroactive date must coincide with, or precede the, start of work on the Agreement. A claims-made policy, which is not renewed or replaced, must have an extended reporting period of 2 years.

Subcontractors performing work for Provider must maintain limits of not less than \$1,000,000 per occurrence with the same terms herein.

##### 5) Property

The Provider is responsible for all loss or damage to Commission and/or User Agency property at full replacement cost. The Provider is responsible for all loss or damage to

personal property (including but not limited to materials, equipment, tools, and supplies) owned, rented, or used by Provider.

**6) Valuable Papers**

When any plans, designs, drawings, specifications and documents are produced or used under this Agreement, Valuable Papers Insurance shall be maintained in an amount to insure against any loss whatsoever, and shall have limits sufficient to pay for the re-creation and reconstruction of such records.

**7) ADDITIONAL REQUIREMENTS**

The Provider must furnish the Public Building Commission Procurement Department, Richard J. Daley Center, Room 200, Chicago, IL 60602, original Certificates of Insurance, or such similar evidence, to be in force on the date of this Agreement, and Renewal Certificates of Insurance, or such similar evidence, if any insurance has an expiration or renewal date occurring during the term of this Agreement. The Provider must submit evidence of insurance to the Commission before award of Agreement. The receipt of any certificate does not constitute agreement by the Commission that the insurance requirements in the Agreement have been fully met or that the insurance policies indicated on the certificate are in compliance with all Agreement requirements. The failure of the Commission to obtain certificates or other insurance evidence from Provider is not a waiver by the Commission of any requirements for the Provider to obtain and maintain the specified insurance. The Provider will advise all insurers of the Agreement provisions regarding insurance. Non-conforming insurance does not relieve Provider of the obligation to provide insurance as specified in this Agreement. Nonfulfillment of the insurance conditions may constitute a breach of the Agreement, and the Commission retains the right to stop work until proper evidence of insurance is provided, or the Agreement may be terminated.

- a) The Commission reserves the right to obtain copies of insurance policies and records from the Provider and/or its subcontractors at any time upon written request.
- b) The insurance must provide for 60 days prior written notice to be given to the Commission if coverage is substantially changed, canceled, or non-renewed.
- c) Any deductibles or self-insured retentions on referenced insurance must be borne by Provider.
- d) The Provider agrees that insurers waive their rights of subrogation against the Commission and the User Agency, their respective Board members, employees, elected and appointed officials, and representatives.
- e) The insurance and limits furnished by Provider in no way limit the Provider's liabilities and responsibilities specified within the Agreement or by law.
- f) Any insurance or self-insurance programs maintained by the Commission and the User Agency do not contribute with insurance provided by the Provider under the Agreement.
- g) The required insurance to be carried is not limited by any limitations expressed in the indemnification language in this Agreement or any limitation placed on the indemnity in the Agreement given as a matter of law.
- h) The Provider must require all its subcontractors to provide the insurance required in this Agreement, or Provider may provide the insurance for its subcontractors. All

subcontractors are subject to the same insurance requirements of Provider unless otherwise specified in this Agreement.

- i) If Provider or subcontractors desire additional coverage, the party desiring the additional coverage is responsible for the acquisition and cost.

#### **8) RISK MANAGEMENT**

The Commission's Risk Management Department maintains the rights to modify, delete, alter or change these requirements.

**EXHIBIT 5 - DISCLOSURE AFFIDAVIT  
EXECUTED BY THE PROVIDER  
FOLLOWS THIS PAGE**



Date: September 17, 2007

**DISCLOSURE AFFIDAVIT**

Name: Let's Go Play, Inc.

Address: 8535 Koehler Dr. Tinley Park IL 60487

Telephone No.: 708 - 802-9750

Federal Employer I.D. #: 36-4437713 Social Security #: \_\_\_\_\_

Nature of Transaction:

- ☐ Sale or purchase of land
- ☐ Construction Contract
- ☐ Professional Services Agreement
- ☒ Other

**Instructions:** FOR USE WITH ANY OF THE ABOVE TRANSACTIONS. Any firm proposing one of the above transactions with the Public Building Commission of Chicago must complete this Disclosure Affidavit. Please note that in the event the Contractor is a joint venture, the joint venture and each of the joint venture partners must submit a completed Disclosure Affidavit.

The undersigned Ana Garcia-Fiore as President  
(Name) (Title)

and on behalf of Let's Go Play, Inc.  
 ("Bidder/ Proposer" or "Contractor") having been duly sworn under oath certifies that:

**I. DISCLOSURE OF OWNERSHIP INTERESTS**

Pursuant to Resolution No. 5371 of the Board of Commissioners of the Public Building Commission of Chicago, all bidders/proposers shall provide the following information with their bid/proposal. If the question is not applicable, answer "NA". If the answer is none, please answer "none".

Bidder/Proposer/Contractor is a: ☒ Corporation ☐ LLC  
☐ Partnership ☐ LLP  
☐ Joint Venture ☐ Not-for-Profit Corporation  
☐ Sole Proprietorship ☐ Other

**SECTION 1.**

**FOR PROFIT CORPORATION OR LIMITED LIABILITY COMPANY (LLC)**

a. State of Incorporation or organization Illinois

b. Authorized to do business in the State of Illinois: Yes ☒ No ☐

c. Names of all officers of corporation or LLC (or attach list): Names of all directors of corporation (or attach list):

Name (Print or Type)	Title (Print or Type)	Name (Print or Type)	Title (Print or Type)
		Ana Garcia Fiore	President

d. If the corporation has fewer than 100 shareholders indicate here or attach a list of names and addresses of all shareholders and the percentage interest of each.

Name (Print or Type)	Address	Ownership Interest
Ana Garcia-Fiore	8535 Koehler Dr, Tinley Park IL 60487	100 %
		%
		%

e. If the corporation has 100 or more shareholders, indicate here or attach a list of names and addresses of all shareholders owning shares equal to or in excess of seven and one-half percent (7.5%) of the proportionate ownership of the corporation and indicate the percentage interest of each.

Name (Print or Type)	Address	Ownership Interest
		%
		%
		%

f. For LLC's, state whether member-managed or identify managing member:

\_\_\_\_\_

g. For LLC's identify each member:

Name (Print or Type)	Address	Ownership Interest %
N/A		%
		%
		%

h. Is the corporation or LLC owned partially or completely by one or more other corporations or legal entities?

Yes ☐ No ☒

If "yes" provide the above information, as applicable, for each such corporation or entity.

## SECTION 2. PARTNERSHIPS

a. If the bidder/proposer or Contractor is a partnership, indicate the name of each partner and the percentage of interest of each therein. Also indicate, if applicable, whether general partner (GP) or limited partner (LP)

Name of Partners (Print or Type)	Percentage Interest
N/A	%
	%
	%

## SECTION 3. SOLE PROPRIETORSHIP

a. The bidder/proposer or Contractor is a sole proprietorship and is not acting in any representative capacity on behalf of any beneficiary: Yes ☐ No ☐

If NO, complete items b. and c. of this Section 3.

b. If the sole proprietorship is held by an agent(s) or a nominee(s), indicate the principal(s) for whom the agent or nominee holds such interest.

Name(s) of Principal(s). (Print or Type)

N/A

c. If the interest of a spouse or any other party is constructively controlled by another person or legal entity, state the name and address of such person or entity possessing such control and the relationship under which such control is being or may be exercised.

Name(s)

Address(es)

_____	_____
_____	_____
_____	_____

#### SECTION 4. LAND TRUSTS, BUSINESS TRUSTS, ESTATES & OTHER ENTITIES

If the bidder/proposer or Contractor is a land trust, business trust, estate or other similar commercial or legal entity, identify any representative, person or entity holding legal title as well as each beneficiary in whose behalf title is held including the name, address and percentage of interest of each beneficiary.

Name(s)

Address(es)

<u>N/A</u>	_____
_____	_____
_____	_____

#### SECTION 5. NOT-FOR-PROFIT CORPORATIONS

a. State of incorporation N/A

b. Name of all officers and directors of corporation (or attach list):

Name (Print or Type)	Title (Print or Type)	Name (Print or Type)	Title (Print or Type)
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

NOTE: The Public Building Commission of Chicago may require additional information from any entity or individual to achieve full disclosure relevant to the transaction. Further, any material change in the information required above must be provided by supplementing this statement at any time up to the time the Public Building Commission of Chicago takes action on the contract or other action requested of the Public Building Commission.

## II. CONTRACTOR CERTIFICATION

### A. CONTRACTOR

1. The Contractor, or any subcontractor to be used in the performance of this contract, or any affiliated entities of the Contractor or any such subcontractor, or any responsible official thereof, or any other official, agent or employee of the Contractor, any such subcontractor or any such affiliated entity, acting pursuant to the direction or authorization of a responsible official thereof has not, during a period of three years prior to the date of execution of this certification or if a subcontractor or subcontractor's affiliated entity during a period of three years prior to the date of award of the subcontract:
  - a. Bribe or attempted to bribe, or been convicted of bribery or attempting to bribe a public officer or employee of the City of Chicago, the State of Illinois, any agency of the federal government or any state or local government in the United States (if an officer or employee, in that officer's or employee's official capacity); or
  - b. Agreed or colluded, or been convicted of agreement or collusion among bidders or prospective bidders in restraint of freedom of competition by agreement to bid a fixed price or otherwise; or
  - c. Made an admission of such conduct described in 1(a) or (b) above which is a matter of record but has not been prosecuted for such conduct.
2. The Contractor or agent, partner, employee or officer of the Contractor is not barred from contracting with any unit of state or local government as a result of engaging in or being convicted of bid-rigging<sup>2</sup> in violation of Section 3 of Article 33E of the Illinois Criminal Code of 1961, as amended (720 ILCS 5/33E-3), or any similar offense of any state or the United States which contains the same elements as the offense of bid-rigging during a period of five years prior to the date of submittal of this bid, proposal or response.<sup>3</sup>
3. The Contractor or any agent, partner, employee, or officer of the Contractor is not barred from contracting with any unit of state or local government as a result of engaging in or being convicted of bid-rotating<sup>4</sup> in violation of Section 4 of Article 33E of the Illinois Criminal Code of 1961, as amended (720 ILCS 5/33E-4), or any similar offense of any state or the United States which contains the same elements as the offense of bid-rotating.
4. The Contractor understands and will abide by all provisions of Chapter 2-56 of the Municipal Code entitled "Office of the Inspector General" and all provisions of the Public Building Commission Code of Ethics Resolution No.5339, as amended by Resolution No. 5371.
5. The Contractor certifies to the best of its knowledge and belief, that it and its principals:
  - a. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal, state or local department or agency.
  - b. Have not within a three-year period preceding this bid or proposal been convicted of or had a civil judgement rendered against them for: commission of fraud or a

criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state or local) transaction or contract under a public transaction; violation of federal or state antitrust statutes; commission of embezzlement, theft, forgery, bribery, falsification or destruction of records; making false statements; or receiving stolen property;

- c. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, state or local) with commission of any of the offenses enumerated in paragraph (5)(b) above; and
- d. Have not within a three-year period preceding this bid or proposal had one or more public transactions (federal, state or local) terminated for cause or default.

## **B. SUBCONTRACTOR**

1. The Contractor has obtained from all subcontractors being used in the performance of this contract or agreement, known by the Contractor at this time, certifications substantially in the form of Section 1 of this Disclosure Affidavit. Based on such certification(s) and any other information known or obtained by the Contractor, is not aware of any such subcontractor or subcontractor's affiliated entity or any agent, partner, employee or officer of such subcontractor or subcontractor's affiliated entity having engaged in or been convicted of (a) any of the conduct describe in Section II(A) (1)(a) or (b) of this certification; (b) bid-rigging, bid-rotating, or any similar offense of any state or the United States which contains the same elements as bid-rigging or bid-rotating, or having made an admission of guilt of the conduct described in Section II(A)(1)(a) or (b) which is matter of record but has/have not been prosecuted for such conduct.
2. The Contractor will, prior to using them as subcontractors, obtain from all subcontractors to be used in the performance of this contract or agreement, but not yet known by the Contractor at this time, certifications substantially in the form of this certification. The Contractor shall not, without the prior written permission of the Commission, use any of such subcontractors in the performance of this contract if the Contractor, based on such certifications or any other information known or obtained by Contractor, became aware of such subcontractor, subcontractor's affiliated entity or any agent, employee or officer of such subcontractor or subcontractor's affiliated entity having engaged in or been convicted of (a) any of the conduct describe in Section II(A)(1)(a) or (b) of this certification or (b) bid-rigging, bid-rotating or any similar offenses of any state or the United States which contains the same elements as bid-rigging or bid-rotating or having made an admission of guilt of the conduct described in Section II(A)(1)(a) or (b) which is a matter of record but has/have not been prosecuted for such conduct. The Contractor shall cause such subcontractors to certify as to Section II(A)(5). In the event any subcontractor is unable to certify to Section II(A)(5), such subcontractor shall attach an explanation to the certification.
3. For all subcontractors to be used in the performance of this contract or agreement, the Contractor shall maintain for the duration of the contract all subcontractors' certifications required by Section II(B)(1) and (2) above, and Contractor shall make such certifications promptly available to the Public Building Commission of Chicago upon request.
4. The Contractor will not, without the prior written consent of the Public Building Commission of Chicago, use as subcontractors any individual, firm, partnership, corporation, joint venture or other entity from whom the Contractor is unable to obtain a certification substantially in the form of this certification.

5. The Contractor hereby agrees, if the Public Building Commission of Chicago so demands, to terminate its subcontractor with any subcontract if such subcontractor was ineligible at the time that the subcontract was entered into for award of such subcontract. The Contractor shall insert adequate provisions in all subcontracts to allow it to terminate such subcontract as required by this certification.

**C. STATE TAX DELINQUENCIES**

1. The Contractor is not delinquent in the payment of any tax administered by the Illinois Department of Revenue or, if delinquent, the Contractor is contesting, in accordance with the procedures established by the appropriate Revenue Act, its liability for the tax or amount of the tax.
2. Alternatively, the Contractor has entered into an agreement with the Illinois Department of Revenue for the payment of all such taxes that are due and is in compliance with such agreement.
3. If the Contractor is unable to certify to any of the above statements [(Section II (C))], the Contractor shall explain below. Attach additional pages if necessary.

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If the letters "NA", the word "None" or no response appears on the lines above, it will be conclusively presumed that the Undersigned certified to the above statements.

4. If any subcontractors are to be used in the performance of this contract or agreement, the Contractor shall cause such subcontractors to certify as to paragraph (C)(1) or (C)(2) of this certification. In the event that any subcontractor is unable to certify to any of the statements in this certification, such subcontractor shall attach an explanation to this certification.

**D. OTHER TAXES/FEEES**

1. The Contractor is not delinquent in paying any fine, fee, tax or other charge owed to the City of Chicago.
2. If Contractor is unable to certify to the above statement, Contractor shall explain below and attach additional sheets if necessary.

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If the letters "NA", the word "None" or no response appears on the lines above, it will be conclusively presumed that the Undersigned certified to the above statements.

**E. ANTI-COLLUSION**

The Contractor, its agents, officers or employees have not directly or indirectly entered into any agreement, participated in any collusion, or otherwise taken any action in restraint of free

competitive bidding in connection with this proposal or contract. Failure to attest to this section as part of a bid will make the bid non-responsive and not eligible for award consideration.

**F. PUNISHMENT**

A Contractor who makes a false statement material to Section II(A)(2) of this certification commits a Class 3 felony. 720 ILCS 5/33E-11(b).

**G. JUDICIAL OR ADMINISTRATIVE PROCEEDINGS**

1. The Contractor is not a party to any pending lawsuits against the City of Chicago or the Public Building Commission of Chicago nor has Contractor been sued by the City of Chicago or the Public Building Commission of Chicago in any judicial or administrative proceeding.
2. If the Contractor cannot certify to the above, provide the (1) case name; (2) docket number; (3) court in which the action is or was pending; and (4) a brief description of each such judicial or administrative proceeding. Attach additional sheets if necessary.

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If the letters "NA", the word "None" or no response appears on the lines above, it will be conclusively presumed that the Undersigned certified to the above statements.

**III. CERTIFICATION OF ENVIRONMENTAL COMPLIANCE**

- A. Neither the Contractor nor any affiliated entity of the Contractor has, during a period of five years prior to the date of execution of this Affidavit: (1) violated or engaged in any conduct which violated federal, state or local Environmental Restriction<sup>5</sup>, (2) received notice of any claim, demand or action, including but not limited to citations and warrants, from any federal, state or local agency exercising executive, legislative, judicial, regulatory or administrative functions relating to a violation or alleged violation of any federal, state or local statute, regulation or other Environmental Restriction; or (3) been subject to any fine or penalty of any nature for failure to comply with any federal, state or local statute, regulation or other Environmental Restriction.

If the Contractor cannot make the certification contained in Paragraph A of Section III, identify any exceptions:

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(Attach additional pages of explanation to this Disclosure Affidavit, if necessary.)

If the letters "NA", the word "None" or no response appears on the lines above, it will be conclusively presumed that the Undersigned certified to the above statements.

- B. Without the prior written consent of the Public Building Commission of Chicago, Contractor will not employ any subcontractor in connection with the contract or proposal to which this Affidavit pertains without obtaining from such subcontractor a certification similar in form and substance to the certification contained in Paragraph A of this Section III prior to such



subcontractor's performance of any work or services or furnishing any goods, supplies or materials of any kind under the proposal or the contract to which this Affidavit pertains.

- C. Until completion of the Contract's performance under the proposal or contract to which this Affidavit pertains, the Contractor will not violate any federal, state or local statute, regulation or other Environmental Restriction, whether in the performance of such contract or otherwise.

#### IV. CERTIFICATION OF COURT-ORDERED CHILD SUPPORT COMPLIANCE

For purpose of this Section IV, "SUBSTANTIAL OWNER" means any person who owns or holds a ten percent (10%) or more percentage of interest in the Contractor. If the Contractor is an individual or sole proprietorship, substantial owner means that individual or sole proprietorship. Percentage of interest includes direct, indirect and beneficial interests in the Contractor. Indirect or beneficial interest means that an interest in the Contractor is held by a corporation, joint venture, trust, partnership, association, state or other legal entity in which the individual holds an interest or by agent(s) or nominee(s) on behalf of an individual or entity. For example, if Corporation B holds or owns a twenty percent (20%) interest in Contractor, and an individual or entity has a fifty percent (50%) or more percentage of interest in Corporation B, then such individual or entity indirectly has a ten (10%) or percentage of interest in the Contractor. In this case, the response to this Section IV, must cover such individual(s) or entity. If Corporation B is held by another entity, then this analysis similarly must be applied to that next entity.

If Contractor's response in this Section IV is 1 or 2, then all of the Contractor's Substantial Owners must remain in compliance with any such child support obligations (1) throughout the term of the contract and any extensions thereof; or (2) until the performance of the contract is completed, as applicable. Failure of Contractor's Substantial Owners to remain in compliance with their child support obligations in the manner set forth in either 1 or 2 constitutes an event of default.

**Check one:**

1. ☒ No Substantial Owner has been declared in arrearage on his or her child support obligations by the Circuit Court of Cook County or by another Illinois court of competent jurisdiction.
2. ☐ The Circuit Court of Cook County or another Illinois court of competent jurisdiction has issued an order declaring one or more Substantial Owners in arrearage on their child support obligations. All such Substantial Owners, however, have entered into court-approved agreements for the payment of all such child support owed, and all such Substantial Owners are in compliance with such agreements.
3. ☐ The Circuit Court of Cook County or another Illinois court of competent jurisdiction has issued an order declaring one or more Substantial Owners in arrearage on their child support obligations and: (1) at least one such Substantial Owner has not entered into a court-approved agreement for the payment of all such child support for the payment of all such child support owed; or both (1) and (2).
4. ☐ There are no Substantial Owners.

#### V. INCORPORATION INTO CONTRACT AND COMPLIANCE

The above certification shall become part of any contract awarded to the Contractor set forth on page 1 of this Disclosure Affidavit and are a material inducement to the Public Building

Commission of Chicago's execution of the contract, contract modification or contract amendment with respect to which this Disclosure Affidavit is being executed and delivered on behalf of the Contractor. Furthermore, Contractor shall comply with these certifications during the term and/or performance of the contract.

## VI. VERIFICATION

Under penalty or perjury, I certify that I am authorized to execute this Disclosure Affidavit on behalf of the Contractor set forth on page 1, that I have personal knowledge of all the certifications made herein and that the same are true.

The Contractor must report any change in any of the facts stated in this Affidavit to the Public Building Commission of Chicago within 14 days of the effective date of such change by completing and submitting a new Disclosure Affidavit. Failure to comply with this requirement is grounds for your firm to be deemed non-qualified to do business with the PBCC. Deliver any such new Disclosure Affidavit to: Public Building Commission of Chicago, Director of Procurement, 50 W. Washington, Room 200, Chicago, IL 60602.

*[Signature]*

Signature of Authorized Officer

Ana Garcia-Fiore

Name of Authorized Officer (Print or Type)

President/owner

Title

708-802-9750

Telephone Number

State of Illinois

County of COOK

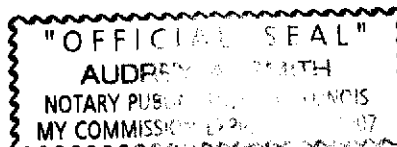
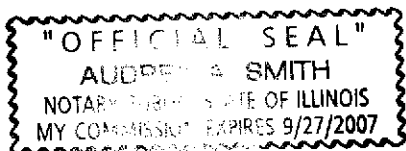
Signed and sworn to before me on this 17 day of September, 2007 by

Ana Garcia-Fiore (Name) as President (Title) of

Let's Go Play, Inc. (Bidder/Proposer or Contractor)

*Audrey A. Smith*

Notary Public Signature and Seal



### Notes 1-5 Disclosure Affidavit

1. Business entities are affiliated if, directly or indirectly, one controls or has the power to control the other, or if a third person controls or has the power to control both entities. Indicia of control include without limitation: interlocking management or ownership; identity of interests among family members; shared facilities and equipment; common use of employees; or organization of another business entity using substantially the same management, ownership or principals as the first entity.
2. For purposes of Section II (A) (2) of this certification, a person commits the offense of and engages in bid-rigging when he knowingly agrees with any person who is, or but for such agreement should be, a competitor of such person concerning any bid submitted or not submitted by such person or another to a unit of state or local government when with the intent that the bid submitted or not submitted will result in the award of a contract to such person or another and he either (1) provides such person or receives from another information concerning the price or other material term or terms of the bid which would otherwise not be disclosed to a competitor in an independent non-collusive submission of bids or (2) submits a bid that is of such a price or other material term or terms that he does not intend the bid to be accepted. see 720 ILCS 5/33-E-3.
3. No corporation shall be barred from contracting with any unit of state or local government as a result of a conviction, under either Section 33E-3 or Section 33E-4 of Article 33 of the State of Illinois Criminal Code of 1961, as amended, of any employee or agent of such corporation if the employee so convicted is no longer employed by the corporation and: (1) it has been finally adjudicated not guilty or (2) it demonstrates to the governmental entity with which it seeks to contract and that entity finds that the commission of the offense was neither authorized, requested, commanded, nor performed by a director, officer or a high managerial agent on behalf of the corporation as provided in paragraph (2) of subsection (a) of Section 5-4 of the State of Illinois Criminal Code.
4. For purposes of Section II(A) of this certification, a person commits the offense of and engages in bid rotating when, pursuant to any collusive scheme or agreement with another, he engages in a pattern over time (which, for the purposes hereof, shall include at least three contract bids within a period of ten years, the most recent of which occurs after January 1, 1989) of submitting sealed bids to units of state or local government with the intent that the award of such bids rotates, or is distributed among, persons or business entities which submit bids on a substantial number of the same contracts. See 720 ILCS 5/33E-4.
5. "Environmental Restriction" means any statute, ordinance, rule, regulation, permit, permit condition, order or directive relating to or imposing liability or standards of conduct concerning the release or threatened release of hazardous materials, special wastes or other contaminants into the environment, and to the generation, use, storage, transportation, or disposal of construction debris, bulk waste, refuse, garbage, solid wastes, hazardous materials, special wastes or other contaminants including but not limited to (1) Section 7-28-440 or 11-4-1500 or Article XIV of Chapter 11-4 or Chapter 7-28 or 11-4 of the Municipal Code of Chicago; (2) Comprehensive Environment Response and Compensation and Liability Act (42 U.S.C. § 9601 *et seq.*) the Hazardous Material Transportation Act (49 U.S.C. § 1801 *et seq.*); (4) the Resource Conservation and Recovery Act of 1976 (42 U.S.C. § 7401 *et seq.*); (5) the Clean Water Act (33 U.S.C. § 1251 *et seq.*); (6) the Clean Air Act (42 U.S.C. § 7401 *et seq.*); (7) the Toxic Substances Control Act of 1976 (15 U.S.C. § 2601 *et seq.*); (8) the Safe Drinking Water Act (42 U.S.C. § 300f); (9) the Occupational Health and Safety Act of 1970 (29 U.S.C. § 651 *et seq.*); (10) the Emergency Planning and Community Right to Know Act (42 U.S.C. § 11001 *et seq.*); and (10) the Illinois Environmental Protection Act (415 ILCS 5/1 through 5/56.6).

Date: Sept. 19, 2007

**DISCLOSURE AFFIDAVIT**

Name: Playworld Systems, Inc.

Address: 1000 Buffalo Road Lewisburg PA 17837

Telephone No.: 570.522.9800

Federal Employer I.D. #: 24.0810112 Social Security #: \_\_\_\_\_

Nature of Transaction:

- ☐ Sale or purchase of land
- ☐ Construction Contract
- ☐ Professional Services Agreement
- ☒ Other

**Instructions:** FOR USE WITH ANY OF THE ABOVE TRANSACTIONS. Any firm proposing one of the above transactions with the Public Building Commission of Chicago must complete this Disclosure Affidavit. Please note that in the event the Contractor is a joint venture, the joint venture and each of the joint venture partners must submit a completed Disclosure Affidavit.

The undersigned Matthew M. Miller as Vice President  
(Name) (Title)

and on behalf of Playworld Systems, Inc.  
("Bidder/ Proposer" or "Contractor") having been duly sworn under oath certifies that:

**I. DISCLOSURE OF OWNERSHIP INTERESTS**

Pursuant to Resolution No. 5371 of the Board of Commissioners of the Public Building Commission of Chicago, all bidders/proposers shall provide the following information with their bid/proposal. If the question is not applicable, answer "NA". If the answer is none, please answer "none".

Bidder/Proposer/Contractor is a: ☒ Corporation ☐ LLC  
☐ Partnership ☐ LLP  
☐ Joint Venture ☐ Not-for-Profit Corporation  
☐ Sole Proprietorship ☐ Other

**SECTION 1.**

**FOR PROFIT CORPORATION OR LIMITED LIABILITY COMPANY (LLC)**

a. State of Incorporation or organization Pennsylvania

b. Authorized to do business in the State of Illinois: Yes [ ] No [ ]

c. Names of all officers of corporation or LLC (or attach list): Names of all directors of corporation (or attach list):

Name (Print or Type)	Title (Print or Type)	Name (Print or Type)	Title (Print or Type)
<u>See attached sheet.</u>			

d. If the corporation has fewer than 100 shareholders indicate here or attach a list of names and addresses of all shareholders and the percentage interest of each.

Name (Print or Type)	Address	Ownership Interest %
<u>Dale L. Miller</u>	<u>225 Highfields Ln.</u>	<u>100</u> %
	<u>Lewishurg PA 17837</u>	%
		%

e. If the corporation has 100 or more shareholders, indicate here or attach a list of names and addresses of all shareholders owning shares equal to or in excess of seven and one-half percent (7.5%) of the proportionate ownership of the corporation and indicate the percentage interest of each.

Name (Print or Type)	Address	Ownership Interest %
<u>N/A</u>		%
		%
		%

f. For LLC's, state whether member-managed or identify managing member:

N/A

### Playworld Systems, Inc. Corporate Officers

Dale L. Miller	CEO	225 Highfields Lane, Lewisburg, PA 17837
Mathew M. Miller	President	123 South 3 <sup>rd</sup> Street, Lewisburg, PA 17837
Brett R. Barrick	Vice President	2045 Stein Lane, Lewisburg, PA 17837
Kelly L. Barrick	Secretary	2045 Stein Lane, Lewisburg, PA 17837
Elizabeth Miller	Treasurer	123 South 3 <sup>rd</sup> Street, Lewisburg, PA 17837

### Playworld Systems Inc. Board of Directors

Dale L. Miller	Director (Chair)	225 Highfields Lane, Lewisburg, PA 17837
Matthew M. Miller	Director	123 South 3 <sup>rd</sup> Street, Lewisburg, PA 17837
Kelly L. Barrick	Director	2045 Stein Lane, Lewisburg, PA 17837

g. For LLC's identify each member:

Name (Print or Type)	Address	Ownership Interest
<u>N/A</u>	_____	_____ %
_____	_____	_____ %
_____	_____	_____ %

h. Is the corporation or LLC owned partially or completely by one or more other corporations or legal entities?

Yes ☐ No ☐

If "yes" provide the above information, as applicable, for each such corporation or entity.

## SECTION 2. PARTNERSHIPS

a. If the bidder/proposer or Contractor is a partnership, indicate the name of each partner and the percentage of interest of each therein. Also indicate, if applicable, whether general partner (GP) or limited partner (LP)

Name of Partners (Print or Type)	Percentage Interest
<u>N/A</u>	_____ %
_____	_____ %
_____	_____ %

## SECTION 3. SOLE PROPRIETORSHIP

a. The bidder/proposer or Contractor is a sole proprietorship and is not acting in any representative capacity on behalf of any beneficiary: Yes ☐ No ☐  
If NO, complete items b. and c. of this Section 3.

b. If the sole proprietorship is held by an agent(s) or a nominee(s), indicate the principal(s) for whom the agent or nominee holds such interest.

Name(s) of Principal(s). (Print or Type)

N/A

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

c. If the interest of a spouse or any other party is constructively controlled by another person or legal entity, state the name and address of such person or entity possessing such control and the relationship under which such control is being or may exercised.

Name(s)

Address(es)

N/A

#### SECTION 4. LAND TRUSTS, BUSINESS TRUSTS, ESTATES & OTHER ENTITIES

If the bidder/proposer or Contractor is a land trust, business trust, estate or other similar commercial or legal entity, identify any representative, person or entity holding legal title as well as each beneficiary in whose behalf title is held including the name, address and percentage of interest of each beneficiary.

Name(s)

Address(es)

N/A

#### SECTION 5. NOT-FOR-PROFIT CORPORATIONS

a. State of incorporation N/A

b. Name of all officers and directors of corporation (or attach list):

Name (Print or Type)	Title (Print or Type)	Name (Print or Type)	Title (Print or Type)

NOTE: The Public Building Commission of Chicago may require additional information from any entity or individual to achieve full disclosure relevant to the transaction. Further, any material change in the information required above must be provided by supplementing this statement at any time up to the time the Public Building Commission of Chicago takes action on the contract or other action requested of the Public Building Commission.



## II. CONTRACTOR CERTIFICATION

### A. CONTRACTOR

1. The Contractor, or any subcontractor to be used in the performance of this contract, or any affiliated entities of the Contractor or any such subcontractor, or any responsible official thereof, or any other official, agent or employee of the Contractor, any such subcontractor or any such affiliated entity, acting pursuant to the direction or authorization of a responsible official thereof has not, during a period of three years prior to the date of execution of this certification or if a subcontractor or subcontractor's affiliated entity during a period of three years prior to the date of award of the subcontract:
  - a. Bribe or attempted to bribe, or been convicted of bribery or attempting to bribe a public officer or employee of the City of Chicago, the State of Illinois, any agency of the federal government or any state or local government in the United States (if an officer or employee, in that officer's or employee's official capacity); or
  - b. Agreed or colluded, or been convicted of agreement or collusion among bidders or prospective bidders in restraint of freedom of competition by agreement to bid a fixed price or otherwise; or
  - c. Made an admission of such conduct described in 1(a) or (b) above which is a matter of record but has not been prosecuted for such conduct.
2. The Contractor or agent, partner, employee or officer of the Contractor is not barred from contracting with any unit of state or local government as a result of engaging in or being convicted of bid-rigging<sup>2</sup> in violation of Section 3 of Article 33E of the Illinois Criminal Code of 1961, as amended (720 ILCS 5/33E-3), or any similar offense of any state or the United States which contains the same elements as the offense of bid-rigging during a period of five years prior to the date of submittal of this bid, proposal or response.<sup>3</sup>
3. The Contractor or any agent, partner, employee, or officer of the Contractor is not barred from contracting with any unit of state or local government as a result of engaging in or being convicted of bid-rotating<sup>4</sup> in violation of Section 4 of Article 33E of the Illinois Criminal Code of 1961, as amended (720 ILCS 5/33E-4), or any similar offense of any state or the United States which contains the same elements as the offense of bid-rotating.
4. The Contractor understands and will abide by all provisions of Chapter 2-56 of the Municipal Code entitled "Office of the Inspector General" and all provisions of the Public Building Commission Code of Ethics Resolution No.5339, as amended by Resolution No. 5371.
5. The Contractor certifies to the best of its knowledge and belief, that it and its principals:
  - a. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal, state or local department or agency.
  - b. Have not within a three-year period preceding this bid or proposal been convicted of or had a civil judgement rendered against them for: commission of fraud or a

criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state or local) transaction or contract under a public transaction; violation of federal or state antitrust statutes; commission of embezzlement, theft, forgery, bribery, falsification or destruction of records; making false statements; or receiving stolen property;

- c. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, state or local) with commission of any of the offenses enumerated in paragraph (5)(b) above; and
- d. Have not within a three-year period preceding this bid or proposal had one or more public transactions (federal, state or local) terminated for cause or default.

## **B. SUBCONTRACTOR**

1. The Contractor has obtained from all subcontractors being used in the performance of this contract or agreement, known by the Contractor at this time, certifications substantially in the form of Section 1 of this Disclosure Affidavit. Based on such certification(s) and any other information known or obtained by the Contractor, is not aware of any such subcontractor or subcontractor's affiliated entity or any agent, partner, employee or officer of such subcontractor or subcontractor's affiliated entity having engaged in or been convicted of (a) any of the conduct describe in Section II(A) (1)(a) or (b) of this certification; (b) bid-rigging, bid-rotating, or any similar offense of any state or the United States which contains the same elements as bid-rigging or bid-rotating, or having made an admission of guilt of the conduct described in Section II(A)(1)(a) or (b) which is matter of record but has/have not been prosecuted for such conduct.
2. The Contractor will, prior to using them as subcontractors, obtain from all subcontractors to be used in the performance of this contract or agreement, but not yet known by the Contractor at this time, certifications substantially in the form of this certification. The Contractor shall not, without the prior written permission of the Commission, use any of such subcontractors in the performance of this contract if the Contractor, based on such certifications or any other information known or obtained by Contractor, became aware of such subcontractor, subcontractor's affiliated entity or any agent, employee or officer of such subcontractor or subcontractor's affiliated entity having engaged in or been convicted of (a) any of the conduct describe in Section II(A)(1)(a) or (b) of this certification or (b) bid-rigging, bid-rotating or any similar offenses of any state or the United States which contains the same elements as bid-rigging or bid-rotating or having made an admission of guilt of the conduct described in Section II(A)(1)(a) or (b) which is a matter of record but has/have not been prosecuted for such conduct. The Contractor shall cause such subcontractors to certify as to Section II(A)(5). In the event any subcontractor is unable to certify to Section II(A)(5), such subcontractor shall attach an explanation to the certification.
3. For all subcontractors to be used in the performance of this contract or agreement, the Contractor shall maintain for the duration of the contract all subcontractors' certifications required by Section II(B)(1) and (2) above, and Contractor shall make such certifications promptly available to the Public Building Commission of Chicago upon request.
4. The Contractor will not, without the prior written consent of the Public Building Commission of Chicago, use as subcontractors any individual, firm, partnership, corporation, joint venture or other entity from whom the Contractor is unable to obtain a certification substantially in the form of this certification.

5. The Contractor hereby agrees, if the Public Building Commission of Chicago so demands, to terminate its subcontractor with any subcontract if such subcontractor was ineligible at the time that the subcontract was entered into for award of such subcontract. The Contractor shall insert adequate provisions in all subcontracts to allow it to terminate such subcontract as required by this certification.

### C. STATE TAX DELINQUENCIES

1. The Contractor is not delinquent in the payment of any tax administered by the Illinois Department of Revenue or, if delinquent, the Contractor is contesting, in accordance with the procedures established by the appropriate Revenue Act, its liability for the tax or amount of the tax.
2. Alternatively, the Contractor has entered into an agreement with the Illinois Department of Revenue for the payment of all such taxes that are due and is in compliance with such agreement.
3. If the Contractor is unable to certify to any of the above statements [(Section II (C))], the Contractor shall explain below. Attach additional pages if necessary.

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If the letters "NA", the word "None" or no response appears on the lines above, it will be conclusively presumed that the Undersigned certified to the above statements.

4. If any subcontractors are to be used in the performance of this contract or agreement, the Contractor shall cause such subcontractors to certify as to paragraph (C)(1) or (C)(2) of this certification. In the event that any subcontractor is unable to certify to any of the statements in this certification, such subcontractor shall attach an explanation to this certification.

### D. OTHER TAXES/FEEES

1. The Contractor is not delinquent in paying any fine, fee, tax or other charge owed to the City of Chicago.
2. If Contractor is unable to certify to the above statement, Contractor shall explain below and attach additional sheets if necessary.

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If the letters "NA", the word "None" or no response appears on the lines above, it will be conclusively presumed that the Undersigned certified to the above statements.

### E. ANTI-COLLUSION

The Contractor, its agents, officers or employees have not directly or indirectly entered into any agreement, participated in any collusion, or otherwise taken any action in restraint of free

competitive bidding in connection with this proposal or contract. Failure to attest to this section as part of a bid will make the bid non-responsive and not eligible for award consideration.

**F. PUNISHMENT**

A Contractor who makes a false statement material to Section II(A)(2) of this certification commits a Class 3 felony. 720 ILCS 5/33E-11(b).

**G. JUDICIAL OR ADMINISTRATIVE PROCEEDINGS**

1. The Contractor is not a party to any pending lawsuits against the City of Chicago or the Public Building Commission of Chicago nor has Contractor been sued by the City of Chicago or the Public Building Commission of Chicago in any judicial or administrative proceeding.
2. If the Contractor cannot certify to the above, provide the (1) case name; (2) docket number; (3) court in which the action is or was pending; and (4) a brief description of each such judicial or administrative proceeding. Attach additional sheets if necessary.

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If the letters "NA", the word "None" or no response appears on the lines above, it will be conclusively presumed that the Undersigned certified to the above statements.

**III. CERTIFICATION OF ENVIRONMENTAL COMPLIANCE**

- A. Neither the Contractor nor any affiliated entity of the Contractor has, during a period of five years prior to the date of execution of this Affidavit: (1) violated or engaged in any conduct which violated federal, state or local Environmental Restriction<sup>5</sup>, (2) received notice of any claim, demand or action, including but not limited to citations and warrants, from any federal, state or local agency exercising executive, legislative, judicial, regulatory or administrative functions relating to a violation or alleged violation of any federal, state or local statute, regulation or other Environmental Restriction; or (3) been subject to any fine or penalty of any nature for failure to comply with any federal, state or local statute, regulation or other Environmental Restriction.

If the Contractor cannot make the certification contained in Paragraph A of Section III, identify any exceptions:

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(Attach additional pages of explanation to this Disclosure Affidavit, if necessary.)

If the letters "NA", the word "None" or no response appears on the lines above, it will be conclusively presumed that the Undersigned certified to the above statements.

- B. Without the prior written consent of the Public Building Commission of Chicago, Contractor will not employ any subcontractor in connection with the contract or proposal to which this Affidavit pertains without obtaining from such subcontractor a certification similar in form and substance to the certification contained in Paragraph A of this Section III prior to such

subcontractor's performance of any work or services or furnishing any goods, supplies or materials of any kind under the proposal or the contract to which this Affidavit pertains.

- C. Until completion of the Contractor's performance under the proposal or contract to which this Affidavit pertains, the Contractor will not violate any federal, state or local statute, regulation or other Environmental Restriction, whether in the performance of such contract or otherwise.

#### IV. CERTIFICATION OF COURT-ORDERED CHILD SUPPORT COMPLIANCE

For purpose of this Section IV, "SUBSTANTIAL OWNER" means any person who owns or holds a ten percent (10%) or more percentage of interest in the Contractor. If the Contractor is an individual or sole proprietorship, substantial owner means that individual or sole proprietorship. Percentage of interest includes direct, indirect and beneficial interests in the Contractor. Indirect or beneficial interest means that an interest in the Contractor is held by a corporation, joint venture, trust, partnership, association, state or other legal entity in which the individual holds an interest or by agent(s) or nominee(s) on behalf of an individual or entity. For example, if Corporation B holds or owns a twenty percent (20%) interest in Contractor, and an individual or entity has a fifty percent (50%) or more percentage of interest in Corporation B, then such individual or entity indirectly has a ten (10%) or percentage of interest in the Contractor. In this case, the response to this Section IV, must cover such individual(s) or entity. If Corporation B is held by another entity, then this analysis similarly must be applied to that next entity.

If Contractor's response in this Section IV is 1 or 2, then all of the Contractor's Substantial Owners must remain in compliance with any such child support obligations (1) throughout the term of the contract and any extensions thereof; or (2) until the performance of the contract is completed, as applicable. Failure of Contractor's Substantial Owners to remain in compliance with their child support obligations in the manner set forth in either 1 or 2 constitutes an event of default.

**Check one:**

1. ☒ No Substantial Owner has been declared in arrearage on his or her child support obligations by the Circuit Court of Cook County or by another Illinois court of competent jurisdiction.
2. ☐ The Circuit Court of Cook County or another Illinois court of competent jurisdiction has issued an order declaring one or more Substantial Owners in arrearage on their child support obligations. All such Substantial Owners, however, have entered into court-approved agreements for the payment of all such child support owed, and all such Substantial Owners are in compliance with such agreements.
3. ☐ The Circuit Court of Cook County or another Illinois court of competent jurisdiction has issued an order declaring one or more Substantial Owners in arrearage on their child support obligations and: (1) at least one such Substantial Owner has not entered into a court-approved agreement for the payment of all such child support for the payment of all such child support owed; or both (1) and (2).
4. ☐ There are no Substantial Owners.

#### V. INCORPORATION INTO CONTRACT AND COMPLIANCE

The above certification shall become part of any contract awarded to the Contractor set forth on page 1 of this Disclosure Affidavit and are a material inducement to the Public Building

Commission of Chicago's execution of the contract, contract modification or contract amendment with respect to which this Disclosure Affidavit is being executed and delivered on behalf of the Contractor. Furthermore, Contractor shall comply with these certifications during the term and/or performance of the contract.

## VI. VERIFICATION

Under penalty or perjury, I certify that I am authorized to execute this Disclosure Affidavit on behalf of the Contractor set forth on page 1, that I have personal knowledge of all the certifications made herein and that the same are true.

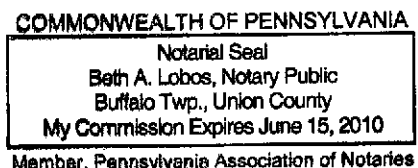
The Contractor must report any change in any of the facts stated in this Affidavit to the Public Building Commission of Chicago within 14 days of the effective date of such change by completing and submitting a new Disclosure Affidavit. Failure to comply with this requirement is grounds for your firm to be deemed non-qualified to do business with the PBCC. Deliver any such new Disclosure Affidavit to: Public Building Commission of Chicago, Director of Procurement, 50 W. Washington, Room 200, Chicago, IL 60602.

[Signature]  
Signature of Authorized Officer  
Matthew M. Miller  
Name of Authorized Officer (Print or Type)  
President  
Title  
570.522.9800  
Telephone Number

State of Pennsylvania  
County of Union

Signed and sworn to before me on this 19th day of September, 2007 by  
Matthew Miller (Name) as President (Title) of  
Playworld Systems, Inc. (Bidder/Proposer or Contractor)

[Signature]  
Notary Public Signature and Seal



### Notes 1-5 Disclosure Affidavit

1. Business entities are affiliated if, directly or indirectly, one controls or has the power to control the other, or if a third person controls or has the power to control both entities. Indicia of control include without limitation: interlocking management or ownership; identity of interests among family members; shared facilities and equipment; common use of employees; or organization of another business entity using substantially the same management, ownership or principals as the first entity.
2. For purposes of Section II (A) (2) of this certification, a person commits the offense of and engages in bid-rigging when he knowingly agrees with any person who is, or but for such agreement should be, a competitor of such person concerning any bid submitted or not submitted by such person or another to a unit of state or local government when with the intent that the bid submitted or not submitted will result in the award of a contract to such person or another and he either (1) provides such person or receives from another information concerning the price or other material term or terms of the bid which would otherwise not be disclosed to a competitor in an independent non-collusive submission of bids or (2) submits a bid that is of such a price or other material term or terms that he does not intend the bid to be accepted. see 720 ILCS 5/33-E-3.
3. No corporation shall be barred from contracting with any unit of state or local government as a result of a conviction, under either Section 33E-3 or Section 33E-4 of Article 33 of the State of Illinois Criminal Code of 1961, as amended, of any employee or agent of such corporation if the employee so convicted is no longer employed by the corporation and: (1) it has been finally adjudicated not guilty or (2) it demonstrates to the governmental entity with which it seeks to contract and that entity finds that the commission of the offense was neither authorized, requested, commanded, nor performed by a director, officer or a high managerial agent on behalf of the corporation as provided in paragraph (2) of subsection (a) of Section 5-4 of the State of Illinois Criminal Code.
4. For purposes of Section II(A) of this certification, a person commits the offense of and engages in bid rotating when, pursuant to any collusive scheme or agreement with another, he engages in a pattern over time (which, for the purposes hereof, shall include at least three contract bids within a period of ten years, the most recent of which occurs after January 1, 1989) of submitting sealed bids to units of state or local government with the intent that the award of such bids rotates, or is distributed among, persons or business entities which submit bids on a substantial number of the same contracts. See 720 ILCS 5/33E-4.
5. "Environmental Restriction" means any statute, ordinance, rule, regulation, permit, permit condition, order or directive relating to or imposing liability or standards of conduct concerning the release or threatened release of hazardous materials, special wastes or other contaminants into the environment, and to the generation, use, storage, transportation, or disposal of construction debris, bulk waste, refuse, garbage, solid wastes, hazardous materials, special wastes or other contaminants including but not limited to (1) Section 7-28-440 or 11-4-1500 or Article XIV of Chapter 11-4 or Chapter 7-28 or 11-4 of the Municipal Code of Chicago; (2) Comprehensive Environment Response and Compensation and Liability Act (42 U.S.C. § 9601 *et seq.*) the Hazardous Material Transportation Act (49 U.S.C. § 1801 *et seq.*); (4) the Resource Conservation and Recovery Act of 1976 (42 U.S.C. § 7401 *et seq.*); (5) the Clean Water Act (33 U.S.C. § 1251 *et seq.*); (6) the Clean Air Act (42 U.S.C. § 7401 *et seq.*); (7) the Toxic Substances Control Act of 1976 (15 U.S.C. § 2601 *et seq.*); (8) the Safe Drinking Water Act (42 U.S.C. § 300f); (9) the Occupational Health and Safety Act of 1970 (29 U.S.C. § 651 *et seq.*); (10) the Emergency Planning and Community Right to Know Act (42 U.S.C. § 11001 *et seq.*); and (10) the Illinois Environmental Protection Act (415 ILCS 5/1 through 5/56.6).

**EXHIBIT 6 - DISCLOSURE OF RETAINED PARTIES  
EXECUTED BY THE PROVIDER  
FOLLOWS THIS PAGE**



## DISCLOSURE OF RETAINED PARTIES

**A. Definitions and Disclosure Requirements**

1. As used herein, "Contractor" means a person or entity who has any contract or lease with the Public Building Commission of Chicago ("Commission").
2. Commission contracts and/or qualification submittals must be accompanied by a disclosure statement providing certain information about attorneys, lobbyists, consultants, subcontractors, and other persons whom the Contractor has retained or expects to retain with respect to the contract or lease. In particular, the Contractor must disclose the name of each such person, his or her business address, the name of the relationship, and the amount of fees paid or estimated to be paid. The Contractor is not required to disclose employees who are paid solely through the Contractor's regular payroll.
3. "Lobbyists" means any person (a) who for compensation or on behalf of any person other than himself undertake to influence any legislative or administrative action, or (b) any part of whose duties as an employee of another includes undertaking to influence any legislative or administrative action.

**B. Certification**

Contractor hereby certifies as follows:

1. This Disclosure relates to the following transaction: Supply playground Equipment  
Description or goods or services to be provided under Contract: PS-1119
2. Name of Contractor: Let's Go Play, Inc.
3. EACH AND EVERY attorney, lobbyist, accountant, consultant, subcontractor, or other person retained or anticipated to be retained by the Contractor with respect to or in connection with the contract or lease is listed below. Attach additional pages if necessary. NOTE: You must include information about certified MBE/WBEs you have retained or anticipate retaining, even if you have already provided that information elsewhere in the contract documents.

**Retained Parties:**


Name	Business Address	Relationship (Attorney, Lobbyist, Subcontractor, etc.)	Fees (indicate whether paid or estimated)
Harrison Company	970 N. Oaklawn Ave Elmhurst IL 60126	Equipment Supplier	Est. 4% total contract
J & J Motor Service	2338 S. Indiana Chicago IL 60616	Service Supplier	Est 1% total contract

Check Here If No Such Persons Have been Retained or Are Anticipated To Be Retained: \_\_\_\_\_

## DISCLOSURE OF RETAINED PARTIES

4. The Contractor understands and agrees as follows:
- a. The information provided herein is a material inducement to the Commission execution of the contract or other action with respect to which this Disclosure of Retained Parties form is being executed, and the Commission may rely on the information provided herein. Furthermore, if the Commission determines that any information provided herein is false, incomplete, or inaccurate, the Commission may terminate the contract or other transaction, terminate the Contractor's participation in the contract or other transactions with the Commission.
  - b. If the Contractor is uncertain whether a disclosure is required, the Contractor must either ask the Commission's Representative or his or her manager whether disclosure is required or make the disclosure.
  - c. This Disclosure of Retained Parties form, some or all of the information provided herein, and any attachments may be made available to the public on the Internet, in response to a Freedom of Information Act request, or otherwise. The Contractor waives and releases any possible rights or claims it may have against the Commission in connection with the public release of information contained in the completed Disclosure of Retained Parties form and any attachments.

Under penalty of perjury, I certify that I am authorized to execute this Disclosure of Retained Parties on behalf of the Contractor and that the information disclosed herein is true and complete.

  
Signature


9/17/07  
Date

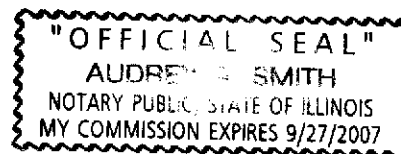
Ana Garcia-Fiore  
Name ( Type or Print)

owner / President  
Title

Subscribed and sworn to before me

this 17 day of September 2007

  
Notary Public



## DISCLOSURE OF RETAINED PARTIES

**A. Definitions and Disclosure Requirements**

1. As used herein, "Contractor" means a person or entity who has any contract or lease with the Public Building Commission of Chicago ("Commission").
2. Commission contracts and/or qualification submittals must be accompanied by a disclosure statement providing certain information about attorneys, lobbyists, consultants, subcontractors, and other persons whom the Contractor has retained or expects to retain with respect to the contract or lease. In particular, the Contractor must disclose the name of each such person, his or her business address, the name of the relationship, and the amount of fees paid or estimated to be paid. The Contractor is not required to disclose employees who are paid solely through the Contractor's regular payroll.
3. "Lobbyists" means any person (a) who for compensation or on behalf of any person other than himself undertake to influence any legislative or administrative action, or (b) any part of whose duties as an employee of another includes undertaking to influence any legislative or administrative action.

**B. Certification**

Contractor hereby certifies as follows:

1. This Disclosure relates to the following transaction: Supply Playground Equipment  
Description or goods or services to be provided under Contract: PS - 1119
2. Name of Contractor: Playworld Systems, Inc.
3. EACH AND EVERY attorney, lobbyist, accountant, consultant, subcontractor, or other person retained or anticipated to be retained by the Contractor with respect to or in connection with the contract or lease is listed below. Attach additional pages if necessary. NOTE: You must include information about certified MBE/WBEs you have retained or anticipate retaining, even if you have already provided that information elsewhere in the contract documents.

Retained Parties:

Name	Business Address	Relationship (Attorney, Lobbyist, Subcontractor, etc.)	Fees (indicate whether paid or estimated)
N/A			

Check Here If No Such Persons Have been Retained or Are Anticipated To Be Retained: ☒

# DISCLOSURE OF RETAINED PARTIES

4. The Contractor understands and agrees as follows:
- a. The information provided herein is a material inducement to the Commission execution of the contract or other action with respect to which this Disclosure of Retained Parties form is being executed, and the Commission may rely on the information provided herein. Furthermore, if the Commission determines that any information provided herein is false, incomplete, or inaccurate, the Commission may terminate the contract or other transaction, terminate the Contractor's participation in the contract or other transactions with the Commission.
  - b. If the Contractor is uncertain whether a disclosure is required, the Contractor must either ask the Commission's Representative or his or her manager whether disclosure is required or make the disclosure.
  - c. This Disclosure of Retained Parties form, some or all of the information provided herein, and any attachments may be made available to the public on the Internet, in response to a Freedom of Information Act request, or otherwise. The Contractor waives and releases any possible rights or claims it may have against the Commission in connection with the public release of information contained in the completed Disclosure of Retained Parties form and any attachments.

Under penalty of perjury, I certify that I am authorized to execute this Disclosure of Retained Parties on behalf of the Contractor and that the information disclosed herein is true and complete.

  
Signature

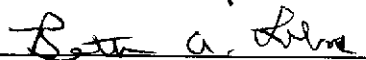
9.19.2007  
Date

Matthew M. Miller  
Name (Type or Print)

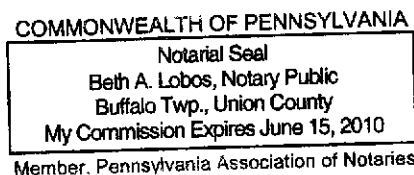
President  
Title

Subscribed and sworn to before me

this 19<sup>th</sup> day of September 2007

  
Notary Public

State of Pennsylvania  
County of Union



**EXHIBIT 7 - MBE/WBE SPECIAL CONDITIONS  
POLICY OF THE COMMISSION  
FOLLOWS THIS PAGE**

**EXHIBIT A  
DISCLOSURE OF RETAINED PARTIES**

**A. Definitions and Disclosure Requirements**

1. As used herein, "Consultant" means a person or entity who has any contract or lease with the Public Building Commission of Chicago ("Commission").
2. Commission bids, leases, contracts, and/or qualification submittals must be accompanied by a disclosure statement providing certain information about lobbyists whom the Consultant has retained or expects to retain with respect to the contract or lease. In particular, the Consultant must disclose the name of each such person, his or her business address, the name of the relationship, and the amount of fees paid or estimated to be paid. The Consultant is not required to disclose employees who are paid solely through the Consultant's regular payroll.
3. "Lobbyists" means any person (a) who for compensation or on behalf of any person other than himself undertake to influence any legislative or administrative action, or (b) any part of whose duties as an employee of another includes undertaking to influence any legislative or administrative action.

**B. Certification**

Consultant hereby certifies as follows:

1. This Disclosure relates to the following transaction: \_\_\_\_\_  
Description of goods or services to be provided under Contract: \_\_\_\_\_  
\_\_\_\_\_
2. Name of Consultant: NONE
3. **EACH AND EVERY** lobbyist retained or anticipated to be retained by the Consultant with respect to or in connection with the contract or lease is listed below. Attach additional pages if necessary.

Retained Parties:

Name	Business Address	Relationship (Attorney, Lobbyist, etc.)	Fees (Indicate whether paid or estimated)

Check Here If No Such Persons Have been Retained or Are Anticipated To Be Retained: X

4. The Consultant understands and agrees as follows:

- a. The information provided herein is a material inducement to the Commission execution of the contract or other action with respect to which this Disclosure of Retained Parties form is being executed, and the Commission may rely on the information provided herein. Furthermore, if the Commission determines that any information provided herein is false, incomplete, or inaccurate, the Commission may terminate the contract or other transaction, terminate the Consultant's participation in the contract or other transactions with the Commission.
- b. If the Consultant is uncertain whether a disclosure is required, the Consultant must either ask the Commission's Representative or his or her manager whether disclosure is required or make the disclosure.
- c. This Disclosure of Retained Parties form, some or all of the information provided herein, and any attachments may be made available to the public on the Internet, in response to a Freedom of Information Act request, or otherwise. The Consultant waives and releases any possible rights or claims it may have against the Commission in connection with the public release of information contained in the completed Disclosure of Retained Parties form and any attachments.

Under penalty of perjury, I certify that I am authorized to execute this Disclosure of Retained Parties on behalf of the Consultant and that the information disclosed herein is true and complete.

  
Signature

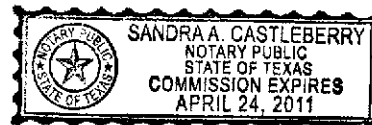
9/28/09  
Date

JOHN HARRIS  
Name ( Type or Print)

PRESIDENT  
Title

Subscribed and sworn to before me

this 28 day of Sept 2009  
Sandra A. Castleberry  
Notary Public



**EXHIBIT B**  
**DISCLOSURE AFFIDAVIT**

Name: PLAYMASTERS INC.  
Address: 1445 N. STATE PKWY #2401, CHICAGO, IL 60610  
Telephone No.: 888.344.1776  
Federal Employer I.D. #: 27-0534592 Social Security #: \_\_\_\_\_

Nature of Transaction:

- ☐ Sale or purchase of land  
☐ Construction Contract  
☐ Professional Services Agreement  
☐ Other

**Instructions:** FOR USE WITH ANY OF THE ABOVE TRANSACTIONS. Any firm proposing one of the above transactions with the Public Building Commission of Chicago must complete this Disclosure Affidavit. Please note that in the event the Contractor is a joint venture, the joint venture and each of the joint venture partners must submit a completed Disclosure Affidavit.

The undersigned JOHN HARRIS, as PRESIDENT  
(Name) (Title)  
and on behalf of PLAYMASTERS INC.  
("Bidder/ Proposer" or "Contractor") having been duly sworn under oath certifies that:

**I. DISCLOSURE OF OWNERSHIP INTERESTS**

Pursuant to Resolution No. 5371 of the Board of Commissioners of the Public Building Commission of Chicago, all bidders/proposers shall provide the following information with their bid/proposal. If the question is not applicable, answer "NA". If the answer is none, please answer "none".

Bidder/Proposer/Contractor is a: ☒ Corporation ☐ LLC  
☐ Partnership ☐ LLP  
☐ Joint Venture ☐ Not-for-Profit Corporation  
☐ Sole Proprietorship ☐ Other



SECTION 1. FOR PROFIT CORPORATION OR LIMITED LIABILITY COMPANY (LLC)

a. State of Incorporation or organization IL

b. Authorized to do business in the State of Illinois: Yes ☒ No ☐

c. Names of all officers of corporation or LLC (or attach list): Names of all directors of corporation or LLC (or attach list):

Name (Print or Type)	Title (Print or Type)	Name (Print or Type)	Title (Print or Type)
<u>JOHN HARRIS</u>	<u>PRESIDENT</u>	<u>JOHN HARRIS</u>	<u>PRESIDENT</u>
<u>JUDITH HARRIS</u>	<u>V.P./SEC. TREAS.</u>	<u>JUDITH HARRIS</u>	<u>V.P.</u>
_____	_____	_____	_____

d. Indicate here or attach a list of names and addresses of all shareholders owning shares equal to or in excess of seven and one-half percent (7.5%) of the proportionate ownership of the corporation and indicate the percentage interest of each.

Name (Print or Type)	Address	Ownership Interest
<u>JOHN HARRIS</u>	<u>1445 N. STATE PKWY #240 CHICAGO, IL</u>	<u>50</u> %
<u>JUDITH HARRIS</u>	<u>1445 N. STATE PKWY #2401 CHICAGO, IL</u>	<u>50</u> %
_____	_____	_____ %

e. For LLC's, state whether member-managed or identify managing member:

\_\_\_\_\_

f. Is the corporation or LLC owned partially or completely by one or more other corporations or legal entities?

Yes ☐ No ☒

If "yes" provide the above information, as applicable, for each such corporation or entity such that any person with a beneficial ownership interest of 7.5% or more in the corporation contracting in the PBC is disclosed. For example, if Corporation B owns 15% of Corporation A, and Corporation A is contracting with the PBC, then Corporation B must complete a Disclosure Affidavit. If Corporation B is owned by Corporations C and D, each of which owns 50% of Corporation B, then both Corporations C and D must complete Disclosure Affidavits.

## SECTION 2. PARTNERSHIPS

- a. If the bidder/proposer or Contractor is a partnership, indicate the name of each partner and the percentage of interest of each therein. Also indicate, if applicable, whether general partner (GP) or limited partner (LP)

Name of Partners (Print or Type)	Percentage Interest
_____	_____ %
_____	_____ %
_____	_____ %

## SECTION 3. SOLE PROPRIETORSHIP

- a. The bidder/proposer or Contractor is a sole proprietorship and is not acting in any representative capacity on behalf of any beneficiary: Yes [ ] No [ ]  
If NO, complete items b. and c. of this Section 3.
- b. If the sole proprietorship is held by an agent(s) or a nominee(s), indicate the principal(s) for whom the agent or nominee holds such interest.

Name(s) of Principal(s). (Print or Type)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

- c. If the interest of a spouse or any other party is constructively controlled by another person or legal entity, state the name and address of such person or entity possessing such control and the relationship under which such control is being or may exercised.

Name(s)

Address(es)

_____	_____
_____	_____
_____	_____

#### SECTION 4. LAND TRUSTS, BUSINESS TRUSTS, ESTATES & OTHER ENTITIES

If the bidder/proposer or Contractor is a land trust, business trust, estate or other similar commercial or legal entity, identify any representative, person or entity holding legal title as well as each beneficiary in whose behalf title is held including the name, address and percentage of interest of each beneficiary.

Name(s)	Address(es)
_____	_____
_____	_____
_____	_____

#### SECTION 5. NOT-FOR-PROFIT CORPORATIONS

- a. State of incorporation \_\_\_\_\_
- b. Name of all officers and directors of corporation (or attach list):

Name (Print or Type)	Title (Print or Type)	Name (Print or Type)	Title (Print or Type)
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

NOTE: The Public Building Commission of Chicago may require additional information from any entity or individual to achieve full disclosure relevant to the transaction. Further, any material change in the information required above must be provided by supplementing this statement at any time up to the time the Public Building Commission of Chicago takes action on the contract or other action requested of the Public Building Commission.

#### II. CONTRACTOR CERTIFICATION

##### A. CONTRACTOR

1. The Contractor, or any affiliated entities of the Contractor, or any responsible official thereof, or any other official, agent or employee of the Contractor, any such affiliated entity, acting pursuant to the direction or authorization of a responsible official thereof has not, during a period of three years prior to the date of execution of this certification:

- a. Bribed or attempted to bribe, or been convicted of bribery or attempting to bribe a public officer or employee of the City of Chicago, the State of Illinois, any agency of the federal government or any state or local government in the United States (if an officer or employee, in that officer's or employee's official capacity); or
  - b. Agreed or colluded, or been convicted of agreement or collusion among bidders or prospective bidders in restraint of freedom of competition by agreement to bid a fixed price or otherwise; or
  - c. Made an admission of such conduct described in 1(a) or (b) above which is a matter of record but has not been prosecuted for such conduct.
2. The Contractor or agent, partner, employee or officer of the Contractor is not barred from contracting with any unit of state or local government as a result of engaging in or being convicted of bid-rigging<sup>2</sup> in violation of Section 3 of Article 33E of the Illinois Criminal Code of 1961, as amended (720 ILCS 5/33E-3), or any similar offense of any state or the United States which contains the same elements as the offense of bid-rigging during a period of five years prior to the date of submittal of this bid, proposal or response.<sup>3</sup>
  3. The Contractor or any agent, partner, employee, or officer of the Contractor is not barred from contracting with any unit of state or local government as a result of engaging in or being convicted of bid-rotating<sup>4</sup> in violation of Section 4 of Article 33E of the Illinois Criminal Code of 1961, as amended (720 ILCS 5/33E-4), or any similar offense of any state or the United States which contains the same elements as the offense of bid-rotating.
  4. The Contractor understands and will abide by all provisions of Chapter 2-56 of the Municipal Code entitled "Office of the Inspector General" and all provisions of the Public Building Commission Code of Ethics Resolution No.5339, as amended by Resolution No. 5371.
  5. The Contractor certifies to the best of its knowledge and belief, that it and its principals:
    - a. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal, state or local department or agency.
    - b. Have not within a three-year period preceding this bid or proposal been convicted of or had a civil judgement rendered against them for: commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state or local) transaction or contract under a public transaction; violation of federal or state antitrust statutes; commission of embezzlement, theft, forgery, bribery, falsification or destruction of records; making false statements; or receiving stolen property;
    - c. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, state or local) with commission of any of the offenses enumerated in paragraph (5)(b) above; and

- d. Have not within a three-year period preceding this bid or proposal had one or more public transactions (federal, state or local) terminated for cause or default.

## B. SUBCONTRACTORS

1. The Contractor has obtained from all subcontractors being used in the performance of this contract or agreement, known by the Contractor at this time, disclosures substantially in the form of Section 1, and certifications substantially in the form of Section 2, of this Disclosure Affidavit. Based on such disclosures and certification(s), and any other information known or obtained by the Contractor, is not aware of any such subcontractor or subcontractor's affiliated entity or any agent, partner, employee or officer of such subcontractor or subcontractor's affiliated entity having engaged in or been convicted of (a) any of the conduct describe in Section II(A) (1)(a) or (b) of this certification; (b) bid-rigging, bid-rotating, or any similar offense of any state or the United States which contains the same elements as bid-rigging or bid-rotating, or having made an admission of guilt of the conduct described in Section II(A)(1)(a) or (b) which is matter of record but has/have not been prosecuted for such conduct.
2. The Contractor will, prior to using them as subcontractors, obtain from all subcontractors to be used in the performance of this contract or agreement, but not yet known by the Contractor at this time, certifications substantially in the form of this certification. The Contractor shall not, without the prior written permission of the Commission, use any of such subcontractors in the performance of this contract if the Contractor, based on such certifications or any other information known or obtained by Contractor, became aware of such subcontractor, subcontractor's affiliated entity or any agent, employee or officer of such subcontractor or subcontractor's affiliated entity having engaged in or been convicted of (a) any of the conduct describe in Section II(A)(1)(a) or (b) of this certification or (b) bid-rigging, bid-rotating or any similar offenses of any state or the United States which contains the same elements as bid-rigging or bid-rotating or having made an admission of guilt of the conduct described in Section II(A)(1)(a) or (b) which is a matter of record but has/have not been prosecuted for such conduct. The Contractor shall cause such subcontractors to certify as to Section II(A)(5). In the event any subcontractor is unable to certify to Section II(A)(5), such subcontractor shall attach an explanation to the certification.
3. For all subcontractors to be used in the performance of this contract or agreement, the Contractor shall maintain for the duration of the contract all subcontractors' certifications required by Section II(B)(1) and (2) above, and Contractor shall make such certifications promptly available to the Public Building Commission of Chicago upon request.
4. The Contractor will not, without the prior written consent of the Public Building Commission of Chicago, use as subcontractors any individual, firm, partnership, corporation, joint venture or other entity from whom the Contractor is unable to obtain a certification substantially in the form of this certification.
5. The Contractor hereby agrees, if the Public Building Commission of Chicago so demands, to terminate its subcontractor with any subcontract if such subcontractor was ineligible at the time that the subcontract was entered into for award of such

subcontract. The Contractor shall insert adequate provisions in all subcontracts to allow it to terminate such subcontract as required by this certification.

**C. STATE TAX DELINQUENCIES**

1. The Contractor is not delinquent in the payment of any tax administered by the Illinois Department of Revenue or, if delinquent, the Contractor is contesting, in accordance with the procedures established by the appropriate Revenue Act, its liability for the tax or amount of the tax.
2. Alternatively, the Contractor has entered into an agreement with the Illinois Department of Revenue for the payment of all such taxes that are due and is in compliance with such agreement.
3. If the Contractor is unable to certify to any of the above statements [(Section II (C))], the Contractor shall explain below. Attach additional pages if necessary.

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If the letters "NA", the word "None" or no response appears on the lines above, it will be conclusively presumed that the Undersigned certified to the above statements.

4. If any subcontractors are to be used in the performance of this contract or agreement, the Contractor shall cause such subcontractors to certify as to paragraph (C)(1) or (C)(2) of this certification. In the event that any subcontractor is unable to certify to any of the statements in this certification, such subcontractor shall attach an explanation to this certification.

**D. OTHER TAXES/FEEES**

1. The Contractor is not delinquent in paying any fine, fee, tax or other charge owed to the City of Chicago.
2. If Contractor is unable to certify to the above statement, Contractor shall explain below and attach additional sheets if necessary.

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If the letters "NA", the word "None" or no response appears on the lines above, it will be conclusively presumed that the Undersigned certified to the above statements.

**E. PUNISHMENT**

A Contractor who makes a false statement material to Section II(A)(2) of this certification commits a Class 3 felony. 720 ILCS 5/33E-11(b).

**F. JUDICIAL OR ADMINISTRATIVE PROCEEDINGS**

1. The Contractor is not a party to any pending lawsuits against the City of Chicago or the Public Building Commission of Chicago nor has Contractor been sued by the City of Chicago or the Public Building Commission of Chicago in any judicial or administrative proceeding.
2. If the Contractor cannot certify to the above, provide the (1) case name; (2) docket number; (3) court in which the action is or was pending; and (4) a brief description of each such judicial or administrative proceeding. Attach additional sheets if necessary.

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If the letters "NA", the word "None" or no response appears on the lines above, it will be conclusively presumed that the Undersigned certified to the above statements.

#### **CERTIFICATION OF ENVIRONMENTAL COMPLIANCE**

- A. Neither the Contractor nor any affiliated entity of the Contractor has, during a period of five years prior to the date of execution of this Affidavit: (1) violated or engaged in any conduct which violated federal, state or local Environmental Restriction<sup>5</sup>, (2) received notice of any claim, demand or action, including but not limited to citations and warrants, from any federal, state or local agency exercising executive, legislative, judicial, regulatory or administrative functions relating to a violation or alleged violation of any federal, state or local statute, regulation or other Environmental Restriction; or (3) been subject to any fine or penalty of any nature for failure to comply with any federal, state or local statute, regulation or other Environmental Restriction.

If the Contractor cannot make the certification contained in Paragraph A of Section III, identify any exceptions:

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(Attach additional pages of explanation to this Disclosure Affidavit, if necessary.)

If the letters "NA", the word "None" or no response appears on the lines above, it will be conclusively presumed that the Undersigned certified to the above statements.

- B. Without the prior written consent of the Public Building Commission of Chicago, Contractor will not employ any subcontractor in connection with the contract or proposal to which this Affidavit pertains without obtaining from such subcontractor a certification similar in form and substance to the certification contained in Paragraph A of this Section III prior to such subcontractor's performance of any work or services or furnishing any goods, supplies or materials of any kind under the proposal or the contract to which this Affidavit pertains.
- C. Until completion of the Contract's performance under the proposal or contract to which this Affidavit pertains, the Contractor will not violate any federal, state or local statute, regulation or other Environmental Restriction, whether in the performance of such contract or otherwise.

#### **III. INCORPORATION INTO CONTRACT AND COMPLIANCE**

The above certification shall become part of any contract awarded to the Contractor set forth on page 1 of this Disclosure Affidavit and are a material inducement to the Public Building Commission of Chicago's execution of the contract, contract modification or contract amendment with respect to which this Disclosure Affidavit is being executed and delivered on behalf of the Contractor. Furthermore, Contractor shall comply with these certifications during the term and/or performance of the contract.

#### VERIFICATION

Under penalty or perjury, I certify that I am authorized to execute this Disclosure Affidavit on behalf of the Contractor set forth on page 1, that I have personal knowledge of all the certifications made herein and that the same are true.

The Contractor must report any change in any of the facts stated in this Affidavit to the Public Building Commission of Chicago within 14 days of the effective date of such change by completing and submitting a new Disclosure Affidavit. Failure to comply with this requirement is grounds for your firm to be deemed non-qualified to do business with the PBCC. Deliver any such new Disclosure Affidavit to: Public Building Commission of Chicago, Director of Procurement, 50 W. Washington, Room 200, Chicago, IL 60602.

*John Harris*

Signature of Authorized Officer

JOHN HARRIS

Name of Authorized Officer (Print or Type)

PRESIDENT

Title

888-344-1776

Telephone Number

State of Texas

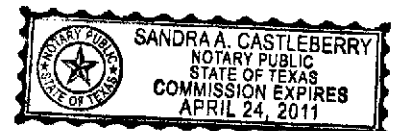
County of Dallas

Signed and sworn to before me on this 28 day of Sept, 2009 by

John Harris (Name) as President (Title) of

Playmasters, INC (Bidder/Proposer or Contractor)

*Sandra A. Castleberry*  
Notary Public Signature and Seal





Notes 1-5 Disclosure Affidavit

1. Business entities are affiliated if, directly or indirectly, one controls or has the power to control the other, or if a third person controls or has the power to control both entities. Indicia of control include without limitation: interlocking management or ownership; identity of interests among family members; shared facilities and equipment; common use of employees; or organization of another business entity using substantially the same management, ownership or principals as the first entity.
2. For purposes of Section II (A) (2) of this certification, a person commits the offense of and engages in bid-rigging when he knowingly agrees with any person who is, or but for such agreement should be, a competitor of such person concerning any bid submitted or not submitted by such person or another to a unit of state or local government when with the intent that the bid submitted or not submitted will result in the award of a contract to such person or another and he either (1) provides such person or receives from another information concerning the price or other material term or terms of the bid which would otherwise not be disclosed to a competitor in an independent non-collusive submission of bids or (2) submits a bid that is of such a price or other material term or terms that he does not intend the bid to be accepted. see 720 ILCS 5/33-E-3.
3. No corporation shall be barred from contracting with any unit of state or local government as a result of a conviction, under either Section 33E-3 or Section 33E-4 of Article 33 of the State of Illinois Criminal Code of 1961, as amended, of any employee or agent of such corporation if the employee so convicted is no longer employed by the corporation and: (1) it has been finally adjudicated not guilty or (2) it demonstrates to the governmental entity with which it seeks to contract and that entity finds that the commission of the offense was neither authorized, requested, commanded, nor performed by a director, officer or a high managerial agent on behalf of the corporation as provided in paragraph (2) of subsection (a) of Section 5-4 of the State of Illinois Criminal Code.
4. For purposes of Section II(A) of this certification, a person commits the offense of and engages in bid rotating when, pursuant to any collusive scheme or agreement with another, he engages in a pattern over time (which, for the purposes hereof, shall include at least three contract bids within a period of ten years, the most recent of which occurs after January 1, 1989) of submitting sealed bids to units of state or local government with the intent that the award of such bids rotates, or is distributed among, persons or business entities which submit bids on a substantial number of the same contracts. See 720 ILCS 5/33E-4.
5. "Environmental Restriction" means any statute, ordinance, rule, regulation, permit, permit condition, order or directive relating to or imposing liability or standards of conduct concerning the release or threatened release of hazardous materials, special wastes or other contaminants into the environment, and to the generation, use, storage, transportation, or disposal of construction debris, bulk waste, refuse, garbage, solid wastes, hazardous materials, special wastes or other contaminants including but not limited to (1) Section 7-28-440 or 11-4-1500 or Article XIV of Chapter 11-4 or Chapter 7-28 or 11-4 of the Municipal Code of Chicago; (2) Comprehensive Environment Response and Compensation and Liability Act (42 U.S.C. § 9601 *et seq.*) the Hazardous Material Transportation Act (49 U.S.C. § 1801 *et seq.*); (4) the Resource Conservation and Recovery Act of 1976 (42 U.S.C. § 7401 *et seq.*); (5) the Clean Water Act (33 U.S.C. § 1251 *et seq.*); (6) the Clean Air Act (42 U.S.C. § 7401 *et seq.*); (7) the Toxic Substances

Control Act of 1976 (15 U.S.C. § 2601 *et seq.*); (8) the Safe Drinking Water Act (42 U.S.C. § 300f); (9) the Occupational Health and Safety Act of 1970 (29 U.S.C. § 651 *et seq.*); (10) the Emergency Planning and Community Right to Know Act (42 U.S.C. § 11001 *et seq.*); and (10) the Illinois Environmental Protection Act (415 ILCS 5/1 through 5/56.6).

## Request for Taxpayer Identification Number and Certification

Give form to the  
requester. Do not  
send to the IRS.

Print or type  
See Specific Instructions on page 2.

Name (as shown on your income tax return)

**PLAYMASTERS INC.**

Business name, if different from above

Check appropriate box: ☐ Individual/Sole proprietor ☒ Corporation ☐ Partnership  
☐ Limited liability company. Enter the tax classification (D=disregarded entity, C=corporation, P=partnership) ▶ .....  
☐ Other (see instructions) ▶

☐ Exempt  
payee

Address (number, street, and apt. or suite no.)

**1445 N. STATE PKWY #2401**

City, state, and ZIP code

**CHICAGO, IL 60610**

Requester's name and address (optional)

List account number(s) here (optional)

### Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on Line 1 to avoid backup withholding. For individuals, this is your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the Part I instructions on page 3. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN* on page 3.

**Note.** If the account is in more than one name, see the chart on page 4 for guidelines on whose number to enter.

Social security number

or

Employer identification number

**27 0534592**

### Part II Certification

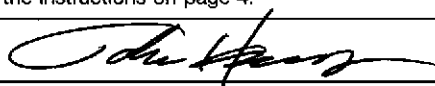
Under penalties of perjury, I certify that:

1. The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me), and
2. I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding, and
3. I am a U.S. citizen or other U.S. person (defined below).

**Certification instructions.** You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the Certification, but you must provide your correct TIN. See the instructions on page 4.

Sign  
Here

Signature of  
U.S. person ▶



Date ▶

**9/25/09**

### General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

#### Purpose of Form

A person who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) to report, for example, income paid to you, real estate transactions, mortgage interest you paid, acquisition or abandonment of secured property, cancellation of debt, or contributions you made to an IRA.

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN to the person requesting it (the requester) and, when applicable, to:

1. Certify that the TIN you are giving is correct (or you are waiting for a number to be issued),
2. Certify that you are not subject to backup withholding, or
3. Claim exemption from backup withholding if you are a U.S. exempt payee. If applicable, you are also certifying that as a U.S. person, your allocable share of any partnership income from a U.S. trade or business is not subject to the withholding tax on foreign partners' share of effectively connected income.

**Note.** If a requester gives you a form other than Form W-9 to request your TIN, you must use the requester's form if it is substantially similar to this Form W-9.

**Definition of a U.S. person.** For federal tax purposes, you are considered a U.S. person if you are:

- An individual who is a U.S. citizen or U.S. resident alien,
- A partnership, corporation, company, or association created or organized in the United States or under the laws of the United States,
- An estate (other than a foreign estate), or
- A domestic trust (as defined in Regulations section 301.7701-7).

**Special rules for partnerships.** Partnerships that conduct a trade or business in the United States are generally required to pay a withholding tax on any foreign partners' share of income from such business. Further, in certain cases where a Form W-9 has not been received, a partnership is required to presume that a partner is a foreign person, and pay the withholding tax. Therefore, if you are a U.S. person that is a partner in a partnership conducting a trade or business in the United States, provide Form W-9 to the partnership to establish your U.S. status and avoid withholding on your share of partnership income.

The person who gives Form W-9 to the partnership for purposes of establishing its U.S. status and avoiding withholding on its allocable share of net income from the partnership conducting a trade or business in the United States is in the following cases:

- The U.S. owner of a disregarded entity and not the entity,

**PUBLIC BUILDING COMMISSION OF CHICAGO  
FIRST AMENDMENT  
CONTRACT NUMBER PS 1119**

**THIS FIRST AMENDMENT AGREEMENT** is made and entered into as of the 11<sup>th</sup> day of August, 2009, and shall be deemed and taken as forming a part of the Agreement for Playground Equipment and Services ("Agreement") between by and between the **PUBLIC BUILDING COMMISSION OF CHICAGO**, a municipal corporation of the State of Illinois ("Commission") and **PLAYWORLD SYSTEMS, INC. and LET'S GO PLAY, INC.**, ("Provider") dated June 12, 2007 with the like operation and effect as if the same were incorporated therein.

**WITNESSETH:**

**WHEREAS**, the Commission and Provider have heretofore entered into an Agreement dated the 12th day of June, 2007, wherein the Provider is to provide Playground Equipment and Services; and

**WHEREAS**, the Commission and Provider now desire to amend the Agreement to include additional Services performed and associated compensation due to Provider;

**NOW THEREFORE**, in consideration of the provisions and conditions set forth in the Agreement and herein, the parties hereto mutually agree to amend the Agreement as hereinafter set forth.

It is agreed by and between the parties hereto that the sole modification of, changes in, and amendments to the Agreement pursuant to this Amendment are as follows:

**TERMS**

**1. Recitals**

**THE ABOVE RECITALS ARE EXPRESSLY INCORPORATED IN AND MADE A PART OF THE AMENDMENT AGREEMENT AS THOUGH FULLY SET FORTH HEREIN.**

**2. Article 4. Term of Performance**

The Commission is exercising its right to extend the agreement as provided under **Article 4.3 Agreement Extension Options** and extending the term of this agreement two (2) additional years.

The term of the extension is September 1, 2009 through August 31, 2011.



Execution of this Amendment by the Provider is duly authorized by the Provider, and the signature(s) of each person signing on behalf of the Provider have been made with the complete and full authority to commit the Provider to all terms and conditions of this Amendment.

All capitalized terms not defined herein shall have the meaning ascribed to them in the agreement. Except as and to the extent that the terms of the Agreement are amended and modified herein, all terms of the Agreement shall remain in force and effect.

IN WITNESS WHEREOF, the parties hereto have agreed and executed this Amendment Agreement No. 1.

**PUBLIC BUILDING COMMISSION OF CHICAGO**

BY: \_\_\_\_\_ Date: \_\_\_\_\_  
Richard M. Daley  
Chairman

**ATTEST:**

BY: \_\_\_\_\_ Date: \_\_\_\_\_  
Edgwick C. Johnson  
Secretary

**PROVIDER: PLAYWORLD SYSTEMS, INC.**

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

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

Title: \_\_\_\_\_

Subscribed and sworn to me this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_.

\_\_\_\_\_  
Notary Public

My Commission expires: \_\_\_\_\_ (Seal of Notary)

**PROVIDER: LET'S GO PLAY, INC.**

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

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

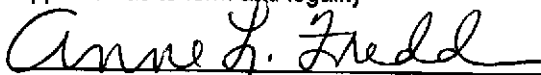
Title: \_\_\_\_\_

Subscribed and sworn to me this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_.

\_\_\_\_\_  
Notary Public

My Commission expires: \_\_\_\_\_ (Seal of Notary)

Approved as to form and legality

  
\_\_\_\_\_  
Neal & Leroy, LLC

meeting that were under \$25,000. The report was accepted following discussion and consideration and a copy of this report is attached hereto as Exhibit "C".

The Executive Director next presented to the Commissioners the Notice of Awards made to Specialty Consultants for various PBC projects. There were 19 items included on the notice of contracts awarded to specialty consultants since the previous board meeting. The report was accepted following discussion and consideration and a copy of this report is attached hereto as Exhibit "D".

Next the Executive Director presented to the Board of Commissioners for consideration of approval a request to extend the contracts of NuToys Leisure Products, Inc. and Playworld Systems, Inc./Let's Go Play for two additional years to provide playground equipment at various Public Building Commission projects. After discussion and consideration and upon motion duly made and seconded, the following resolution was adopted.

RESOLUTION NO. 7374

BE IT RESOLVED that the Board of Commissioners of the Public Building Commission of Chicago does hereby approve the request to extend the contracts of NuToys Leisure Products, Inc. and Playworld Systems, Inc./Let's Go Play for two additional years at various PBC projects.

BE IT FURTHER RESOLVED that the Executive Director is hereby authorized and directed to execute, upon approval by Legal Counsel as to form and legality, any and all documents as may be necessary and appropriate in order to implement this Resolution.

Commissioners voting in the affirmative:

Richard M. Daley, Arthur M. Brazier, Adela Cepeda,  
Robert B. Donaldson, Benjamin Reyes, Samuel Wm. Sax,  
Michael W. Scott, Gerald M. Sullivan – 8

Commissioners voting in the negative:

None

The Board of Commissioners was next presented with consideration of approval the appointment of Turner Construction Company to provide Construction Management At-Risk Services for the Ogden Replacement Elementary School project for a pre-





Richard J. Daley Center  
50 W. Washington Street  
Room 200  
Chicago, Illinois 60602  
(312) 744-3090  
Fax: (312) 744-8005  
www.pbcchicago.com

Chairman  
RICHARD M. DALEY  
Mayor  
City of Chicago

Executive Director  
ERIN LAVIN CABONARGI

September 8, 2009

Kevin M. Winkelman  
Playworld Systems/Lets Go Play  
1000 Buffalo Road  
Lewisburg, PA 17837

**Re: Amendment No. 1  
Professional Service Agreement PS 1119  
Playworld Systems, Inc. and Let's Go Play, Inc.  
For Playground Equipment and Services**

Dear Mr. Winkelman:

Enclosed is Amendment No. 1 to the above referenced agreement. Please return all copies of the signed and notarized amendment to my attention within Five (5) days from the date of this letter.

An incomplete execution page may delay final execution of the Amendment and processing of invoices. Upon acceptance of the amendment by the Public Building Commission, a fully executed copy will be returned to you.

Sincerely,

Deborah Burton  
Director of Procurement

DB/dz



Richard J. Daley Center  
50 W. Washington Street  
Room 200  
Chicago, Illinois 60602  
(312) 744-3090  
Fax: (312) 744-8005  
[www.pbcchicago.com](http://www.pbcchicago.com)

Chairman  
RICHARD M. DALEY  
Mayor  
City of Chicago

Executive Director  
ERIN LAVIN CABONARGI

October 5, 2009

Kevin M. Winkelman  
Playworld Systems/Lets Go Play  
1000 Buffalo Road  
Lewisburg, PA 17837

Re: Amendment No. One Made Part of Professional Service  
Agreement PS 1119 Playworld Systems, Inc. and Let's Go  
Play, Inc. for Playground Equipment and Services

Dear Mr. Winkelman:

You are hereby notified that on September 8, 2009 the Board of  
Commissioners approved Amendment No. 1 made part of PS 1119.

Enclosed, is the above-mentioned executed Amendment for your files.

Sincerely,

Deborah Burton  
Director of Procurement

DB/dz

**PUBLIC BUILDING COMMISSION OF CHICAGO  
FIRST AMENDMENT  
CONTRACT NUMBER PS 1119**

**THIS FIRST AMENDMENT AGREEMENT** is made and entered into as of the 11<sup>th</sup> day of August, 2009, and shall be deemed and taken as forming a part of the Agreement for Playground Equipment and Services ("Agreement") between by and between the **PUBLIC BUILDING COMMISSION OF CHICAGO**, a municipal corporation of the State of Illinois ("Commission") and **PLAYWORLD SYSTEMS, INC. and LET'S GO PLAY, INC.**, ("Provider") dated June 12, 2007 with the like operation and effect as if the same were incorporated therein.

**WITNESSETH:**

**WHEREAS**, the Commission and Provider have heretofore entered into an Agreement dated the 12th day of June, 2007, wherein the Provider is to provide Playground Equipment and Services; and

**WHEREAS**, the Commission and Provider now desire to amend the Agreement to include additional Services performed and associated compensation due to Provider;

**NOW THEREFORE**, in consideration of the provisions and conditions set forth in the Agreement and herein, the parties hereto mutually agree to amend the Agreement as hereinafter set forth.

It is agreed by and between the parties hereto that the sole modification of, changes in, and amendments to the Agreement pursuant to this Amendment are as follows:

**TERMS**

**1. Recitals**

**THE ABOVE RECITALS ARE EXPRESSLY INCORPORATED IN AND MADE A PART OF THE AMENDMENT AGREEMENT AS THOUGH FULLY SET FORTH HEREIN.**

**2. Article 4. Term of Performance**

The Commission is exercising its right to extend the agreement as provided under **Article 4.3 Agreement Extension Options** and extending the term of this agreement two (2) additional years.

The term of the extension is September 1, 2009 through August 31, 2011.

Execution of this Amendment by the Provider is duly authorized by the Provider, and the signature(s) of each person signing on behalf of the Provider have been made with the complete and full authority to commit the Provider to all terms and conditions of this Amendment.

All capitalized terms not defined herein shall have the meaning ascribed to them in the agreement. Except as and to the extent that the terms of the Agreement are amended and modified herein, all terms of the Agreement shall remain in force and effect.

IN WITNESS WHEREOF, the parties hereto have agreed and executed this Amendment Agreement No. 1.

PUBLIC BUILDING COMMISSION OF CHICAGO

BY: Richard M. Daley

Richard M. Daley  
Chairman

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

ATTEST:

BY: Edgwick C. Johnson

Edgwick C. Johnson  
Secretary

Date: 10-5-09

PROVIDER: PLAYWORLD SYSTEMS, INC.

By: Brett R. BarFick

Date: 9/21/2009

Name Printed: Brett R. BarFick

Title: Vice President

Subscribed and sworn to me this 21<sup>st</sup> day of September 2009.

Laney Shambach  
Notary Public

My Commission expires: \_\_\_\_\_

(Seal of Notary)

NOTARIAL SEAL  
LANEY SHAMBACH  
Notary Public  
EAST BUFFALO TWP, UNION COUNTY  
My Commission Expires Mar 27, 2010

PROVIDER: LET'S GO PLAY, INC.

By: Ana Carciu-Fiore

Date: 9/18/09

Name Printed: Ana Carciu-Fiore

Title: owner / president

Subscribed and sworn to me this 18 day of September 2009.

Jennifer S. Becker  
Notary Public

My Commission expires: 12/6/11

(Seal of Notary)

OFFICIAL SEAL  
JENNIFER S. BECKER  
NOTARY PUBLIC, STATE OF ILLINOIS  
MY COMMISSION EXPIRES 12-6-2011

Approved as to form and legality

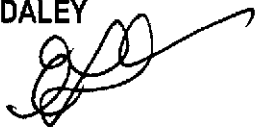
Anne L. Fred  
Neal & Leroy, LLC

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## MEMORANDUM

TO: MAYOR RICHARD M. DALEY

FROM: Erin Lavin Cabonargi 

DATE: September 21, 2009

RE: Amendment One made part of Professional Service Agreement PS 1119  
Playworld Systems, Inc. and Let's Go Play, Inc. for Playground Equipment  
and Services.

This Amendment is to extend the term of the Agreement from September 1, 2009 through August 31, 2011. No dollar amount required for this Amendment. This appointment was approved at the September 8, 2009 Board of Commissioners meeting.

CC: Pat Harney

ELC/dz



SEP 23 RECD



Richard J. Daley Center  
50 W. Washington Street  
Room 200  
Chicago, Illinois 60602  
(312) 744-3090  
Fax: (312) 744-8005  
www.pbcchicago.com

Chairman  
RICHARD M. DALEY  
Mayor  
City of Chicago

Executive Director  
ERIN LAVIN CABONARGI

August 21, 2009

Ana Garcia-Fiore  
Playworld Systems/Lets Go Play  
8535 Koehler Drive  
Tinley Park, IL 60487

**Re: Amendment No. 1  
Professional Service Agreement PS 1119  
Playworld Systems, Inc. and Let's Go Play, Inc.  
For Playground Equipment and Services**

Dear Ana Garcia-Fiore:

Enclosed is Amendment No. 1 to the above referenced agreement. Please return all copies of the signed and notarized amendment to my attention within Five (5) days from the date of this letter.

An incomplete execution page may delay final execution of the Amendment and processing of invoices. Upon acceptance of the amendment by the Public Building Commission, a fully executed copy will be returned to you.

Sincerely,

Deborah Burton  
Director of Procurement

DB/dz



August 11, 2009

Richard J. Daley Center  
101 Washington Street  
Room 200  
Chicago, Illinois 60602  
(312) 744-3090  
(312) 744-8005  
www.pbcchicago.com

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MEMBERS OF THE PUBLIC BUILDING COMMISSION OF CHICAGO  
BOARD OF COMMISSIONERS

RE: Contract Extensions: Playground Equipment  
NuToys Leisure Products, Inc. (WBE) / Landscape Structures, Inc.  
Playworld Systems, Inc. / Let's Go Play, Inc.

The Public Building Commission of Chicago Board of Commissioners approved contracts in June 2007 with Landscape Structures / NuToys Leisure Products, Inc. - Contract PS1038 and Playworld Systems, Inc. / Let's Go Play, Inc. - Contract PS1119 to provide playground equipment as well as design and certification of installation services. These contracts have been utilized by the Chicago Park District and Chicago Public Schools affording these agencies a volume discount.

The initial term was for two years with the option to extend up to an additional three years. Based on the excellent service provided by both of these suppliers, it is the recommendation to extend these contracts for an additional two years.

Sincerely,

Deborah L. Burton  
Director of Procurement

July 27, 2009

Public Building Commission  
Attn: Erin Lavin-Cabonargi ~ Executive Director  
50 W. Washington Street  
Chicago, IL 60602

Dear Erin Lavin-Cabonargi,

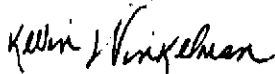
It has been a privileged for Playworld Systems, Inc. to work with the Public Building Commission over the past two years on a contract for playground equipment and services.

Playworld Systems, Inc. is interested in obtaining a contract extension with the Professional Services Agreement Contract # PS1119 for playground equipment and services from the Public Building Commission of Chicago.

Since the original date of the contract of June 12, 2007 we have had pricing increases with the major commodities of steel and plastic and would request a 9% increase in list price from our pricing in July 2008.

Thank you for the opportunity to be an active part of your playground source and we look forward to our continued partnership with this agreement.

Best regards,



Kevin Winkelman  
Playworld Systems, Inc.  
National Sales Manager  
Western Division  
[kevinw@playworldsystems.com](mailto:kevinw@playworldsystems.com)