

**EXHIBIT**  
**"A"**

**CITY OF ROUND ROCK  
AGREEMENT FOR  
PURCHASE AND INSTALLATION OF PLAY EQUIPMENT  
AT SETTLEMENT PARK  
WITH  
WHIRLIX DESIGN, INC.**

<b>THE STATE OF TEXAS</b>	§	
	§	
<b>CITY OF ROUND ROCK</b>	§	<b>KNOW ALL BY THESE PRESENTS:</b>
	§	
<b>COUNTY OF WILLIAMSON</b>	§	
<b>COUNTY OF TRAVIS</b>	§	

THAT THIS AGREEMENT for the purchase and installation of play equipment and the demolition and removal of existing equipment at Settlement Park, and for related goods and services (referred to herein as the "Agreement"), is made and entered into on this the \_\_\_\_ day of the month of \_\_\_\_\_, 2023 by and between the CITY OF ROUND ROCK, a Texas home-rule municipality, whose offices are located at 221 East Main Street, Round Rock, Texas 78664-5299 (referred to herein as the "City"), and WHIRLIX DESIGN INC., whose offices are located at 19161 K Avenue, Plano, Texas 75074 (referred to herein as "Services Provider").

**RECITALS:**

WHEREAS, City desires to purchase and installation services for play equipment at Settlement Park; and

WHEREAS, City has issued its "Request for Proposal" (RFP) for the provision of said services; and

WHEREAS, City has determined that Services Provider provides the best value to City; and

WHEREAS, the parties desire to enter into this Agreement to set forth in writing their respective rights, duties, and obligations;

**NOW, THEREFORE, WITNESSETH:**

That for and in consideration of the mutual promises contained herein and other good and valuable consideration, sufficiency and receipt of which are hereby acknowledged, it is mutually agreed between the parties as follows:

## 1.01 DEFINITIONS

A. **Agreement** means the binding legal contract between City and Services Provider whereby City is obligated to buy specified services and Services Provider is obligated to sell same. The Agreement includes the following: (a) City's RFP designated Solicitation No. 23-032 dated September 2023; (b) Services Provider's Response to the RFP; (c) contract award; and (d) any exhibits, addenda, and/or amendments thereto. Any inconsistencies or conflicts in the contract documents shall be resolved by giving preference in the following order:

- (1) This Agreement;
- (2) Services Provider's Proposal; and
- (3) City's RFP, exhibits, and attachments.

B. **City** means the City of Round Rock, Williamson and Travis Counties, Texas.

C. **Effective Date** means the date upon which the binding signatures of both parties to this Agreement are affixed.

D. **Force Majeure** means acts of God, strikes, lockouts, or other industrial disturbances, acts of the public enemy, orders of any kind from the government of the United States or the State of Texas or any civil or military authority, insurrections, riots, epidemics, landslides, lightning, earthquakes, fires, hurricanes, storms, floods, restraint of the government and the people, civil disturbances, explosions, or other causes not reasonably within the control of the party claiming such inability.

E. **Goods and services** mean the specified services, supplies, materials, commodities, or equipment.

F. **Services Provider** means Whirlix Design, Inc., or any of its corporate structures, successors or assigns.

## 2.01 EFFECTIVE DATE AND TERM

A. This Agreement shall be effective on the date this Agreement has been signed by each party hereto, and shall remain in full force and effect unless and until it expires by operation of the term indicated herein, or is terminated or extended as provided herein.

B. This Agreement shall terminate upon the demolition of the existing play equipment and the purchase and installation of all play equipment as described in Exhibit "A."

C. Prices shall be firm for the duration of this Agreement. No separate line-item charges shall be permitted for invoicing purposes, including but not limited to equipment rental, demurrage, costs associated with obtaining permits, or any other extraneous charges.

D. City reserves the right to review the relationship with Services Provider at any time, and may elect to terminate this Agreement with or without cause or may elect to continue.

### **3.01 CONTRACT DOCUMENTS AND EXHIBITS**

City selected Services Provider to supply the goods and services as outlined in the RFP and as set forth in the Proposal submitted by Services Provider, all as specified in Exhibit “A.” The intent of these documents is to formulate an Agreement listing the responsibilities of both parties as outlined in the RFP and as offered by Services Provider in its Proposal.

The goods and services which are the subject of this Agreement are described in Exhibit “A” and, together with this Agreement, comprise the total Agreement and they are fully a part of this Agreement as if repeated herein in full.

### **4.01 SCOPE OF WORK**

All items in Exhibit “A” are awarded to Services Provider. For purposes of this Agreement, City has issued documents delineating the required services (specifically RFP Solicitation Number 23-032 dated September 2023). Services Provider has issued its response agreeing to provide all such required services in all specified particulars. All such referenced documents are included in Exhibit “A” attached hereto and made a part hereof for all purposes. When taken together with the appended exhibits, this Agreement shall evidence the entire understanding and agreement between the parties and shall supersede any prior proposals, correspondence or discussions.

Services Provider shall satisfactorily provide all services described under the attached Exhibit “A.” Services Provider’s undertakings shall be limited to performing services for the City and/or advising City concerning those matters on which Services Provider has been specifically engaged. Services Provider shall perform its services in accordance with this Agreement, in accordance with the appended exhibits, in accordance with due care, and in accordance with prevailing industry standards for comparable services.

### **5.01 COSTS**

The City shall be authorized to pay the Services Provider an amount not-to-exceed **One Hundred Eighty Thousand and No/100 Dollars (\$180,000.00)** for the term of this Agreement.

### **7.01 INVOICES**

All invoices shall include, at a minimum, the following information:

- A. Name and address of Services Provider;
- B. Purchase Order Number;

- C. Description and quantity of items received or services provided; and
- D. Delivery or performance dates.

## **8.01 INTERLOCAL COOPERATIVE CONTRACTING/PURCHASING**

Authority for local governments to contract with one another to perform certain governmental functions and services, including but not limited to purchasing functions, is granted under Government Code, Title 7, Chapter 791, Interlocal Cooperation Contracts, Subchapter B and Subchapter C, and Local Government Code, Title 8, Chapter 271, Subchapter F, Section 271.101 and Section 271.102.

Other governmental entities within the State of Texas may be extended the opportunity to purchase off of the City's bid, with the consent and agreement of the successful services provider(s) and the City. Such agreement shall be conclusively inferred for the services provider from lack of exception to this clause in the services provider's response. However, all parties hereby expressly agree that the City is not an agent of, partner to, or representative of those outside agencies or entities and that the City is not obligated or liable for any action or debts that may arise out of such independently-negotiated "piggyback" procurements.

## **9.01 NON-APPROPRIATION AND FISCAL FUNDING**

This Agreement is a commitment of City's current revenues only. It is understood and agreed that City shall have the right to terminate this Agreement at the end of any City fiscal year if the governing body of City does not appropriate funds sufficient to purchase the services as determined by City's budget for the fiscal year in question. City may effect such termination by giving Services Provider a written notice of termination at the end of its then current fiscal year.

## **10.01 PROMPT PAYMENT POLICY**

In accordance with Chapter 2251, V.T.C.A., Texas Government Code, payment to Services Provider will be made within thirty (30) days of the day on which City receives the performance, supplies, materials, equipment, and/or deliverables, or within thirty (30) days of the day on which the performance of services was complete, or within thirty (30) days of the day on which City receives a correct invoice for the performance and/or deliverables or services, whichever is later. Services Provider may charge interest on an overdue payment at the "rate in effect" on September 1 of the fiscal year in which the payment becomes overdue, in accordance with V.T.C.A., Texas Government Code, Section 2251.025(b); however, this Policy does not apply to payments made by City in the event:

- A. There is a bona fide dispute between City and Services Provider, a contractor, a subcontractor or supplier about the goods delivered or the service performed that cause the payment to be late; or

- B. The terms of a federal contract, grant, regulation, or statute prevent City from making a timely payment with federal funds; or
- C. There is a bona fide dispute between Services Provider and a subcontractor or between a subcontractor and its supplier about the goods delivered or the service performed that causes the payment to be late; or
- D. Invoices are not mailed to City in strict accordance with instructions, if any, on the purchase order or the Agreement or other such contractual agreement.

#### **11.01 GRATUITIES AND BRIBES**

City may, by written notice to Services Provider, cancel this Agreement without liability to Services Provider if it is determined by City that gratuities or bribes in the form of entertainment, gifts, or otherwise were offered or given by Services Provider or its agents or representatives to any City officer, employee or elected representative with respect to the performance of this Agreement. In addition, Services Provider may be subject to penalties stated in Title 8 of the Texas Penal Code.

#### **12.01 TAXES**

City is exempt from Federal Excise and State Sales Tax; therefore, tax shall not be included in Services Provider's charges.

#### **13.01 ORDERS PLACED WITH ALTERNATE SERVICES PROVIDERS**

If Services Provider cannot provide the goods as specified, City reserves the right and option to obtain the products or services from another supplier or suppliers.

#### **14.01 INSURANCE**

Services Provider shall meet all requirements as stated in the attached RFP and as set forth at:

[http://www.roundrocktexas.gov/wp-content/uploads/2014/12/corr\\_insurance\\_07.20112.pdf](http://www.roundrocktexas.gov/wp-content/uploads/2014/12/corr_insurance_07.20112.pdf).

#### **15.01 CITY'S REPRESENTATIVE**

City hereby designates the following representatives authorized to act in its behalf with regard to this Agreement:

Eliana Geoffroy, Park Development Specialist  
Parks and Recreation Department  
301 West Bagdad Avenue, Suite 250  
Round Rock, Texas 78664  
(512) 218-5450  
[egeoffroy@roundrocktexas.gov](mailto:egeoffroy@roundrocktexas.gov)

#### **16.01 RIGHT TO ASSURANCE**

Whenever either party to this Agreement, in good faith, has reason to question the other party's intent to perform hereunder, then demand may be made to the other party for written assurance of the intent to perform. In the event that no written assurance is given within the reasonable time specified when demand is made, then and in that event the demanding party may treat such failure as an anticipatory repudiation of this Agreement.

#### **17.01 DEFAULT**

If Services Provider abandons or defaults under this Agreement and is a cause of City purchasing the specified goods elsewhere, Services Provider agrees that it may be charged the difference in cost, if any, and that it will not be considered in the re-advertisement of the service and that it may not be considered in future bids for the same type of work unless the scope of work is significantly changed.

Services Provider shall be declared in default of this Agreement if it does any of the following:

- A. Fails to make any payment in full when due;
- B. Fails to fully, timely and faithfully perform any of its material obligations under this Agreement;
- C. Fails to provide adequate assurance of performance under the "Right to Assurance" section herein; or
- D. Becomes insolvent or seeks relief under the bankruptcy laws of the United States.

#### **18.01 TERMINATION AND SUSPENSION**

A. City has the right to terminate this Agreement, in whole or in part, for convenience and without cause, at any time upon thirty (30) days' written notice to Services Provider.

B. In the event of any default by Services Provider, City has the right to terminate this Agreement for cause, upon ten (10) days' written notice to Services Provider.

C. Services Provider has the right to terminate this Agreement only for cause, that being in the event of a material and substantial breach by City or by mutual agreement to terminate evidenced in writing by and between the parties.

D. In the event City terminates under subsections (A) or (B) of this section, the following shall apply: Upon City's delivery of the referenced notice to Services Provider, Services Provider shall discontinue all services in connection with the performance of this Agreement and shall proceed to cancel promptly all existing orders and contracts insofar as such orders and contracts are chargeable to this Agreement. Within thirty (30) days after such notice of termination, Services Provider shall submit a statement showing in detail the goods and/or services satisfactorily performed under this Agreement to the date of termination. City shall then pay Services Provider that portion of the charges, if undisputed. The parties agree that Services Provider is not entitled to compensation for services it would have performed under the remaining term of the Agreement except as provided herein.

#### **19.01 INDEMNIFICATION**

Services Provider shall defend (at the option of City), indemnify, and hold City, its successors, assigns, officers, employees and elected officials harmless from and against all suits, actions, legal proceedings, claims, demands, damages, costs, expenses, attorney's fees, and any and all other costs or fees arising out of, or incident to, concerning or resulting from the fault of Services Provider, or Services Provider's agents, employees or subcontractors, in the performance of Services Provider's obligations under this Agreement, no matter how, or to whom, such loss may occur. Nothing herein shall be deemed to limit the rights of City or Services Provider (including, but not limited to the right to seek contribution) against any third party who may be liable for an indemnified claim.

#### **20.01 COMPLIANCE WITH LAWS, CHARTER, AND ORDINANCES**

A. Services Provider, its agents, employees and subcontractors shall use best efforts to comply with all applicable federal and state laws, the Charter and Ordinances of the City of Round Rock, as amended, and with all applicable rules and regulations promulgated by local, state and national boards, bureaus and agencies.

B. In accordance with Chapter 2271, Texas Government Code, a governmental entity may not enter into a contract with a company for goods and services unless the contract contains a written verification from the company that it: (1) does not boycott Israel; and (2) will not boycott Israel during the term of the contract. The signatory executing this Agreement on behalf of Services Provider verifies Services Provider does not boycott Israel and will not boycott Israel during the term of this Agreement.

C. In accordance with Chapter 2274, Texas Government Code, a governmental entity may not enter into a contract with a company with at least ten (10) full-time employees for a value of at least One Hundred Thousand and No/100 Dollars (\$100,000.00) unless the contract has a provision verifying that it: (1) does not have a practice, policy, guidance, or directive that

discriminates against a firearm entity or firearm trade association; and (2) will not discriminate during the term of the contract against a firearm entity or firearm trade association. The signatory executing this Agreement on behalf of Services Provider verifies Services Provider does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association, and it will not discriminate during the term of this Agreement against a firearm entity or firearm trade association.

D. In accordance with Chapter 2274, Texas Government Code, a governmental entity may not enter into a contract with a company with at least ten (10) full-time employees for a value of at least One Hundred Thousand and No/100 Dollars (\$100,000.00) unless the contract has a provision verifying that it: (1) does not boycott energy companies; and (2) will not boycott energy companies during the term of this Agreement. The signatory executing this Agreement on behalf of Services Provider verifies Services Provider does not boycott energy companies, and it will not boycott energy companies during the term of this Agreement.

#### **21.01 ASSIGNMENT AND DELEGATION**

The parties each hereby bind themselves, their successors, assigns and legal representatives to each other with respect to the terms of this Agreement. Neither party shall assign, sublet or transfer any interest in this Agreement without prior written authorization of the other party.

#### **22.01 NOTICES**

All notices and other communications in connection with this Agreement shall be in writing and shall be considered given as follows:

1. When delivered personally to the recipient's address as stated in this Agreement;  
or
2. Three (3) days after being deposited in the United States mail, with postage prepaid to the recipient's address as stated in this Agreement.

##### **Notice to Services Provider:**

Whirlix Design, Inc.  
19161 K Avenue  
Plano, Texas 75074

##### **Notice to City:**

City Manager  
221 East Main Street  
Round Rock, TX 78664

Stephanie L. Sandre, City Attorney  
309 East Main Street  
Round Rock, TX 78664



Nothing contained herein shall be construed to restrict the transmission of routine communications between representatives of City and Services Provider.

### **23.01 APPLICABLE LAW, ENFORCEMENT, AND VENUE**

This Agreement shall be enforceable in Round Rock, Texas, and if legal action is necessary by either party with respect to the enforcement of any or all of the terms or conditions herein, exclusive venue for same shall lie in Williamson County, Texas. This Agreement shall be governed by and construed in accordance with the laws and court decisions of the State of Texas.

### **24.01 EXCLUSIVE AGREEMENT**

This document, and all appended documents, constitutes the entire Agreement between Services Provider and City. This Agreement may only be amended or supplemented by mutual agreement of the parties hereto in writing, duly authorized by action of the City Manager or City Council.

### **25.01 DISPUTE RESOLUTION**

City and Services Provider hereby expressly agree that no claims or disputes between the parties arising out of or relating to this Agreement or a breach thereof shall be decided by any arbitration proceeding, including without limitation, any proceeding under the Federal Arbitration Act (9 USC Section 1-14) or any applicable state arbitration statute.

### **26.01 SEVERABILITY**

The invalidity, illegality, or unenforceability of any provision of this Agreement or the occurrence of any event rendering any portion or provision of this Agreement void shall in no way affect the validity or enforceability of any other portion or provision of this Agreement. Any void provision shall be deemed severed from this Agreement, and the balance of this Agreement shall be construed and enforced as if this Agreement did not contain the particular portion or provision held to be void. The parties further agree to amend this Agreement to replace any stricken provision with a valid provision that comes as close as possible to the intent of the stricken provision. The provisions of this section shall not prevent this entire Agreement from being void should a provision which is of the essence of this Agreement be determined void.

### **27.01 MISCELLANEOUS PROVISIONS**

**Standard of Care.** Services Provider represents that it employs trained, experienced and competent persons to perform all of the services, responsibilities and duties specified herein and that such services, responsibilities and duties shall be performed in a manner according to generally accepted industry practices.

**Time is of the Essence.** Services Provider understands and agrees that time is of the essence and that any failure of Services Provider to fulfill obligations for each portion of this

Agreement within the agreed timeframes will constitute a material breach of this Agreement. Services Provider shall be fully responsible for its delays or for failures to use best efforts in accordance with the terms of this Agreement. Where damage is caused to City due to Services Provider's failure to perform in these circumstances, City may pursue any remedy available without waiver of any of City's additional legal rights or remedies.

**Force Majeure.** Neither City nor Services Provider shall be deemed in violation of this Agreement if it is prevented from performing any of its obligations hereunder by reasons for which it is not responsible as defined herein. However, notice of such impediment or delay in performance must be timely given, and all reasonable efforts undertaken to mitigate its effects.


**Multiple Counterparts.** This Agreement may be executed in multiple counterparts, any one of which shall be considered an original of this document; and all of which, when taken together, shall constitute one and the same instrument.

IN WITNESS WHEREOF, City and Services Provider have executed this Agreement on the dates indicated.

**City of Round Rock, Texas**

By: \_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date Signed: \_\_\_\_\_

**Whirlix Design, Inc.**

By:   
Printed Name: David Paquette  
Title: VP of Operations  
Date Signed: 1/2/2024

**Attest:**

By: \_\_\_\_\_  
Meagan Spinks, City Clerk

**For City, Approved as to Form:**

By: \_\_\_\_\_  
Stephanie L. Sandre, City Attorney

Exhibit "A"



**City of Round Rock, Texas**  
**Purchasing Division**  
221 East Main Street  
Round Rock, Texas 78664-5299  
[www.roundrocktexas.gov](http://www.roundrocktexas.gov)

**REQUEST FOR PROPOSAL (RFP)**

**Community Development Block Grant (CDBG)**  
**Settlement Park Playground**

**SOLICITATION NUMBER 23-032**

**SEPTEMBER 2023**

Exhibit "A"

**COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) SETTLEMENT PARK PLAYGROUND  
 PART I  
 GENERAL REQUIREMENTS**

- PURPOSE:** The City of Round Rock, herein after "the City" seeks to contract with a qualified proposer to provide all goods, labor, and services to remove, design, manufacture, and install playground equipment at the City of Round Rock's Settlement Park (referred to as "Project"), as identified in the Request for Proposals (RFP).
- BACKGROUND:** The Community Development Office improves the quality of life in existing Round Rock neighborhoods by providing services to individuals and families by reinvesting in neighborhood improvements. The City furthers community development through participation in the Department of Housing and Urban Development Community Development Block Grant (CDBG) program. The CDBG program emphasizes participation and representation of the target population(s). The City has used its annual CDBG grant funds to provide housing programs, infrastructure, parks, entrepreneurial opportunities, and public services to assist low- and moderate-income residents.

The estimated budget for this project is: \$180,000.00.

- SOLICITATION PACKET:** This solicitation packet is comprised of the following:

Description	Index
Part I – General Requirements	Page(s) 2-5
Part II – Definitions, Standard Terms and Conditions, and Insurance Requirements	Page 6
Part III – Supplemental Terms and Conditions	Page(s) 7 - 9
Part IV – Scope of Work	Page(s) 10 - 14
Part V – Proposal Preparation Instructions and Evaluation Factors	Page(s) 15-17
Attachment A – Reference Sheet	Separate Attachment
Attachment B – Subcontractor Information Form	Separate Attachment
Attachment C – Site Layout and Dimensions	Separate Attachment
Attachment D – CDBG Bidder Instructions	Separate Attachment
Attachment E – System for Award Management Registration	Separate Attachment
Attachment F – Certification Regarding Debarment and Suspension	Separate Attachment
Attachment G – W-9 Form 2023	Separate Attachment
Attachment H – Conflict of Interest Affidavit and Information	Separate Attachment
Attachment I – HUD Certification of Bidder Regarding Equal Employment Opportunity	Separate Attachment

Exhibit "A"

Attachment J – Certification Designating Officer or Employee to Supervise Payment	Separate Attachment
Attachment K – Certification Regarding Clean Air and Water	Separate Attachment
Attachment L – Certification Regarding Non-Lobbying Activities	Separate Attachment
Attachment M – Non-Collusion Affidavit for Prime Bidder/Subcontractor	Separate Attachment
Attachment N – MBE/WBE Information and Worksheet	Separate Attachment
Attachment O – Section 3 Information and Certification	Separate Attachment
Attachment P – DBLS Guide and Prevailing Wage Documentation	Separate Attachment
Attachment Q – Federal Labor Standards Provisions	Separate Attachment
Attachment R – Federal Contract Provisions	Separate Attachment
Attachment S – Federal Register 2 CFR 200, Appendix II	Separate Attachment
<b>Attachment T – Utilities Plan</b>	<b>Separate Attachment</b>

4. **SCHEDULE OF EVENTS:** It is the City's intention to follow the solicitation timeline below.

EVENT	DATE
Solicitation released	September 14, 2023
Optional Pre-Proposal meeting	September 26, 2023, 10:00 AM CST
Deadline for submission of questions	September 29, 2023 @ 3:00 PM, CST
City responses to questions or addendums	Approx October 3, 2023 @ 3:00 PM, CST
<b>Deadline for submission of responses</b>	<b>October 17, 2023 @ 3:00 PM, CST</b>

All questions regarding the solicitation shall be submitted through Bonfire in writing by 5:00 PM, CST on the due date noted above. A copy of all questions submitted and the City's response to the questions shall be posted on the City's webpage in the form of an addendum at:

<https://roundrocktexas.bonfirehub.com>

The City reserves the right to modify these dates. Notice of date change will be posted to the City's website:

<https://roundrocktexas.bonfirehub.com>

5. **SOLICITATION UPDATES:** Respondents shall be responsible for monitoring the City's website at <https://roundrocktexas.bonfirehub.com> for any updates pertaining to the solicitation described herein. Various updates may include addendums, cancellations, notifications, and any other pertinent information necessary for the submission of a correct and accurate response. The City will not be held responsible for any further communication beyond updating the website.
6. **OPTIONAL SITE VISIT AND INSPECTION:** A site visit and inspection will be conducted to fully acquaint Respondents with the facilities, difficulties and/or restrictions inherent in the services specified. site visit will be conducted on the date specified in PART I, Section 3- Schedule of Events.

## Exhibit "A"

- A. Attendance at the site visit is optional. Respondents shall sign-in at the pre-proposal meeting to document their attendance. The site visit tour will enable Respondents to assess conditions, take pictures and ask questions. The site visit shall be held at:
- Settlement Park**  
**1401 David Curry Dr.**  
**Round Rock, Texas 78664**
- B. Respondents will be responsible for their own transportation for the site visit tour.
- C. Respondents are strongly encouraged to bring a copy of the solicitation document with them to the pre-proposal meeting / site visit.
- D. It is the responsibility of the Respondent to examine each facility and determine quantity, amounts, take precise measurements, determine material requirements, equipment requirements, labor requirements and other solicitation related details during said site visits.
7. **RESPONSE DUE DATE:** Appropriately submitted responses are due at or before 3:00 PM, on the due date noted in PART I, Section 3 – Schedule of Events. The Offeror shall respond via the City’s electronic bidding platform, Bonfire: <https://roundrocktexas.bonfirehub.com>
- A. This request for proposal (RFP) does not commit the City to contract for any supply or service.
- B. No paper or submittals outside of Bonfire will be accepted by the City.
- C. Responses cannot be altered or amended after digital opening.
- D. No response can be withdrawn after opening without written approval from the City for an acceptable reason.
- E. The City will not be bound by any oral statement or offer made contrary to the written specifications.
- F. Samples and/or copies shall be provided at the Respondent’s expense and shall become the property of the City.
- G. Late responses will not be considered.
8. **CERTIFICATE OF INTERESTED PARTIES:** Section 2252.908 of the Texas Government Code requires the successful offeror to complete a Form 1295 “Certificate of Interested Parties” that is signed for a contract award requiring council authorization. The “Certificate of Interested Parties” form must be completed on the Texas Ethics Commission website, printed, signed, and submitted to the City by the authorized agent of the Business Entity with acknowledgment that disclosure is made under oath and under penalty of perjury prior to final contract execution. Link to Texas Ethics Commission Webpage: [https://www.ethics.state.tx.us/whatsnew/elf\\_info\\_form1295.htm](https://www.ethics.state.tx.us/whatsnew/elf_info_form1295.htm)
9. **EX PARTE COMMUNICATION:** Please note that to insure the proper and fair evaluation of an offer, the City of Round Rock prohibits ex parte communication (e.g., unsolicited) initiated by the Offeror to the City Official, Employee, City Consultant, or Evaluation Team member evaluating or considering the offers prior to the time an award decision has been confirmed. Communication between an Offeror and the City will be initiated by the appropriate City Official or Employee in order to obtain information or clarification needed to develop a proper and accurate evaluation of the offer. Ex parte communication may be grounds for disqualifying the offending Offeror from consideration of award in evaluation or any future bid.
10. **OPPORTUNITY TO PROTEST:** The Purchasing Manager for the City of Round Rock (“City”), in consultation with the City Attorney, shall have the authority to settle or resolve any dispute concerning the solicitation or award of a contract. The Purchasing Manager may solicit written responses to the protest from other interested parties. The aggrieved person must prepare his or her complaint in writing and send it by electronic mail to the City’s Purchasing Department at [protest@roundrocktexas.gov](mailto:protest@roundrocktexas.gov).
- In the event of a timely protest, the City shall not proceed further with the solicitation or award of a contract unless it is determined that the award must take place without delay, to protect the best interests of the City. The procedures for notifying the City of an alleged deficiency or filing a protest are listed below. If you fail to comply with any of these requirements, the Purchasing Office may dismiss your complaint or protest.
- A. **Prior to Offer Due Date:** If you are a prospective offeror for the award of a contract (“Offeror”) and you

## Exhibit "A"

become aware of the facts regarding what you believe is a deficiency in the solicitation process before the due date for receipt of offers in response to a solicitation ("Offers"), you must notify the City in writing of the alleged deficiency before that date, giving the City an opportunity to resolve the situation prior to the Offer due date.

- B. **After Offer Due Date:** If you submit an Offer to the City and you believe that there has been a deficiency in the solicitation process or the award, you have the opportunity to protest the solicitation process, or the recommended award as follows:
- i. You must file a written notice of your intent to protest within four (4) working days of the date that you know or should have known of the facts relating to the protest. If you do not file a written notice of intent within this time, you have waived all rights to protest the solicitation process or the award.
  - ii. You must file your formal written protest within ten (10) working days of the date that you know or should have known of the facts relating to the protest unless you know of the facts before the Offer has been closed. If you know of the facts before those dates, you must notify the City as stated in section (A) above.
  - iii. You must submit your protest in writing and must include the following information:
    - a. your name, address, telephone number, and email address.
    - b. the solicitation number.
    - c. a specific identification of the statutory or regulatory provision that you are alleging has been violated.
    - d. a detailed statement of the factual grounds for your protest, including copies of any relevant documents.
    - e. a statement of any issues of law or fact that you contend must be resolved; and
    - f. a statement of the argument and authority that you offer in support of your protest.
  - iv. Your protest must be concise and presented logically and factually to help with the City's review.
- C. **Receipt of Timely Protest:** When the City receives a timely and complete written protest, the Purchasing Manager, with assistance from the City Attorney, shall make one of the following determinations:
- i. Determine that a violation of rules and statutes has occurred prior to the award of the contract and inform you and other interested parties of the determination. The City will prepare updated solicitation documents and will re-solicit.
  - ii. Determine that no violation of rules or statutes has occurred and inform you and other interested parties of the decision by letter. The reasons for the determination will be presented in the letter.
  - iii. Determine that a violation of rules and statutes has occurred after the award of the contract and inform you and other interested parties of the determination. However, the awarded contract will not be canceled. As needed, corrective actions may be taken with purchasing or any other pertinent City staff.
  - iv. A determination will usually be made within fifteen (15) business days after receipt of the formal protest.
  - v. **Any written decisions by the Purchasing Manager shall be the final administrative action for the City.**

All documentation pertaining to a protest will be kept on file at the City and are subject to open records requests.

## Exhibit "A"

### PART II DEFINITIONS, STANDARD TERMS AND CONDITIONS, AND INSURANCE REQUIREMENTS

1. **DEFINITIONS, STANDARD TERMS AND CONDITIONS:** By submitting a response to this solicitation, the Respondent agrees that the City's Definitions and Standard Terms and Conditions, in effect at the time of release of the solicitation, shall govern unless specifically provided otherwise in a separate agreement or on the face of a purchase order. These can be obtained from the City's website at: <https://www.roundrocktexas.gov/city-departments/purchasing/>. In addition, the Supplemental Terms and Conditions listed in Section III, shall also be enforced as part of the contract.
2. **INSURANCE:** The Respondent shall meet or exceed all insurance requirements set forth in Standard Insurance Requirements. The City's Standard Insurance Requirements document can be viewed and downloaded from the City's website at: <https://www.roundrocktexas.gov/city-departments/purchasing/>



## Exhibit "A"

### PART III SUPPLEMENTAL TERMS AND CONDITIONS

1. **AGREEMENT TERM:** The terms of the awarded agreement shall include but not be limited to the following:
  - A. The term of the Agreement shall begin from date of award and shall remain in full force until the City has inspected and accepted the project.
2. **PERFORMANCE BOND & LABOR & MATERIAL PAYMENT BOND:**
  - A. Contractor shall post with City, within five (5) days of City's award of contract, a Performance Bond in the amount of one hundred percent (100%) of the total contract price in such form as is deemed satisfactory by City. This bond shall be executed by a corporate surety company duly authorized and admitted to do business in the state of Texas and licensed to issue such bond in the state.
  - B. Contractor shall post with City, within five (5) days of Owner's award of contract, a Payment Bond in the amount of one hundred percent (100%) of the total contract price in such form as is deemed satisfactory by Owner. This bond shall be executed by a corporate surety company duly authorized and admitted to do business in the state of Texas and licensed to issue such bond in the state.
  - C. In addition to the above requirements, if the amount of any bond exceeds One Hundred Thousand and No/100 Dollars (\$100,000.00), then the surety on such bond must also:
    - i. Hold a certificate of authority from the United States Secretary of the Treasury to qualify as a surety on obligations permitted or required under federal law; or
    - ii. Have obtained reinsurance for any liability in excess of \$100,000.00 from a reinsurer that is authorized and admitted as a reinsurer in Texas and is the holder of a certificate of authority from the United States Secretary of the Treasury to qualify as a surety or reinsurer on obligations permitted or required under federal law.

In determining whether the surety on the bond or the reinsurer holds a certificate of authority from the United States Secretary of the Treasury, City may conclusively rely on the list of companies holding certificates of authority as acceptable sureties on federal bonds and as acceptable reinsuring companies published in the Federal Register by the United States Department of the Treasury covering the date on which the bond was executed.
  - D. Contractor must file, along with the Performance Bond and Payment Bond, all documents and information necessary to establish that the agent signing the bond is authorized to write the bond in the amount requested and, if applicable, that reinsurance requirements have been met, including limits and ratings or other evidence of company solvency.
  - E. If the corporate surety company on any bond furnished by Contractor to City is declared bankrupt or becomes insolvent or such corporate surety company's right to do business in the state of Texas is revoked, then Contractor shall within five (5) days thereafter substitute another bond and corporate surety company, both of which must be deemed acceptable by City.
3. **RESPONDENT QUALIFICATIONS:** The City has established the following minimum qualifications. Respondents who do not meet the minimum qualifications will not be considered for award. The Respondent shall:
  - A. Be firms, corporations, individuals, or partnerships normally engaged in providing design, manufacture, and installation of playground equipment as specified herein and have adequate organization, facilities, equipment, financial capability, and personnel to ensure prompt and efficient service to the City.
  - B. In order to confirm financial stability, the City may choose to review audited financial statements at any time throughout the RFP evaluation process. Upon request, the Respondent shall provide two years audited financial statements, including any notes or supplemental schedules within 2 business days of the original request.
  - C. The Respondent shall include in the proposal a list of all litigation the company or its principals have been involved in within the last three (3) years.

## Exhibit "A"

- D. Be domiciled in or have a home office inside the United States. Respondents domiciled outside the United States, or not having a home office inside the United States will not be included for consideration in this RFP process.
4. **SUBCONTRACTORS:** If Subcontractors will be used the Respondent is required to complete and submit with their proposal response Attachment B: Subcontractor Information Form. The Contractor shall be fully responsible to the City for all acts and omissions of the Subcontractors just as the Contractor is responsible for the Contractor's own acts and omissions. The Contractor shall:
- A. Require that all deliverables to be provided by the Subcontractor be provided in strict accordance with the provisions, specifications, and terms of the Contract.
  - B. Require that all Subcontractors obtain and maintain, throughout the term of their agreement, primary insurance in the type and amounts specified for the Contractor, with the City being named as an additional insured; and
  - C. Require that the Subcontractor indemnify and hold the City harmless to the same extent as the Contractor is required to indemnify the City.
  - D. Awarded Contractor is required to submit a list of all subcontractors for approval by the City prior to use of any subcontractors throughout the term of the contract.
5. **LIQUIDATED DAMAGES:** Contractor shall pay liquidated damages in the amount of Two Hundred Fifty and No/100 Dollars (\$250.00) per day for each day beyond the date established that the Contractor fails to achieve substantial completion, and for which City is unable to utilize the improvements and facilities due to the failure of the Contractor to have achieved substantial completion in accordance with the Agreement.
6. **FEDERAL LABOR STANDARDS PROVISIONS (HUD 4010):** This Project to which the construction work covered by this contract pertains is being assisted by the United States of America and the following Federal Labor Standards Provisions are included in this Contract (Attachment P – DBLS Guide and Prevailing Wage Documentation pursuant to the provisions applicable to such Federal assistance. A contractor or subcontractor who is awarded a contract by the City shall pay not less than the rates set forth in Attachment P – DBLS Guide and Prevailing Wage Documentation and comply with all applicable sections of Davis-Bacon and Related Acts contained in 29 CFR Parts 1, 3 and 5.
- For additional information regarding Labor Rates, please go to the following United States Department of Labor website: <https://www.dol.gov/agencies/whd/government-contracts/construction>
7. **RETAINAGE:** The City shall withhold retainage pursuant to Section 2252.032 of the Texas Government Code.
8. **SAFETY:** The City reserves the right to remove any employee from City property for violation of federal, state, and local health, safety and environmental laws, ordinances, rules, and regulations. The Respondent shall:
- A. Ensure that all employees comply with all Occupational Safety and Health Administration (OSHA), State and City safety and occupational health standards and other applicable federal, state, and local health, safety, and environmental laws, ordinances, rules, and regulations in the performance of these services.
  - B. Be held responsible for the safety of their employees and unsafe acts or conditions that may cause injury or damage to any persons or property within and around the work site. In case of conflict, the most stringent safety requirement shall govern.
  - C. Indemnify and hold the City harmless from and against all claims, demands, suits, actions, judgments, fines, penalties and liability of every kind arising from the breach of the Contractor's obligations under this paragraph.
9. **WORKFORCE:** Successful Respondent shall:
- A. Ensure Respondent's employees perform the services in a timely, professional, and efficient manner.
  - B. Ensure Respondent's employees, while working on City property, wear a company uniform that clearly identifies them as the Respondent's employee.

Exhibit "A"

- C. Employ all personnel for work in accordance with the requirements set forth by the United States Department of Labor. The City reserves the right to verify citizenship or right to work in the United States.
10. **PRICING:** The Respondent shall determine and submit a fixed cost for the work and shall include all incidental costs, labor, overhead charges, travel, payroll expenses, freight, equipment acquisition and maintenance, demurrage, fuel surcharges, delivery charges, costs associated with obtaining permits, insurance, bonds, and risk management. No separate line-item charges shall be permitted for either response or invoice purposes.
11. **ACCEPTANCE/INSPECTION:** Acceptance inspection should not take more than five (5) working days. The work and materials covered under this Contract shall be examined and reviewed by representatives of all governmental entities which have jurisdiction, and the City's authorized representative. The awarded respondent will be notified within the time frame if the services delivered are not in full compliance with the specifications. In the event the services are not performed to the satisfaction of the City the vendor shall agree to reperform services to specification at no additional cost to the City. If any agreement or purchase order is cancelled for non-acceptance, the needed services may be purchased elsewhere.
12. **PERFORMANCE REVIEW:** The City reserves the right to review the awarded Contractor's performance anytime during the contract term.
13. **ORDER QUANTITY:** The quantities shown on the solicitation are estimates only. No guarantee of any minimum or maximum purchase is made or implied. The City will only order the services/goods needed to satisfy requirements within budgetary constraints, which may be more or less than indicated.
14. **AWARD:** The City reserves the right to enter into an Agreement or a Purchase Order with a single award, split award, primary and secondary award, non-award, or use any combination that best serves the interest and at the sole discretion of the City. Respondents to the solicitation will be notified when City staff recommendation of award has been made. The award announcement will be posted to the City's website at <https://roundrocktexas.bonfirehub.com> once City Council has approved the recommendation of award and the agreement has been executed.
15. **POINT OF CONTACT / DESIGNATED REPRESENTATIVE:**
- A. **Contractor's point of contact:** In order to maintain consistent standards of quality work performed across the City, the City shall be provided with a designated and identified point of contact upon award of the contract to include contact information. The City's designated representative shall be notified by the Respondent immediately should the point of contact change.
- B. **The City's designated representative:** The City's designated representative shall be:  
Eliana Geoffroy  
Parks Development Specialist  
Parks and Recreation  
Phone: 512-218-5450  
E-mail: [egeoffroy@roundrocktexas.gov](mailto:egeoffroy@roundrocktexas.gov)
- C. Do not contact the individual listed above with questions or comments during the course of the solicitation.

**Exhibit "A"**  
**PART IV**  
**SCOPE OF WORK**

1. **OVERVIEW:** This scope of work describes a service to provide the City with Playground Equipment as specified. Services shall include, but not limited to the design, manufacturing, and installation of playground equipment at the specified time and location. Playground equipment shall meet or exceed all requirements as specified herein. Additionally, services shall include demolition and haul off of existing playground equipment.
2. **SUMMARY OF WORK:** The Project shall include, but not be limited to the following:
  - A. Design of playground equipment to meet the intent of the Project as a fully accessible park to meet the developmental and recreational needs of children of all abilities. Contractor shall be required to state the number of ground, elevated, etc. elements on the units designed and/or proposed.
  - B. Contractor shall modify and/or revise the submitted design as determined by the City of Round Rock representatives.
  - C. Manufacturing of playground equipment approved by the City and delivered to the site in the timeframe specified.
  - D. Installation of playground equipment at the site and timeframe specified. Contractor shall be responsible for all means, methods and materials required to provide the installation of the playground equipment, as well as demolition and removal of existing playground equipment.
3. **LOCATION REQUIREMENTS:**
  - A. Services shall be performed at the following location:

**Settlement Park**  
**1401 David Curry Dr.**  
**Round Rock, Texas 78664**
  - B. The Contractor, at their own expense, keep the streets and roads free from dust, mud, excess earth or debris which constitutes a nuisance or danger to the public using the thoroughfare, or the occupants of adjacent properties.
  - C. The Contractor shall take care to prevent spillage on streets and roads over which hauling is done, and any such spillage or debris deposited on streets, due to the Contractor's operations, shall be immediately removed.
  - D. During construction, the Contractor shall keep the site free and clean from all rubbish and debris and shall clean-up the site promptly when notified to do so by the City.
  - E. The Contractor shall coordinate with the City's representative any and all access or use of the Site prior to commencement of the Contract.
  - F. The Contractor shall coordinate with the City's representative on the placement of the delivered playground equipment and specified locations for installation of playground equipment.
  - G. The Contractor shall only use the area within their specifications of this contract.
  - H. The Contractor shall not use any City owned equipment for use in its operation.
  - I. The Contractor shall take all necessary precautions to preserve all existing trees, plants and shrubs but where it is justifiable and necessary the Contractor may remove trees and plants for construction right-of-way but only with approval of the City's representative.
  - J. The Contractor shall be responsible for the protection, reference and resetting of property corner monuments if disturbed.
  - K. The Contractor shall at his own expense, make arrangement for the disposal of surplus material, such as rock, trees, brush and other unwanted backfill materials.

Exhibit "A"

- L. All engineering and surveyor's stakes, marks, property corners, etc., shall be carefully preserved by the Contractor, and in case of destruction or removal during the course of this project, such stakes, marks, property corners, etc., shall be replaced by the Contractor at the Contractor's sole expense.
4. **GENERAL PLAYGROUND DESIGN AND THEMING:** The playground equipment shall be designed to meet the intent of the Project to meet the developmental and recreational needs of children of all abilities. All sizes and elements listed below are suggested elements/sizes and general in nature.
- A. Size - Site layout and dimensions can be found in Attachment F – Measurement Drawing.
- B. Design Objective - a multi-use play area where children can interact/play that offers a range of developmental and recreational elements, including but not limited to: swings, slides, pretend play elements, tubes, motion play elements, climbing elements, overhead/upper-body elements, bridges, and activity panels/elements. Shade elements are preferred, but not required.
- C. Target Design Ages- Design shall include play features for ages 2-5 and 5-12 with appropriate signage.
5. **PLAYGROUND EQUIPMENT REQUIREMENTS AND SPECIFICATIONS:** All playground equipment shall be designed, manufactured, and installed to meet or exceed the most current rules, regulations and standards set forth by the following: American Society for Testing and Materials (ASTM), American with Disabilities Act (ADA), Consumer Product Safety Commission (CPSC), and International Play Equipment Manufacturers Association (IPEMA).
- A. Material - All materials shall be structurally sound and suitable for safe play. Durability shall be ensured on all steel parts by the use of time-tested coatings such as zinc plating, galvanizing, powder coat finish or otherwise treated to prevent rust in the playground or similar outdoor setting. All materials shall meet or exceed specifications below.
- B. Fasteners/Hardware - Primary fasteners shall be socketed and pinned tamperproof in design, stainless steel (SST) per ASTM F 879, yellow zinc di-chromate plated steel or otherwise specified. All primary fasteners shall include a locking type material that prevents slippage, is tamper-resistant, and will meet the minimum torque requirements of IFI-125. These may include lock nuts, nylon thread-locking patch, liquid thread-lock or otherwise specified. Manufacturer to provide all special tools needed for fasteners.
- C. Clamps - Clamps shall be die cast of high strength aluminum alloy. Tenzalloy is not acceptable as a load bearing clamp material. Die casting operation shall be quality sampled every hour. Clamps shall be provided as hinged assemblies to facilitate structure assembly. Clamp design shall eliminate all string entanglement points at connection. Single bolt-fastening system with built-in threads to eliminate t-nuts, if possible, and simplify installation. Clamps are to be permanently fastened to the support post with a drive rivet to ensure a secure fit, eliminate disassembly and slippage. Clamps shall be finished with a shot blast and a polyester powder coating. ASTM Specifications: B-85. Clamping devices that use a "bolt though" design are not acceptable.
- i. All clamps shall have the following mechanical properties:
- Ultimate Tensile: 47,000 PSI
  - Yield Strength: 28,000 PSI
  - Elongation: 7% in 2 inches
  - Shear Strength: 29,000 PSI
  - Endurance Limit: 20,000 PS
- D. Steel Tubing (Posts) - Tubing shall be cold rolled, electric resistance welded tubing with a 5" outside diameter x .120" wall thickness. Both the inside diameter and cut ends of tubing shall be sprayed with a corrosion resistant coating. ASTM Specifications: A-135, A-500, A-513, E-8.
- i. Steel Post Mechanical Properties:
- Tensile Strength (min): 55,000 PSI
  - Yield Strength (min): 50,000 PSI
  - Elongation: 25% in 2 inches
  - Modulus of Elasticity: 29.5 x 106 PS

## Exhibit "A"

- E. Aluminum Tubing (Posts) - Shall be extruded 6061-T6 or 6005-T5 extruded seamless aluminum tubing with a 5" outside diameter (posts) x .125" wall thickness. ASTM Specifications: A-315, A-500, A-513, B-221, QQ-A-200/8, E-8.
- i. Aluminum Post Mechanical Properties:
- Yield Strength (min): 35,000 PSI
  - Tensile Strength (min): 38,000 PSI
  - % Elongation in 2 inches: 10
  - Modulus of Elasticity: 10 x 10<sup>6</sup> PSI
- F. Arch Posts - Aluminum arch posts shall be manufactured from 6061-T6 or 6005-T5 alloy with a 5" outside diameter x .125" wall thickness. The arch shall be of one continuous piece construction. There shall be no welds or additional pieces mechanically fastened to manufacture the arch.
- G. Decks - All decks shall be of modular design and have 5/16" diameter holes on the standing surface. There shall be a minimum of (4) slots in each face to accommodate face mounting of components. Decks shall be manufactured from a single piece of low carbon 12 GA (.105") sheet steel conforming to ASTM specification A-569. The sheet shall be perforated with a return flange on the perimeter to provide the reinforcement necessary to ensure structural integrity. There shall be no unsupported area larger than 3.5 square feet. The unit shall then be coated. Decks shall be designed so that all sides are flush with the outside edge of the supporting posts.
- H. Deck and/or Chain Coatings - Metal components such as decks and chains shall be coated. They shall be thoroughly cleaned in a hot phosphatizing pressure washer, then primed with a water-based thermosetting solution. Primed parts shall be preheated prior to dipping in UV stabilized, liquid polyvinyl chloride (PVC), then salt cured at approximately 400 degrees. The finished coating shall be approximately .080" thick at an 85 durometer with a minimum tensile strength of 1700 psi and a minimum tear strength of 250 lbs/inch. PVC-free and phthalate-free coatings are also acceptable if the product meets or exceeds similar technical specifications. Deck coatings shall be durable (UV stability and impact resistance) and slip-resistant. The minimum coefficient of friction (per ASTM 1679) for deck coatings shall be 0.50 to meet minimum ADA slip resistant standards.
- I. Polyester (TGIC) Powder Coat Finish - Powder coating shall be electrostatically applied. All components shall be free of excess weld and weld spalls. After fabrication all weld joints are to be thoroughly cleaned using a chipping hammer and wire brush to remove all weld slag from weld joint. Prior to finishing, components shall be cleaned with a minimum three-stage alkaline bath and a ECLPS 2400 sealer for adhesion and rust inhibitor during the preparation process. Components are thoroughly dried before being coated with polyester powder and are cured at temperatures between 375° and 400° F. Parts are then thoroughly dried, preheated and processed through a set of automatic powder spray guns where a minimum .002" of epoxy primer is applied. A minimum .004" of architectural-grade Super-Durable polyester TGIC powder is applied. The average finish film thickness is .006". Epoxy or hybrid paints are not acceptable.
- i. All powder coat finishes shall be formulated and tested per the following ASTM standards. Each color must meet or exceed the ratings listed below:
- Hardness (D3363) rating 2H
  - Flexibility (D522) pass 1/8" mandrel
  - Impact (D2794) rating minimum 80 inch-pounds
  - Salt Fog Resistance (B117 and D1654) 4,000 hours and rating 6 or greater
  - UV Exposure (G154, 340 bulb) 3,000 hours, rating delta E of 2, and 90 percent gloss retention
  - Adhesion (D3359, Method B) rating 5B
- J. Rotationally Molded Plastic Parts – These parts shall be rotationally molded from color-compounded, first quality, linear low density polyethylene. Dry-blended or molded-in resins are not acceptable. Polyethylene shall be ultraviolet (UV) stabilized to UV-8 and have anti-static additives. Cross-sectional design shall be a minimum .25" (6 mm) nominal thickness, double wall construction. ASTM Specifications: D-1238 (Melt Index), D-1505 (Material Density), D-638 (Tensile Strength), D-648 (Heat

## Exhibit "A"

Distortion Temperature) D-790 (Flexural Modulus), D-1693 (Environmental Stress Crack Resistance), D-2565 (Ultraviolet).

- K. Sheet Plastic / Polyethylene Parts - These parts shall be manufactured from 3/4" high-density polyethylene that has been specially formulated for optimum UV stability and color retention. Products shall meet or exceed density of .933 G/cc per ASTM D1505, tensile strength of 2400 PSI per ASTM D638. After machining process, all edges shall be free of burrs and/or sharp edges and points.
- L. Installation Instructions - All shipments shall include a notebook or packet of order-specific, step-by-step instructions for assembly of each component, including equipment assembly drawings, footing dimensions, concrete quantity for direct bury components, fall height information, area required information and detailed material specifications.
- M. Maintenance Kit - An order-specific maintenance kit shall be provided for each structure order. The kit shall include a second set of installation instructions, order-specific maintenance documentation and recommendations such as how often to inspect, what to look for and what to do to keep the equipment in "like-new" condition. The kit shall also include touch-up primer, order-specific touch-up paint for each color used, appropriate deck coating touch-up, graffiti remover and additional installation tools for tamper-proof or special fasteners.

6. **MATERIALS AND WORKMANSHIP:** No material which has been used by the Contractor for any temporary purpose whatsoever is to be incorporated in the permanent structure without the written consent of the City. Where materials or equipment are specified by a trade or brand name, it is not the intention of the City to discriminate against an equal product of another manufacturer, but rather to set a definite standard of quality for performance, and to establish an equal basis for the evaluation of bids. Where the words "equivalent", "proper" or "equal to" are used, they shall be understood to mean that the item referred to shall be "proper", the "equivalent" of, or "equal to" some other item, in the opinion or judgment of the Engineer. Unless otherwise specified, all materials shall be the best of their respective kinds and shall be in all cases fully equal to approved samples. Notwithstanding that the words "or equal to" or other such expressions may be used in the specifications in connection with a material, manufactured article or process, the material, article or process specifically designated shall be used, unless a substitute is approved in writing by the Owner or Engineer, and the Owner or Engineer will have the right to require the use of such specifically designated material, article or process.

7. **CITY RESPONSIBILITIES:** The City will-

- A. Coordinate with the Contractor to schedule delivery times in relationship to other works performed by the City's separate contractor.
- ~~B. Perform grading in and adjacent to the construction area associated with this contract.~~
- C. Provide electrical outlets used to complete tasks.
- D. Perform concrete flatwork, rockwork, site furnishings, asphalt paving, etc. associated with the design of the Project.
- E. Provide at CDBG appropriate signage at the site.
- F. Review the proposed entrance and exit from the site.
- G. Provide permits for structures.

8. **CONTRACTOR RESPONSIBILITIES:** The Contractor shall-

- A. Be responsible for the design and manufacturing of the playground equipment per the Specifications herein and delivered to the project site within the specified timeframe.
- B. Be responsible for coordinating with the City's project administrator to establish best work schedule, discuss any changes and/or delays with the project completion.
- C. Provide all labor, materials, and equipment necessary to perform the service.
- D. Be responsible for the installation of the playground equipment and all associated means, methods and materials necessary to perform the installation including hauling off spoils.

Exhibit "A"

- E. Be responsible for coordinating with the City of inspection points of work performed.
  - F. Clear the work site of all debris and trash accumulated or created as a result of the Contractor's work.
  - G. Be responsible for performing the work within the timeframe identified in the Respondent's proposal.
9. ~~**BACKWORK:** The City or its separate contractor shall do such grading in and adjacent to the construction area associated with this contract. The Contractor shall be responsible for delivery and installation of playground equipment (if awarded) in locations designated by the City.~~
10. **EXAMINATION OF WORK:** The work covered under this Contract shall be examined and reviewed by representatives of all governmental entities which have jurisdiction, and the City's authorized representative. The quality of material delivered to the project location shall be to the satisfaction of the City. It shall be the Contractor's responsibility for the construction methods and safety precautions in the undertaking of this Contract.
11. **NOTIFICATION:** The Engineer and City must be notified a minimum of 24-hours in advance of beginning construction, testing, or requiring presence of the Engineer, project representative, or City's representative.
12. **TRADE NAMES:** Except as specified otherwise, wherever in the specifications an article or class of material is designated by a trade name or by the name or catalog number of any maker, patentee, manufacturer, or dealer, such designations shall be taken as intending to mean and specify the articles described or another equal thereto in quality, finish, and serviceability for the purpose intended, as may be determined and judged by the Owner or Engineer in his sole discretion.



## Exhibit "A"

### PART V PROPOSAL PREPARATION INSTRUCTIONS AND EVALUATION FACTORS

1. **PROPOSAL ACCEPTANCE PERIOD:** All proposals are valid for a period of one hundred and twenty (120) calendar days subsequent to the RFP closing date unless a longer acceptance period is offered in the proposal.
2. **PROPOSAL RESPONSE:** Responses shall be clear and concise while appropriately responding to the evaluation criteria listed below in Section 3. In order to do business with the City of Round Rock you must be registered with the City's Vendor Database. To register, go to:  
<https://roundrocktxvendors.munisselfservice.com/Vendors/default.aspx>

**Proposal Submittal Instructions:** The Respondent shall include all of the following documents in their response-

- Attachment A- Reference Sheet
- Attachment B- Subcontractor Form (if applicable)
- Acknowledged Addenda (if applicable)
- Company Information- which gives in brief, concise terms, a summation of the proposal. Include the following-

Business Organization: State full name and address of your organization and identify parent company if you are a subsidiary. Specify the branch office or other subordinate element which will perform, or assist in performing, work herein. Indicate whether you operate as a partnership, corporation, or individual. Include the State in which incorporated or licensed to operate.

Project Management Structure: Provide a general explanation and chart which specifies project leadership and reporting responsibilities; and interface the team with City project management and team personnel. If use of subcontractors is proposed, identify their placement in the primary management structure, and provide internal management description for each subcontractor.

Authorized Negotiator: Include the name, email address, and telephone number of the person(s) in your organization authorized to negotiate Contract terms and render binding decisions on Contract matters.

- Segment requirements listed below.
- A statement of your compliance with all applicable rules and regulations of Federal, State and Local governing entities.
- A written guarantee from manufacturer of the proposed product against all defects in material and/or workmanship.
- MSDS and Product Data Sheets, and proof that the proposed product meets or exceeds the specifications contained in this proposal.
- All federally required documents listed in Attachment D – CDBG Instructions.
- The City will except up to two (2) options for this RFP from each respondent. Separate segment 1 and 3 files should be uploaded into Bonfire for each option. Each option must be clearly labelled.
- List of Exceptions (if any)- Be advised that exceptions to any portion of the Solicitation may jeopardize acceptance of the Proposal by the City. Exceptions to this solicitation if any, shall be submitted on a separate sheet labeled "Exceptions" with the Respondent's proposal.

### 3. **EVALUATION CRITERIA:**

#### A. Segment 1 – Respondent's Playground Design, Equipment, Installation, & Timeline

- i. Playground Design Concept: Present your vision of the playground design in detail. Present the final design in 3D with multiple angles and overhead CAD drawings.
- ii. Playground Equipment, Installation and Timeline: Describe in detail all the pieces of playground equipment. Describe your plan for removal of the existing playground equipment and installation plan for the new playground equipment and. Include such time-related displays, graphs, and charts as necessary to show tasks, sub-tasks, milestones, and decision points related to the Scope of Work and your plan for accomplishment. Specifically indicate:

Exhibit "A"

- 1) A description of each piece of playground equipment. Detail the age groups and activities each of piece of equipment and why it is a good fit for this park.
- 2) The technical details for each piece of playground equipment. Include any relevant details on the manufacturing process. Indicate specifications noted in the Scope of Work.
- 3) Provide a timeline for the design, manufacture, removal of the existing playground equipment, and installation of the new playground equipment for this project. Indicate possible hurdles and delays.
- 4) The points at which written, deliverable reports will be provided.
- 5) The amount of progress payments you are requesting upon successful completion of milestones or tasks, deducting ten percent (10%), which will be paid upon final acceptance by the City.

B. Segment 2 – Company Work Experience and Personnel

- i. Prior Experience: State the number of years the Respondent company has been providing the services requested in the solicitation. Describe only relevant municipal, corporate, and individual experience for the company and personnel who will be actively engaged in the project. Do not include corporate experience unless personnel assigned to this project actively participated. Do not include experience prior to 2014. Supply the project title, year, and reference name, title, present address, and phone number of principal persons for whom prior projects were accomplished.
- ii. Personnel: Include names, qualifications, and resumes of all **key** personnel (**project managers, designers, etc.**) who will be assigned to the account. State the primary work assigned to each person and the percentage of time each person will devote to this work. Identify key persons by name and title.

E. Segment 3 – Cost Proposal: Information described in the following subsections is required from each Proposer. Your method of costing may or may not be used but should be described. A firm fixed price or not-to-exceed Contract is contemplated, with progress payments as mutually determined to be appropriate. Describe the following costs:

- i. Design and layout of the playground.
- ii. Additional design requests made by the City.
- iii. Design and manufacturing of all playground equipment included in the design.
- iv. Delivery of playground equipment.
- v. Installation of the playground equipment.
- vi. Removal and disposal of existing playground equipment.
- vii. Manpower. Itemize to show the applicable category of personnel with separate hourly rate.
- viii. Total (not to exceed) Cost.

4. **EVALUATION SCORING**: The intent of the City is to award to one Respondent in accordance with the evaluation criteria below. The purpose of this evaluation criteria is to determine which proposal best meets the requirements and provides the best overall value to the City.

A. Evaluation Criteria:	Weights:
• Playground Design, Equipment, Installation & Timeline (Segment 1)	60 pts
• Company Work Experience and Personnel (Segment 2)	20 pts
• <u>Cost Proposal (Segment 3)</u>	<u>20 pts</u>
Maximum Weight:	100 pts

B. An evaluation committee will be established to evaluate the proposal. The committee will include employees of the City and may include other impartial individuals who are not City employees. The evaluation committee will determine if discussions and/or Best and Final Offers (BAFO) are necessary. Award of a contract may be made without discussions or BAFO, if in the best interest of the City. The evaluation committee may determine that discussions are necessary to clarify or verify a written proposal response. The City may, at its discretion, elect to have respondents provide oral presentations of their proposal. The City reserves the right to rescore an offer based on provided demonstrations. A request for a BAFO is at the sole discretion of the City and will be requested in writing. The evaluation committee will evaluate the finalists and make a recommendation for award.

## Exhibit "A"

- C. The City reserves the right to reject any or all proposals submitted, or to award to the respondent who in the City's opinion, offers the best value to the City. The City also reserves the right to cancel the RFP process and pursue alternate methods for providing the requirements.
- D. The City reserves the right to conduct studies and other investigations as necessary to evaluate any proposal.
- E. The City reserves the right to waive any minor technicality, irregularities, or informalities noted in the submission process. Submission of proposal confers no legal rights upon any Respondent.
- F. The City reserves the right to request further documentation or information and to discuss proposal response with any Respondent in order to answer questions or to clarify any aspects of the proposal.
- G. The City may develop a "short list" of qualified proposal and may determine that the Respondent(s) should submit a Best and Final Offer (BAFO). Each "short listed" Respondent will be given a reasonable opportunity for discussion and revision of their proposal.

### **5. AGREEMENT NEGOTIATIONS AND AWARD PROCESS:**

- A. A proposal presented in response to this RFP is subject to negotiation concerning any issues deemed relevant by the City. The City reserves the right to negotiate any issue with any party. Any unsolicited communication by the Respondent to a City official, undesignated employee, or an evaluation team member evaluating or considering the offers may be grounds for disqualifying the offending Offeror from consideration of award.
- B. Submission of proposal indicates the Respondent's acceptance of the evaluation process and recognition that the City may make subjective judgments in evaluating the proposal to determine the best value for the City.
- C. If negotiations are successful, the City and Respondent may enter into an agreement. If negotiations are unsuccessful, the City may formally end negotiations with that Respondent.
- D. The City also reserves the right to reject any or all submittals, or to accept any submittal deemed most advantageous, or to waive any irregularities or informalities in the submittal received.
- E. An independent signed authorized Contract will be sent to the successful Respondent(s). Execution of a City of Round Rock contract is required prior to starting work and processing any payments to the Contractor.

### **6. POST AWARD MEETING:** The City and the Respondent may schedule a post award meeting to discuss, but not be limited to the following:

- A. The method to provide a smooth and orderly transition of services performed from the current Contractor.
- B. Provide City contact(s) information for implementation of the Agreement.
- C. Identify specific milestones, goals, and strategies to meet objectives.

Exhibit "A"

# Settlement Park Playground

1401 David Curry Dr.  
Round Rock, TX 78664

City of Round Rock  
Eliana Geoffroy  
egeoffroy@roundrocktexas.gov  
512-218-5450

Project Name: Settlement Park Playground

Job Location: 1401 David Curry Dr. | Rep: Josh Bailey

Date:

Client Initial



Exhibit "A"

# Playground Design #2



Project Name: Settlement Park Playground

Job Location: 1401 David Curry Dr. | Rep: Josh Bailey

Date:

Client Initial



Exhibit "A"

# Playground Design #2



Project Name: Settlement Park Playground

Job Location: 1401 David Curry Dr. | Rep: Josh Bailey

Date:

Client Initial



Exhibit "A"

# Playground Design #2



Project Name: Settelment Park Playground

Job Location: 1401 David Curry Dr. | Rep: Josh Bailey

Date:

Client Initial



Exhibit "A"

# Playground Design #2



Project Name: Settlement Park Playground

Job Location: 1401 David Curry Dr. | Rep: Josh Bailey

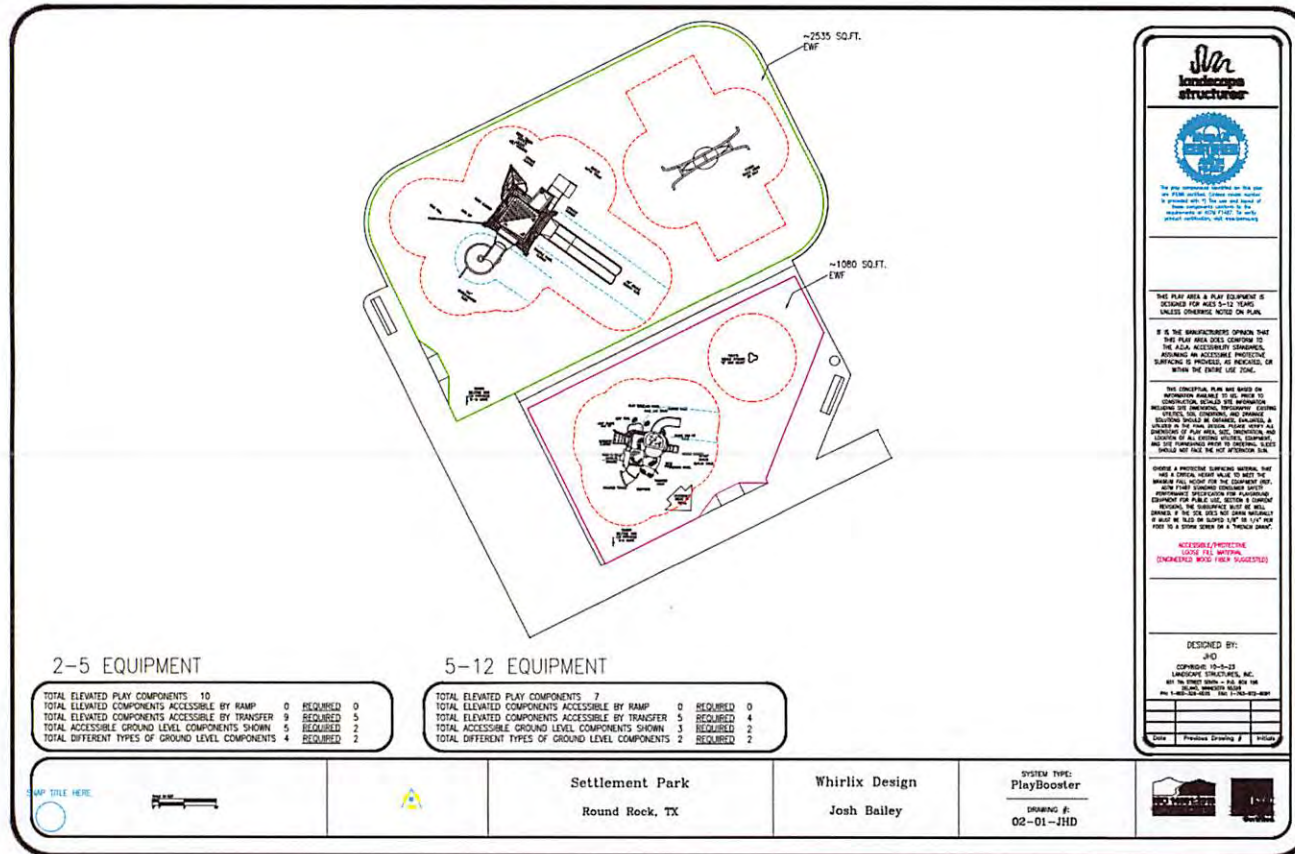
Date:

Client Initial





# Playground Design #2



Project Name: Settlement Park Playground

Job Location: 1401 David Curry Dr. | Rep: Josh Bailey

Date:

Client Initial



Exhibit "A"

## Alpha® Tower



Sensory Systems Engaged	Motor Skills	Cognitive Skills	Social Skills
Vestibular + Proprioception Tactile Visual	Agility, Balance, Coordination, Endurance, Eye-Hand Coordination, Flexibility, Motor Planning, Fine Motor, Core, Lower & Upper Body Strength	Problem Solving Strategic Thinking	Cooperation Social Skill Development Imaginative Play

The Alpha Tower provides children with multiple ways to climb into the world of their imagination. Children will have to use fine and gross motor skills to successfully motor plan their way up into this multi-story climber. Children are rewarded with multiple views of the world beyond them. Once inside children will find multiple areas to hangout or can use the slides to zip back down to the earth below.

2019 © Kanics Inclusive Design Services, LLC

*slr*  
landscape  
structures

Project Name: Settlement Park Playground

Job Location: 1401 David Curry Dr. | Rep: Josh Bailey

Date:

Client Initial

**Whirlix**  
Always in Motion 

Exhibit "A"

## Oodle® Swing



Sensory Systems Engaged	Motor Skills	Cognitive Skills	Social Skills
Vestibular+ Proprioception Tactile Visual	Balance, Coordination, Core, Upper & Lower Body Strength, Motor Planning	Problem Solving	Cooperation Social Skill Development Imaginative Play

The Oodle Swing is designed to encourage social play while swinging. A child can easily transfer from a mobility device into the Oodle Swing and its shape allows children to sit or lay together in different ways while providing support. The Oodle Swing's larger size allows adults and children to swing together. Cooperative play is needed to make the swing go, encouraging children of all abilities to work together to swing.

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*slm*  
landscape  
structures

Project Name: Settlement Park Playground

Job Location: 1401 David Curry Dr. | Rep: Josh Bailey

Date:

Client Initial

**Whirlix**  
Always in Motion

## Smart Play® Motion



Sensory Systems Engaged	Motor Skills	Cognitive Skills	Social Skills
Vestibular Proprioception Tactile Visual Auditory	Agility, Balance, Coordination, Flexibility, Fine Motor, Eye-Hand Coordination, Motor Planning, Core, Upper & Lower Body Strength	Problem Solving Strategic Thinking	Cooperation Social Skill Development Imaginative Play

The Smart Play® Motion has 16 interactive activities addressing developmentally-appropriate skills these include the Inclined Tunnel, Leaf Shape-and-Fit, Wiggle Ladder, Slide, Shape-and-Fit Table, Leaf Trail, Race Car/Roller Track, Numbers Climber, Ring-a-Bell, Marbles, Bongo Panel, Bead Panel, Steering Wheel, Steppers, Alphabet Panel and a Play Table with Seats. It will keep children ages 2-5 years old engaged for hours as they explore through play, developing their body, mind and social skills.

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*slr*  
landscape  
structures

Project Name: Settlement Park Playground

Job Location: 1401 David Curry Dr. | Rep: Josh Bailey

Date:

Client Initial

**Whirlix**  
Always in Motion 

## Saddle Spinners



Sensory Systems Engaged	Motor Skills	Cognitive Skills	Social Skills
Vestibular+ Proprioception	Balance, Core & Lower Body Strength	Problem Solving	Cooperation Social Skill Development Imaginative Play

The saddle spinner enables children to play with their vestibular system as they experience the rotational pull of gravity. The angled seat allows children to spin and rotate alone or with the help of a friend. Saddle spinners are often included in groups of two or three set at different heights. This ensures that children find their "just right" height seat. Some children will prefer a lower seat so that they can keep their feet in contact with the ground while other would prefer to have their feet off the ground and spin really fast.

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*slr*  
landscape  
structures

Project Name: Settlement Park Playground

Job Location: 1401 David Curry Dr. | Rep: Josh Bailey

Date:

Client Initial





Exhibit "A"

EVANDER PLAYSCAPES LLC

### TIMELINE FOR DEMO AND CONSTRUCTION

Project: Settlement Park 0101

Installation Play Structure: 7-10 days  
Demolish and haul off existing playgrounds, 2-5 & 5-12: 2-3 days  
Remove and haul off existing EWF from both playgrounds approx  
4,142 sf: 2 days  
Orange fence: 1 day  
Sod seeding path: ½ day  
Tie into existing drainage system: 2 days  
Replenished necessary pea gravel for playground: 1 day

Delay: Time may vary depending on weather conditions

170 Baker Ln. Leander, TX 78641

Ph.210-255-9130

Project Name: Settlement Park Playground

Job Location: 1401 David Curry Dr. | Rep: Josh Bailey

Date:

Client Initial



# Play & Shade Options

## ProShield Colors

For posts/arches, components and clamps, ProShield finish combines a specially formulated primer with a high-quality, architectural-grade powdercoat top layer. The result is enhanced longevity, greater protection against UV rays, prevention from corrosion, and improved product performance. Custom colors are available for an additional charge.

Learn more about our Color Inspirations at [playlsi.com/color-inspirations](http://playlsi.com/color-inspirations)



## Exhibit "A"



**Steel Decks** The heaviest, thickest decks for long-lasting safety: Flange-formed from 12-gauge steel with safe, rounded corners. Reinforced with .105" x 2" ribs welded on cross for superior strength and a consistently flat surface.



**TenderTuff™ Coating**  
For swing chains, handholds, pipe barriers, wheels, rings, etc. Insulates against temperature extremes and provides a safer grip surface compared to painted metal.



**Steel-Reinforced Cables** Made of tightly woven, polyester-wrapped, six-stranded galvanized-steel cable. These abrasion-resistant, color-stable cables are extremely durable and vandal resistant.

**Polyethylene** For slides, tunnels, roofs, etc. The heavy-duty rotationally molded polyethylene material ensures strength and durability while resisting cracking, fading and peeling. \*Denim, Seafoam, Limon, Leaf, Slate, Brick, Tangerine, Buttercup, Granite and Acorn are color blends.



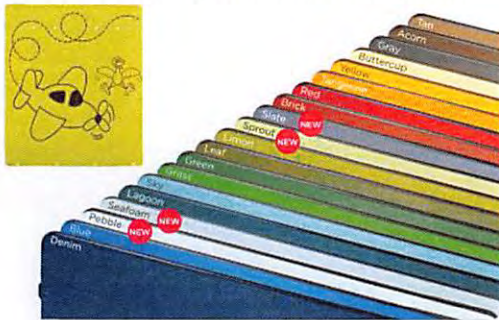
## SkyWays® and CoolToppers® Shade Fabrics

Designed to block up to 97% of UV rays and keep playground temperatures up to 30 degrees cooler.



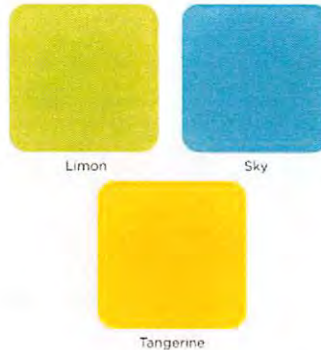
## Permalene® Color Panels

Permalene® panels with a recycled core are a smart choice for your playground and the environment. Available in the 20 colors shown, the distinctive black core results from combining and recycling colored plastic—waste that would otherwise end up in landfills.



## Polycarbonate Panels

Hedra® product line option. Translucent panel provides visibility into structure as well as light and color play.



Project Name: Settlement Park Playground

Job Location: 1401 David Curry Dr. | Rep: Josh Bailey

Date:

Client Initial



# Play & Shade Options

## Pick your palette

Tour through carefully curated palettes and discover how color can tie your whole playground together. All of our colors take a cue from nature—from green trees and blue sky to minerals, birds, spices, fruits and more—to create vibrant hues that stimulate the senses and perfectly coordinate with the outdoors.

## Exhibit "A"



NEW Palette CC

Slate • Wood • Lagoon • Sky • Gray • Sun Metal



NEW Palette CB

Sun • Leaf • Lagoon • Birchwood • Brown • Tan



NEW Palette CA

Marble • Lagoon • Peacock • Zingine • Gray



NEW Palette BZ

Arden • Silver • Sky • Dainty • Gray • Metallic Silver



NEW Palette BY

Honey • Lagoon • Grass • Acorn • Brown • Evergreen



NEW Palette BX

Copper • Lagoon • Sky • Gray • Metallic Silver



Palette BW

Metallic Silver • Tangerine • Lagoon • Gray • Orange



Palette BV

Metallic Silver • Dusk • Lagoon • Acorn • Leaf • Brown • Tan



Palette BU

Metallic Silver • Lagoon • Sky • Gray



Palette BT

Dusk • Denim • Leaf • Brick • Brown



Palette BS

Vanilla • Lagoon • Peacock • Bluestone • Gray



Palette BR

Metallic Silver • Blue • Red



Palette BQ

Dark Blue • Lagoon • Peacock • Brown • Acorn • Silver



Palette BP

Dark Blue • Sky • Lagoon • Gray



Palette BO

Dark Blue • Leaf • Creamy • Sky • Lagoon • Gray • Metallic Silver



Palette BN

Sky • Lagoon • Acorn • Lagoon • Green • Gray



Palette BM

Dark Blue • Lagoon • Lagoon • Sky • Gray



Palette BL

Dark Blue • Leaf • Bluestone • Peacock • Gray



Palette BK

Dark Blue • Lagoon • Acorn • Brown • Brown • Sky



Palette BJ

Dark Blue • Leaf • Lagoon • Gray • Metallic Silver



Palette BI

Dark Blue • Sky • Lagoon • Gray



Palette BH

Dark Blue • Lagoon • Bluestone • Gray • Metallic Silver



Palette BG

Metallic Silver • Lagoon • Sky • Bluestone • Gray



Palette BF

Dark Blue • Brown • Acorn • Peacock • Brown



Palette BE

Dark Blue • Lagoon • Sky • Sky



Palette BD

Dark Blue • Bluestone • Lagoon • Gray



Palette BC

Dark Blue • Sky • Peacock • Leaf • Gray

Project Name: Settlement Park Playground

Job Location: 1401 David Curry Dr. | Rep: Josh Bailey

Date:

Client Initial



# Play & Shade Options



Project Name: Settlement Park Playground

Job Location: 1401 David Curry Dr. | Rep: Josh Bailey

Date:

Client Initial

©2021 Landscape Structures Inc.



Exhibit "A"

# Warranties & Certificates

Project Name: Settlement Park Playground

Job Location: 1401 David Curry Dr. | Rep: Josh Bailey

Date:

Client Initial



Landscape Structures Inc. ("Manufacturer") warrants that all playstructures and/or equipment sold will conform in kind and in quality to the specifications manual for the products identified in the Acknowledgment of Order and will be free of defects in manufacturing and material. Manufacturer further warrants:

**100-Year Limited Warranty** On all PlayBooster® and PlayShaper® aluminum posts, stainless steel fasteners, clamps, beams and caps against structural failure due to corrosion/natural deterioration or manufacturing defects, and on PlayBooster steel posts against structural failure due to material or manufacturing defects.

**15-Year Limited Warranty** On all EvoS® and WeeVos® steel arches, all plastic components (including TurfTimbers® edging), all aluminum and steel components not covered above, Mobius® decks, Rhapsody® Outdoor Musical Instruments, decks and TenderTuff™ coatings (except Wiggle Ladders, Chain Ladders and Swing Chain) against structural failure due to material or manufacturing defects.

**10-Year Limited Warranty** On concrete products against structural failure due to natural deterioration or manufacturing defects. Does not cover minor chips, hairline cracks or efflorescence.

**8-Year Limited Warranty** On Aeronet® climbers and climbing cables against defects in materials or manufacturing defects.

**5-Year Limited Warranty** On Rhapsody® cables and mallets against defects in materials or manufacturing defects, on polycarbonate panels against defects in materials or manufacturing defects, and on bamboo panels against delamination due to defects in materials or manufacturing defects. Does not cover damage which may be associated with the natural characteristics of bamboo aging including but not limited to discoloration, splitting, cracking, warping or twisting, nor the formation of algae, mold and other forms of fungal-type bodies on bamboo.

**3-Year Limited Warranty** On all other parts, i.e.: Pulsar® products, all swing seats and hangers, Mobius climber handholds, Wiggle Ladders, Chain Ladders and ProGuard™ Swing Chain, Track Ride trolleys and bumpers, all rocking equipment including Sway Fun® gliders, belting material, HealthBeat® resistance mechanisms, Seesaws, etc., against failure due to corrosion/ natural deterioration or manufacturing defects.

The environment near a saltwater coast can be extremely corrosive. Some corrosion and/or deterioration is considered "normal wear" in this environment. Product installed within 500 yards (457 meters) of a saltwater shoreline will only be covered for half the period of the standard product warranty, up to a maximum of five years, for defects caused by corrosion. Products installed in direct contact with saltwater or that are subjected to salt spray are not covered by the standard warranty for any defects caused by corrosion.

This warranty does not include any cosmetic issues or wear and tear from normal use of the product, or misuse or abuse of the product. It is valid only if the playstructures and/or equipment are erected to conform with Landscape Structures' installation instructions and maintained according to the maintenance procedures furnished by Landscape Structures Inc.



**2023 Play Equipment Warranty**  
You have our word.

All the warranties commence on date of Manufacturer's invoice. Should any failure to conform to the above express warranties appear within the applicable warranty period, Manufacturer shall, upon being notified in writing promptly after discovery of the defect and within the applicable warranty period, correct such nonconformity either by repairing any defective part or parts, or by making available a replacement part within 60 days of written notification. Manufacturer shall deliver the repaired or replacement part or parts to the site free of charge, but will not be responsible for providing labor or the cost of labor for the removal of the defective part or parts, the installation of any replacement part or parts or for disposal costs of any part or parts. Replacement parts will be warranted for the balance of the original warranty.

THIS WARRANTY IS EXCLUSIVE AND IN LIEU OF ALL OTHER WARRANTIES, WHETHER EXPRESSED OR IMPLIED, INCLUDING BUT NOT LIMITED TO ANY WARRANTY OF MERCHANTABILITY OR OF FITNESS FOR A PARTICULAR PURPOSE.

The remedies hereby provided shall be the exclusive and sole remedies of the purchaser. Manufacturer shall not be liable for any direct, indirect, special, incidental or consequential damages.

Manufacturer neither assumes nor authorizes any employee, representative or any other person to assume for Manufacturer any other liability in connection with the sale or use of the structures sold, and there are no oral agreements or warranties collateral to or affecting this agreement. The warranties stated above are valid only if the structures and/or equipment are erected in conformance with Landscape Structures' installation instructions and maintained according to the maintenance procedures furnished by Landscape Structures Inc. have been subjected to normal use for the purpose for which the goods were designed, have not been exposed to saltwater or salt spray, have not been subject to misuse, negligence, vandalism, or accident, have not been subjected to addition or substitution of parts, and have not been modified, altered, or repaired by persons other than Manufacturer or Manufacturer's designers in any respect which, in the judgement of Manufacturer, affects the condition or operation of the structures.

To make a claim, send your written statement of claim, along with the original job number or invoice number to Landscape Structures Inc. 601 7th Street South Delano, Minnesota, 55328-8605.

Signed:  President Date: 01/01/2023



Exhibit "A"



**Terms of Sale**

**PRICING:** Landscape Structures' list prices do not include delivery and handling charges. Prices are subject to change without notice.

**TERMS:** To tax-supported institutions and those with established credit: net 30 days from the date of the invoice. 1.5% per month thereafter, freight charges are prepaid and applied to the invoice.

**TAXES:** Landscape Structures' list prices do not include applicable taxes, if any.

**WEIGHTS:** Weights are approximate and may vary.

**DELIVERY:** If delivery of the equipment is by common carrier, and there is damage or a shortage, notify the carrier at once and sign delivery documents provided by the carrier noting the damage or shortage. Most products are delivered on large pallets and will require a forklift or similar equipment to unload as a unit on the site.

**INSTALLATION:** All playstructures and/or equipment are delivered unassembled and packaged with recyclable materials. For a list of factory-certified installers in your area, please contact your Landscape Structures playground consultant.

**SERVICE:** We have knowledgeable, qualified playground consultants throughout the world who are available to help you before, during and after the sale. Landscape Structures has exclusive design software that features all of our parts and pieces in pull-down menus. With this software, your playground consultant can design a playground layout that meets not only your needs, but ASTM and CPSC standards as well. In addition, we have a full staff of CPSI-certified designers, along with 2D and 3D drawing capabilities and custom capabilities to assist you with your playground plans.

**RETURN POLICY:** As an indication of our commitment to our customers, Landscape Structures will accept returns of new structures and/or new equipment purchased within 60 days of the original invoice date. Advance notification is necessary to ensure proper credit. Parts not included in this return policy are custom parts (including PlayShaper® posts), as well as used or damaged parts. A 20% restock fee plus all return freight charges will apply to all product returns. NOTE: All parts are subject to inspection upon return. Parts returned damaged may not receive a full credit. For this reason, it is important that all returned parts are properly packaged to prevent damage while in transit. Please contact your Landscape Structures playground consultant for the shipping address.

**PRODUCT CHANGES:** Because of our commitment to safety, innovation, and value, we reserve the right to change specifications at any time.

**PLEASE CONTACT US AT:**

Landscape Structures Inc.  
601 7th St. South  
Delano, MN 55328-8605  
888.438.6574 (inside the U.S.A.)  
763.972.5200 (outside the U.S.A.)  
playlsi.com



601 7th Street South • Delano, MN 55328-8605 • 888.438.6574 • 763.972.5200 • Fax 763.972.3185 • playlsi.com

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Project Name: Settlement Park Playground

Job Location: 1401 David Curry Dr.

Rep: Josh Bailey

Date:

Client Initial



Exhibit "A"



**Orion Registrar, Inc.**  
Thorough and Fair Auditing

### Certificate of Certification

*This is to certify the Quality Management System of:*

**Landscape Structures Inc.**  
601 7th Street South  
Delano, MN 55328 USA

*Has been assessed by Orion Registrar and found to be in compliance with the following Quality Standard:*

**ISO 9001:2015**

*The Quality Management System is applicable to:*

The design and manufacturing of playground equipment including Product Development, Sales, Marketing, Pre-Sale Design, Order Engineering, Purchasing, Receiving, Planning, Manufacturing (Fabrication, Welding, Powder Coat Painting, PVC Coating, CNC Routing, Rotational Molding, Concrete Operations, Assembly, and Packaging), Shipping, Maintenance, Finance, Information Technology, Human Resources and other Administrative Functions.

*The Certification period is from*

**November 16, 2020 to November 28, 2023**

*This certification is subject to the company maintaining its system to the required standard, and applicable exceptions, which will be monitored by Orion.*

Client ID: 355

Certificate ID: 1020546



*Paul M. Burk* November 24, 2020  
Paul M. Burk, President Date

7502 W. 80th Avenue, Suite 225, Arvada, Colorado 80003 | 303-456-6010 | FAX 303-456-6681 | www.orion4value.com  
To authenticate this certificate, please visit: www.orion4value.com/about-orion/registered-companies/



**Orion Registrar, Inc.**  
Thorough and Fair Auditing

### Certificate of Certification

*This is to certify the Environmental Management System of:*

**Landscape Structures Inc.**  
601 7th Street South  
Delano, MN 55328 USA

*Has been assessed by Orion Registrar and found to be in compliance with the following Environmental Management Standard:*

**ISO 14001:2015**

*The Environmental Management System is applicable to:*

The design and manufacturing of playground equipment including Product Development, Sales, Marketing, Pre-Sale Design, Order Engineering, Purchasing, Receiving, Planning, Manufacturing (Fabrication, Welding, Powder Coat Painting, PVC Coating, CNC Routing, Rotational Molding, Concrete Operations, Assembly, and Packaging), Shipping, Maintenance, Finance, Information Technology, Human Resources and other Administrative Functions.

*The Certification period is from*

**November 16, 2020 to November 28, 2023**

*This certification is subject to the company maintaining its system to the required standard, and applicable exceptions, which will be monitored by Orion.*

Client ID: 355

Certificate ID: 1020545



*Paul M. Burk* November 24, 2020  
Paul M. Burk, President Date

7502 W. 80th Avenue, Suite 225, Arvada, Colorado 80003 | 303-456-6010 | FAX 303-456-6681 | www.orion4value.com  
To authenticate this certificate, please visit: www.orion4value.com/about-orion/registered-companies/

Project Name: Settlement Park Playground

Job Location: 1401 David Curry Dr. | Rep: Josh Bailey

Date:

Client Initial



Exhibit "A"



Project Name: Settlement Park Playground

Job Location: 1401 David Curry Dr. | Rep: Josh Bailey

Date:

Client Initial



## Exhibit "A"



## Option #2

Date: October 17<sup>th</sup>, 2023  
Project: RFP 23-032 CDBG Settlement Park Playground  
Location: 1401 David Curry Drive, Round Rock TX 78664

To: The City of Round Rock Procurement

**Proposal Expires: 30 Days from The Above Date**

**Please note that current fluctuations in material pricing may cause a proposal increase between now and The acceptance of this agreement.**

Series: Landscape Structures  
Surface: Engineered Wood Fiber  
Installation: Included Per The Proposal Inclusions & Exclusions  
Quantity/Sizes: Noted Below

**Bid: \$180,000**

***(One Hundred Eighty Thousand Dollars and Zero Cents)***

**Base Bid Includes:**

- Landscape Structures design concept 02-01
  - Alpha Tower
    - Tower has 12 ft. tall WhooshWinder Slide
    - Tower has 8 ft. double Swoosh Slide
  - 1 total – Oodle Swing
  - 1 total – Smart Play Motion With Play Table for 2-5 yr. olds
  - 1 total – Saddle Seat Spinner
  - Final colors TBD
- Freight / Delivery
- Installation
- Site fencing (orange safety fence on T posts with safety caps)
- Demo and haul off - existing playground equipment
- Demo and haul off - existing EWF surfacing
- Tie into existing drainage system (if necessary)
- Seeding disturbed areas of travel (no watering / no sod)
- New geotextile fabric with install
- Materials and install new EWF safety surfacing
- Prevailing Wage / Certified Payroll
- Performance & Payment Bond

**Base Bid Excludes (unless otherwise noted):**

- Drainage (see drainage note above)
- Drilling Through Rocky Soil
- Hitting of New or Existing Sprinkler pipes
- Hitting of Private Electric, Water, Sewer, Internet, or any other Utility Lines that are Not Detectible by Commercial Line Location.
- Sod Replacement due to Reasonable Path of Travel to Project or Play Area Location. We need access to project location. (See seeding note above)
- Surveying of Site
- Craning of Equipment

Whirlix Design Inc.  
1751 International Parkway, Suite 131  
Richardson, TX 75081

Exhibit "A"



Option #2

- o Logistical Issues that Prevent Truck or Equipment Access to Site
- o Special Augers or Drilling Equipment
- o Setting of Control Points or Benchmarks
- o Remobilization Charges Due to Weather or Project Delays
- o Offsite Storage of Equipment Due to Weather or Project Related Delays
- o On Site Security
- o Permitting and Inspections
- o Soil Testing (If Required)
- o Third Party Inspections
- o Metal construction fence
- o Dumpster
- o Latrine on Site
- o Geotechnical Report
- o Wet Stamped Engineering Drawings
- o Mock-Ups
- o Sales Tax
- o Textura, Oracle, etc.
- o Professional Liability Insurance
- o Construction Management Software Required for a Specific Project
- o Use of Credit Cards as Payment

**Terms: Net 30 for Existing Customers. All new customers are subject to a credit check and Possible deposit.**

**Payment terms will be based, in part, on credit review that is pulled from The Experian Business Division.**

**Pursuant to Tex. Prop. Code § 53.159, Whirlix will need any and all Bond information at the time of Signed Proposal, Contract, and / or Deposit.**

All taxes now or hereafter levied by federal, state or local authority upon the sale of any of the forgoing products to be paid for by the purchaser. All quotations are subject to the conditions printed on the following pages if any and when accepted are subject to the approval of an officer of this company.

**Prepared by Josh Bailey · Whirlix Design Inc · [jbailey@whirlix.com](mailto:jbailey@whirlix.com) · 512-225-4314**

**Acceptance of Approval:** The above prices, specifications, and conditions are satisfactory and accepted. You are hereby authorized to provide all items described above. Any balances not paid within thirty (30) days of the date of the invoice shall accrue interest at the rate of 18% per annum. Any action to construe, declare or enforce this contract shall only be brought in a court of competent jurisdiction with venue lying solely and exclusively in Dallas County, Texas. The prevailing party in any action brought to construe, declare or enforce this contract shall be entitled to recover its actual attorney's fees, attorney's travel time charges and expenses, paralegal fees, computer access and utilization charges, expert witness fees and expenses, costs, expenses and expenses of investigation, discovery, and litigation. The parties to this contract expressly waive the right to trial by jury of any cause of action or defense pertaining to this contract. The above prices, specifications, and conditions are satisfactory and accepted. You are hereby authorized to provide all items described above.

**Date: \_\_\_\_\_ Signature: \_\_\_\_\_**

Whirlix Design Inc.  
1751 International Parkway, Suite 131  
Richardson, TX 75081

Exhibit "A"  
ATTACHMENT B  
SUBCONTRACTOR INFORMATION FORM  
COMPLETE AND RETURN THIS FORM WITH THE SOLICITATION RESPONSE

SOLICITATION NUMBER: 23-032 settlement park - Round Rock  
RESPONDENT'S NAME: Josh Baloy - WhiteLix Design DATE: 10-17-23

- **CIRCLE ONE** - NO, I WILL NOT USE SUBCONTRACTORS ON THIS CONTRACT **NO**
- **YES, I INTEND TO USE SUBCONTRACTORS ON THIS CONTRACT** **YES**  
If yes complete the information below

1. Subcontractor Name Evander Playscapes, LLC.  
Name of Contact Fernando Rico  
E-Mail Address fernando@evander.org  
Address 170 Baker Ln.  
City, State, Zip Code Leander, TX 78641  
Telephone Number ( 210 ) 255-9130 Fax Number: ( )  
Describe work to be performed Demolition of existing playground and installation of new playground.  
Percentage of contract work to be performed 100 %

2. Subcontractor Name \_\_\_\_\_  
Name of Contact \_\_\_\_\_  
Title of Contact \_\_\_\_\_  
E-Mail Address \_\_\_\_\_  
Address \_\_\_\_\_  
City, State, Zip Code \_\_\_\_\_  
Telephone Number ( ) Fax Number: ( )  
Describe work to be performed \_\_\_\_\_  
Percentage of contract work to be performed %

- *Add additional pages as needed*



## Exhibit "A"



EVANDER PLAYSCAPES LLC

## Evander Bio

Evander Playscapes started operations in 2019. The owners are José and Fernando Rico, who decided to join their skills and talents to consolidate a company that installs play structures, playgrounds, shades and site furniture.

Since then, we have installed more than 200 playgrounds and structures. Installations costs on pasts projects have ranged between \$2,500 up to \$120,000.

These playgrounds and structures have been placed in schools, parks, community spaces, private homes and clubs.

Evander Playscapes core values include high quality installations, safety and high level of customer service.

We are distinguished by the commitment, dedication, care and effort we give into each of our projects.