

## SOUTH SAN FRANCISCO SERVICES AGREEMENT

This Services Agreement (this “**Agreement**”) is made and entered into between the City of South San Francisco, a municipal corporation (“**City**”) and \_\_\_\_\_ (“**Consultant**”) effective as of \_\_\_\_\_ (the “**Effective Date**”). City and Consultant are hereinafter collectively referred to as (the “**Parties**”). In consideration of their mutual covenants, the Parties hereby agree as follows:

1. Scope of Services. Consultant shall provide the following services and/or materials (“the Work”): \_\_\_\_\_, as more specifically described in the Scope of Services, attached hereto as Exhibit A. The Work shall commence on \_\_\_\_\_, \_\_\_\_\_ and shall be completed to the satisfaction of the City by \_\_\_\_\_, \_\_\_\_\_ unless such date is extended or otherwise modified by the City in writing. This Agreement incorporates the Intergovernmental Agreement and Master Price Agreement attached hereto as Exhibit B. In the event of a conflict or inconsistency between the text of the main body of this Agreement and Exhibits A and B, the text of the main body of this Agreement shall prevail.

2. Payment. City shall pay Consultant an amount not to exceed: \_\_\_\_\_ (\$xx,xxx) for the full and satisfactory completion of the Work in accordance with the terms and conditions of this Agreement. The calculation of payment for the Work shall be set forth as follows: \_\_\_\_\_ [state how payment for Services will be calculated (ex: based on an hourly rate, a flat fee, or based on an attached rate schedule)] The amount stated above is the entire compensation payable to Consultant for the Work performed hereunder, including all labor, materials, tools and equipment furnished by Consultant.

City shall make payments, based on invoices received, for Work satisfactorily performed. City shall have thirty (30) days from the receipt of an invoice to pay Consultant.

3. Independent Contractor. It is understood and agreed that this Agreement is not a contract of employment and does not create an employer-employee relationship between the City and Consultant. At all times Consultant shall be an independent contractor and City shall not control the manner of Consultant accomplishing the Work. Consultant is not authorized to bind the City to any contracts or other obligations without the express written consent of the City.

4. Indemnification. To the fullest extent permitted by law, Consultant shall indemnify, defend (with counsel acceptable to the City), and hold harmless the City and its elected and appointed officers, officials, employees, agents, contractors and consultants (collectively, the “City Indemnitees”) from and against any and all liability, loss, damage, claims, expenses and costs (including, without limitation, attorneys’ fees and costs of litigation) (collectively, “Liability”) of every nature arising out of or in connection with Consultant’s performance of the Work or Consultant’s failure to comply with this Agreement, except such Liability caused by the gross negligence or willful misconduct of the City Indemnitees.

5. Insurance. Prior to beginning the Work and continuing throughout the term of this Agreement, Consultant (and any subcontractors) shall, at Consultant’s (or subcontractor’s) sole cost and expense, furnish the City with certificates of insurance evidencing that Consultant has obtained and maintains insurance in the following amounts:

A. Workers’ Compensation that satisfies the minimum statutory limits.

B. Commercial General Liability and Property Damage Insurance in an amount not less than ONE MILLION DOLLARS (\$1,000,000) combined single limit per occurrence, TWO MILLION DOLLARS (\$2,000,000) annual aggregate, for bodily injury, property damage, products,

completed operations and contractual liability coverage. The policy shall also include coverage for liability arising out of the use and operation of any City-owned or City-furnished equipment used or operated by the Consultant, its personnel, agents or subcontractors.

- C. Comprehensive automobile insurance in an amount not less than ONE MILLION DOLLARS (\$1,000,000) per occurrence for bodily injury and property damage including coverage for owned and non-owned vehicles.

All insurance policies shall be written on an occurrence basis and shall name the City Indemnitees as additional insureds with any City insurance shall be secondary and in excess to Consultant's insurance. If the Consultant's insurance policy includes a self-insured retention that must be paid by a named insured as a precondition of the insurer's liability, or which has the effect of providing that payments of the self-insured retention by others, including additional insureds or insurers do not serve to satisfy the self-insured retention, such provisions must be modified by special endorsement so as to not apply to the additional insured coverage required by this agreement so as to not prevent any of the parties to this agreement from satisfying or paying the self-insured retention required to be paid as a precondition to the insurer's liability. Additionally, the certificates of insurance must note whether the policy does or does not include any self-insured retention and also must disclose the deductible. The certificates shall contain a statement of obligation on the part of the carrier to notify City of any material change, cancellation, termination or non-renewal of the coverage at least thirty (30) days in advance of the effective date of any such material change, cancellation, termination or non-renewal. The City's Risk Manager may waive or modify any of the insurance requirements of this section.

6. Compliance with all Applicable Laws; Nondiscrimination. Consultant shall comply with all applicable local, state and federal laws, regulations and ordinances in the performance of this Agreement. Consultant shall not discriminate in the provision of service or in the employment of persons engaged in the performance of this Agreement on account of race, color, national origin, ancestry, religion, gender, marital status, sexual orientation, age, physical or mental disability in violation of any applicable local, state or federal laws or regulations.

7. Termination. City may terminate or suspend this Agreement at any time and without cause upon written notification to Consultant. Upon receipt of notice of termination or suspension, Consultant shall immediately stop all work in progress under this Agreement. The City's right of termination shall be in addition to all other remedies available under law to the City.

8. Prevailing Wage. Where applicable, the wages to be paid for a day's work to all classes of laborers, workmen, or mechanics on the work contemplated by this Purchase Agreement, shall be not less than the prevailing rate for a day's work in the same trade or occupation in the locality within the state where the work hereby contemplates to be performed as determined by the Director of Industrial Relations pursuant to the Director's authority under Labor Code Section 1770, *et seq.* Each laborer, worker or mechanic employed by Consultant or by any subcontractor shall receive the wages herein provided for. The Consultant shall pay two hundred dollars (\$200), or whatever amount may be set by Labor Code Section 1775, as may be amended, per day penalty for each worker paid less than prevailing rate of per diem wages. The difference between the prevailing rate of per diem wages and the wage paid to each worker shall be paid by the Consultant to each worker.

An error on the part of an awarding body does not relieve the Consultant from responsibility for payment of the prevailing rate of per diem wages and penalties pursuant to Labor Code Sections 1770-1775. The City will not recognize any claim for additional compensation because of the payment by the Consultant for any wage rate in excess of prevailing wage rate set forth. The possibility of wage increases is one of the elements to be considered by the Consultant.

(A) Posting of Schedule of Prevailing Wage Rates and Deductions. If the schedule of prevailing wage rates is not attached hereto pursuant to Labor Code Section 1773.2, the Consultant shall post at appropriate conspicuous points at the site of the project a schedule showing all determined prevailing wage rates for the various classes of laborers and mechanics to be engaged in work on the project under this contract and all deductions, if any, required by law to be made from unpaid wages actually earned by the laborers and mechanics so engaged.

(B) Payroll Records. Each Consultant and subcontractor shall keep an accurate payroll record, showing the name, address, social security number, work week, and the actual per diem wages paid to each journeyman, apprentice, worker, or other employee employed by the Consultant in connection with the public work. Such records shall be certified and submitted weekly as required by Labor Code Section 1776.

9. Payment of Taxes; Tax Withholding. Consultant is solely responsible for the payment of employment taxes incurred under this Agreement and any similar federal or state taxes. To be exempt from tax withholding, Consultant must provide City with a valid California Franchise Tax Board form 590 ("Form 590"), as may be amended and such Form 590 shall be attached hereto and incorporated herein as Exhibit [REDACTED]. Unless Consultant provides City with a valid Form 590 or other valid, written evidence of an exemption or waiver from withholding, City may withhold California taxes from payments to Consultant as required by law. Consultant shall obtain, and maintain on file for three (3) years after the termination of this Agreement, Form 590s (or other written evidence of exemptions or waivers) from all subcontractors. Consultant accepts sole responsibility for withholding taxes from any non-California resident subcontractor and shall submit written documentation of compliance with Consultant's withholding duty to City upon request.

10. Severability. If any term or portion of this Agreement is held to be invalid, illegal, or otherwise unenforceable by a court of competent jurisdiction, the remaining provisions of this Agreement shall continue in full force and effect.

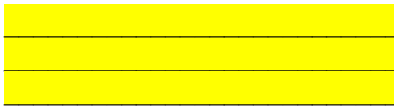
11. Entire Agreement. This Agreement represents the entire and integrated agreement between the Parties. This Agreement may be modified or amended only by a subsequent written agreement signed by both Parties.

12. Non-Liability of Officials, Employees and Agents. No officer, official, employee or agent of City shall be personally liable to Consultant in the event of any default or breach by City or for any amount which may become due to Consultant pursuant to this Agreement.

13. Prevailing Party. In the event that either party to this Agreement commences any legal action or proceeding (including but not limited to arbitration) to interpret the terms of this Agreement, the prevailing party in such a proceeding shall be entitled to recover its reasonable attorney's fees associated with that legal action or proceeding.

14. Notice. All notices and other communications which are required or may be given under this Agreement shall be in writing and shall be deemed to have been duly given (i) when received if personally delivered; (ii) when received if transmitted by telecopy, if received during normal business hours on a business day (or if not, the next business day after delivery) provided that such facsimile is legible and that at the time such facsimile is sent the sending Party receives written confirmation of receipt; (iii) if sent for next day delivery to a domestic address by recognized overnight delivery service (e.g., Federal Express); and (iv) upon receipt, if sent by certified or registered mail, return receipt requested. In each case notice shall be sent to the respective Parties as follows:

Consultant:



City:

City Clerk  
City of South San Francisco  
400 Grand Avenue  
South San Francisco, CA 94080

15. Execution in Counterpart. This Agreement may be executed in counterparts and/or by facsimile or other electronic means, and when each Party has signed and delivered at least one such counterpart, each counterpart shall be deemed an original, and, when taken together with other signed counterpart, shall constitute one Agreement, which shall be binding upon and effective as to all Parties.

16. Assignment, Governing Law. The Consultant may not assign any of Consultant's obligations under this Agreement without the City's prior written approval. This Agreement is governed by California law. The jurisdiction for any litigation arising from this Agreement shall be in the state of California, and shall be venued in the County of San Mateo.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date written above.

**CITY:**

**CONSULTANT:**

By: \_\_\_\_\_  
City Manager

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

Print Name: \_\_\_\_\_

Attest:

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

\_\_\_\_\_  
City Clerk

**APPROVED AS TO FORM:**

\_\_\_\_\_  
City Attorney

2729961.1

**Exhibit A****LEAGUE OF OREGON CITIES****MASTER PRICE AGREEMENT**

This Master Price Agreement is effective as of the date of the last signature below (the "Effective Date") by and between the LEAGUE OF OREGON CITIES, an Oregon public corporation under ORS Chapter 190 ("LOC" or "Purchaser") and Ross Recreation Equipment Company, Inc. ("Vendor").

**RECITALS**

WHEREAS, the Vendor is in the business of selling certain Park, Playground, And Recreation Equipment, as further described herein; and

WHEREAS, the Vendor desires to sell and the Purchaser desires to purchase certain products and related services all upon and subject to the terms and conditions set forth herein; and

WHEREAS, through a solicitation for Park, Playground, And Recreation Equipment the Vendor was awarded the opportunity to complete a Master Price Agreement with the LEAGUE OF OREGON CITIES as a result of its response to Request for Proposal No. 2510 for Park, Playground, And Recreation Equipment; and

WHEREAS, the LEAGUE OF OREGON CITIES asserts that the solicitation and Request for Proposal meet Oregon public contracting requirements (ORS 279, 279A, 279B and 279C et. seq.); and

WHEREAS, Purchaser and Vendor desire to extend the terms of this Master Price Agreement to benefit other qualified government members of National Purchasing Partners, LLC dba Public Safety GPO, dba First Responder GPO, dba Law Enforcement GPO and dba NPPGov;

NOW, THEREFORE, Vendor and Purchaser, intending to be legally bound, hereby agree as follows:

**ARTICLE 1 – CERTAIN DEFINITIONS**

1.1 "Agreement" shall mean this Master Price Agreement, including the main body of this Agreement and Attachments A-F attached hereto and by this reference incorporated herein, including Purchaser's Request for Proposal No. 2510 (herein "RFP") and Vendor's Proposal submitted in response to the RFP (herein "Vendor's Proposal") as referenced and incorporated herein as though fully set forth (sometimes referred to collectively as the "Contract Documents").

1.2 "Applicable Law(s)" shall mean all applicable federal, state, tribal, and local laws, statutes, ordinances, codes, rules, regulations, standards, orders and other governmental requirements of any kind.

1.3 "Employee Taxes" shall mean all taxes, assessments, charges and other amounts whatsoever payable in respect of, and measured by the wages of, the Vendor's employees (or subcontractors), as required by the Federal Social Security Act and all amendments thereto and/or any other applicable federal, state, tribal or local law.

1.4 "Purchaser's Destination" shall mean such delivery location(s) or destination(s) as Purchaser may prescribe from time to time.

1.5 "Products and Services" shall mean the products and/or services to be sold by Vendor hereunder as identified and described on Attachment A hereto and incorporated herein, as may be updated from time to time by Vendor to reflect products and/or services offered by Vendor generally to its customers.

1.6 "Purchase Order" shall mean any authorized written order for Products and Services sent by Purchaser to Vendor via mail, courier, overnight delivery service, email, fax and/or other mode of transmission as Purchaser and Vendor may from time to time agree.

1.7 "Unemployment Insurance" shall mean the contribution required of Vendor, as an employer, in respect of, and measured by, the wages of its employees (or subcontractors) as required by any applicable federal, state or local unemployment insurance law or regulation.

1.8 "National Purchasing Partners" or "(NPP)" is a subsidiary of two nonprofit health care systems. The Government Division of NPP, hereinafter referred to as "NPPGov", provides group purchasing marketing and administrative support for governmental entities within the membership. NPPGov's membership includes participating public entities across North America.

1.9 "Lead Contracting Agency" shall mean the LEAGUE OF OREGON CITIES, which is the governmental entity that issued the Request for Proposal and awarded this resulting Master Price Agreement.

1.10 "Participating Agencies" shall mean members of National Purchasing Partners for which Vendor has agreed to extend the terms of this Master Price Agreement pursuant to Article 2.6 and Attachment C herein. For purposes of cooperative procurement, "Participating Agency" shall be considered "Purchaser" under the terms of this Agreement.

1.11 "Party" and "Parties" shall mean the Purchaser and Vendor individually and collectively as applicable.

## **ARTICLE 2 – AGREEMENT TO SELL**

2.1 Vendor hereby agrees to sell to Purchaser such Products and Services as Purchaser may order from time to time by Purchase Order, all in accordance with and subject to the terms, covenants and conditions of this Agreement. Purchaser agrees to purchase those Products and Services ordered by Purchaser by Purchase Order in accordance with and subject to the terms, covenants and conditions of this Agreement.

2.2 Vendor may add additional products and services to the contract provided that any additions reasonably fall within the intent of the original RFP specifications. Pricing on additions shall be equivalent to the percentage discount for other similar products. Vendor may provide a web-link with current product listings, which may be updated periodically, as allowed by the terms of the resulting Master Price Agreement. Vendor may replace or add product lines to an existing contract if the line is replacing or supplementing products on contract, is equal or superior to the original products offered, is discounted in a similar or to a greater degree, and if the products meet the requirements of the solicitation. No products may be added to avoid competitive procurement requirements. LOC may reject any additions without cause.

2.3 All Purchase Orders issued by Purchaser to Vendor for Products during the term (as hereinafter defined) of this Agreement are subject to the provisions of this Agreement as though fully set forth in such Purchase Order. The Vendor retains authority to negotiate above and beyond the terms of this Agreement to meet the Purchaser or Vendor contract requirements.

2.4 Notwithstanding any other provision of this Agreement to the contrary, the Lead Contracting Agency shall have no obligation to order or purchase any Products and Services hereunder and the placement of any Purchase Order shall be in the sole discretion of the Participating Agencies. This Agreement is not exclusive. Vendor expressly acknowledges and agrees that Purchaser may purchase at its

sole discretion, Products and Services that are identical or similar to the Products and Services described in this Agreement from any third party.

2.5 In case of any conflict or inconsistency between any of the Contract Documents, the documents shall prevail and apply in the following order of priority:

- (i) This Agreement;
- (ii) The RFP;
- (iii) Vendor's Proposal;

## 2.6 Extension of contract terms to Participating Agencies:

2.6.1 Vendor agrees to extend the same terms, covenants and conditions available to Purchaser under this Agreement to Participating Agencies, that have executed an Intergovernmental Cooperative Purchasing Agreement ("IGA") as may be required by each Participating Agency's local laws and regulations, in accordance with Attachment C. Each Participating Agency will be exclusively responsible for and deal directly with Vendor on matters relating to ordering, delivery, inspection, acceptance, invoicing, and payment for Products and Services in accordance with the terms and conditions of this Agreement as if it were "Purchaser" hereunder. Any disputes between a Participating Agency and Vendor will be resolved directly between them under and in accordance with the laws of the State in which the Participating Agency exists. Pursuant to the IGA, the Lead Contracting Agency shall not incur any liability as a result of the access and utilization of this Agreement by other Participating Agencies.

2.6.2 *This Solicitation meets the public contracting requirements of the Lead Contracting Agency and may not be appropriate under or meet Participating Agencies' procurement laws. Participating Agencies are urged to seek independent review by their legal counsel to ensure compliance with all local, tribal, and state solicitation requirements.*

2.6.3 Vendor acknowledges execution of the Vendor Administration Fee Agreement, Contract Number VA25610, with NPPGov, pursuant to the terms of the RFP.

2.7 Oregon Public Agencies are prohibited from use of Products and Services offered under this Agreement that are already provided by qualified nonprofit agencies for disabled individuals as listed on the Department of Administrative Service's Procurement List ("Procurement List") pursuant to ORS 279.835-.855. See [www.OregonRehabilitation.org/qrf](http://www.OregonRehabilitation.org/qrf) for more information. Vendor shall not sell products and services identified on the Procurement List (e.g., reconditioned toner cartridges) to Purchaser or Participating Agencies within the state of Oregon.

## **ARTICLE 3 – TERM AND TERMINATION**

3.1 The initial contract term shall be for four (4) calendar years from the Effective Date of this Agreement ("Initial Term"). Upon termination of the original four (4) year term, this Agreement shall automatically extend for a one (1) year period; ("Renewal Term"); provided, however, that the Lead Contracting Agency and/or the Vendor may opt to decline extension of the MPA by providing notification in writing at least thirty (30) calendar days prior to the annual automatic extension anniversary of the Initial Term.

3.2 Either Vendor or the Lead Contracting Agency may terminate this Agreement by written notice to the other party if the other Party breaches any of its obligations hereunder and fails to remedy the breach within thirty (30) days after receiving written notice of such breach from the non-breaching party.

## **ARTICLE 4 – PRICING, INVOICES, PAYMENT AND DELIVERY**

4.1 Purchaser shall pay Vendor for all Products and Services ordered and delivered in compliance with the terms and conditions of this Agreement at the pricing specified for each such Product and Service on Attachment A, including shipping. Unless Attachment A expressly provides otherwise, the pricing schedule set forth on Attachment A hereto shall remain fixed for the Initial Term of this Agreement; provided that manufacturer pricing is not guaranteed and may be adjusted based on the next manufacturer price increase. Pricing contained in Attachment A shall be extended to all NPPGov, Public Safety GPO, First Responder GPO and Law Enforcement GPO members upon execution of the IGA.

4.2 Vendor shall submit original invoices to Purchaser in form and substance and format reasonably acceptable to Purchaser. All invoices must reference the Purchaser's Purchase Order number, contain an itemization of amounts for Products and Services purchased during the applicable invoice period and any other information reasonably requested by Purchaser, and must otherwise comply with the provisions of this Agreement. Invoices shall be addressed as directed by Purchaser.

4.3 Unless otherwise specified, Purchaser is responsible for any and all applicable sales taxes. Attachment A or Vendor's Proposal (Attachment D) shall specify any and all other taxes and duties of any kind which Purchaser is required to pay with respect to the sale of Products and Services covered by this Agreement and all charges for packing, packaging and loading.

4.4 Except as specifically set forth on Attachments A and F, Purchaser shall not be responsible for any additional costs or expenses of any nature incurred by Vendor in connection with the Products and Services, including without limitation travel expenses, clerical or administrative personnel, long distance telephone charges, etc. ("Incidental Expenses").

4.5 Price reductions or discount increases may be offered at any time during the contract term and shall become effective upon notice of acceptance from Purchaser.

4.6 Notwithstanding any other agreement of the Parties as to the payment of shipping/delivery costs, and subject to Attachments A, D, and F herein, Vendor shall offer delivery and/or shipping costs prepaid FOB Destination. If there are handling fees, these also shall be included in the pricing.

4.7 Unless otherwise directed by Purchaser for expedited orders, Vendor shall utilize such common carrier for the delivery of Products and Services as Vendor may select; provided, however, that for expedited orders Vendor shall obtain delivery services hereunder at rates and terms not less favorable than those paid by Vendor for its own account or for the account of any other similarly situated customer of Vendor.

4.8 Vendor shall have the risk of loss of or damage to any Products until delivery to Purchaser. Purchaser shall have the risk of loss of or damage to the Products after delivery to Purchaser. Title to Products shall not transfer until the Products have been delivered to and accepted by Purchaser at Purchaser's Destination.

## **ARTICLE 5 – INSURANCE**

5.1 During the term of this Agreement, Vendor shall maintain at its own cost and expense (and shall cause any subcontractor to maintain) insurance policies providing insurance of the kind and in the amounts generally carried by reasonably prudent manufacturers in the industry, with one or more reputable insurance companies licensed to do business in Oregon and any other state or jurisdiction where Products and Services are sold hereunder. Such certificates of insurance shall be made available to the Lead Contracting Agency upon 48 hours' notice. BY SIGNING THE AGREEMENT PAGE THE VENDOR AGREES TO THIS



**REQUIREMENT AND FAILURE TO MEET THIS REQUIREMENT WILL RESULT IN CANCELLATION OF THIS MASTER PRICE AGREEMENT.**

5.2 All insurance required herein shall be maintained in full force and effect until all work or service required to be performed under the terms of this Agreement is satisfactorily completed and formally accepted. Any failure to comply with the claim reporting provisions of the insurance policies or any breach of an insurance policy warranty shall not affect coverage afforded under the insurance policies to protect the Lead Contracting Agency. The insurance policies may provide coverage that contains deductibles or self-insured retentions. Such deductible and/or self-insured retentions shall not be applicable with respect to the coverage provided to the Lead Contracting Agency under such policies. Vendor shall be solely responsible for the deductible and/or self-insured retention and the Lead Contracting Agency, at its option, may require Vendor to secure payment of such deductibles or self-insured retentions by a surety bond or an irrevocable and unconditional letter of credit.

5.3 Vendor shall carry Workers' Compensation insurance to cover obligations imposed by federal and state statutes having jurisdiction over Vendor's employees engaged in the performance of the work or services, as well as Employer's Liability insurance. Vendor waives all rights against the Lead Contracting Agency and its agents, officers, directors and employees for recovery of damages to the extent these damages are covered by the Workers' Compensation and Employer's Liability or commercial umbrella liability insurance obtained by Vendor pursuant to this Agreement.

5.4 Insurance required herein shall not be permitted to expire, be canceled, or materially changed without thirty days (30 days) prior written notice to the Lead Contracting Agency.

**ARTICLE 6 – INDEMNIFICATION AND HOLD HARMLESS**

6.1 Vendor agrees that it shall indemnify, defend and hold harmless Lead Contracting Agency, its respective officials, directors, employees, members and agents (collectively, the "Indemnitees"), from and against any and all damages, claims, losses, expenses, costs, obligations and liabilities (including, without limitation, reasonable attorney's fees), suffered directly or indirectly by any of the Indemnitees to the extent of, or arising out of, (i) any breach of any covenant, representation or warranty made by Vendor in this Agreement, (ii) any failure by Vendor to perform or fulfill any of its obligations, covenants or agreements set forth in this Agreement, (iii) the negligence or intentional misconduct of Vendor, any subcontractor of Vendor, or any of their respective employees or agents, (iv) any failure of Vendor, its subcontractors, or their respective employees to comply with any Applicable Law, (v) any litigation, proceeding or claim by any third party relating in any way to the obligations of Vendor under this Agreement or Vendor's performance under this Agreement, (vi) any Employee Taxes or Unemployment Insurance, or (vii) any claim alleging that the Products and Services or any part thereof infringe any third party's U.S. patent, copyright, trademark, trade secret or other intellectual property interest. Such obligation to indemnify shall not apply where the damage, claim, loss, expense, cost, obligation or liability is due to the breach of this Agreement by, or negligence or willful misconduct of, Lead Contracting Agency or its officials, directors, employees, agents or contractors. The amount and type of insurance coverage requirements set forth herein will in no way be construed as limiting the scope of the indemnity in this paragraph. The indemnity obligations of Vendor under this Article shall survive the expiration or termination of this Agreement for two years.

6.2 LIMITATION OF LIABILITY: IN NO EVENT SHALL EITHER PARTY BE LIABLE FOR ANY SPECIAL, INDIRECT, INCIDENTAL, CONSEQUENTIAL OR EXEMPLARY DAMAGES IN CONNECTION WITH OR ARISING OUT OF THIS AGREEMENT, INCLUDING, BUT NOT LIMITED TO, DAMAGES FOR INJURIES TO PERSONS OR TO PROPERTY OR LOSS OF PROFITS OR LOSS OF FUTURE BUSINESS OR REPUTATION, WHETHER BASED ON TORT OR BREACH OF CONTRACT OR OTHER BASIS, EVEN IF IT HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

6.3 The same terms, conditions and pricing of this Agreement may be extended to government members of National Purchasing Partners, LLC. In the event the terms of this Agreement are extended to other government members, each government member (procuring party) shall be solely responsible for the ordering of Products and Services under this Agreement. A non-procuring party shall not be liable in any fashion for any violation by a procuring party, and the procuring party shall hold non-procuring parties or unrelated purchasing parties harmless from any liability that may arise from action or inaction of the procuring party.

#### **ARTICLE 7 – WARRANTIES**

Purchaser shall refer to Vendor's Proposal for all Vendor and manufacturer express warranties, as well as those warranties provided under Attachment B herein.

#### **ARTICLE 8 - INSPECTION AND REJECTION**

8.1 Purchaser shall have the right to inspect and test Products at any time prior to shipment, and within a reasonable time after delivery to the Purchaser's Destination. Products not inspected within a reasonable time after delivery shall be deemed accepted by Purchaser. The payment for Products shall in no way impair the right of Purchaser to reject nonconforming Products, or to avail itself of any other remedies to which it may be entitled.

8.2 If any of the Products are found at any time to be defective in material or workmanship, damaged, or otherwise not in conformity with the requirements of this Agreement or any applicable Purchase Order, as its exclusive remedy, Purchaser may at its option and at Vendor's sole cost and expense, elect either to (i) return any damaged, non-conforming or defective Products to Vendor for correction or replacement, or (ii) require Vendor to inspect the Products and remove or replace damaged, non-conforming or defective Products with conforming Products. If Purchaser elects option (ii) in the preceding sentence and Vendor fails promptly to make the necessary inspection, removal and replacement, Purchaser, at its option, may inspect the Products and Vendor shall bear the cost thereof. Payment by Purchaser of any invoice shall not constitute acceptance of the Products covered by such invoice, and acceptance by Purchaser shall not relieve Vendor of its warranties or other obligations under this Agreement.

8.3 The provisions of this Article shall survive the expiration or termination of this Agreement.

#### **ARTICLE 9 – SUBSTITUTIONS**

Except as otherwise permitted hereunder, Vendor may not make any substitutions of Products, or any portion thereof, of any kind without the prior written consent of Purchaser.

#### **ARTICLE 10 - COMPLIANCE WITH LAWS**

10.1 Vendor agrees to comply with all Applicable Laws and at Vendor's expense, secure and maintain in full force during the term of this Agreement, all licenses, permits, approvals, authorizations, registrations and certificates, if any, required by Applicable Laws in connection with the performance of its obligations hereunder. At Purchaser's request, Vendor shall provide to Purchaser copies of any or all such licenses, permits, approvals, authorizations, registrations and certificates.

10.2 Purchaser has taken all required governmental action to authorize its execution of this Agreement and there is no governmental or legal impediment against Purchaser's execution of this Agreement or performance of its obligations hereunder.

## **ARTICLE 11 – PUBLICITY / CONFIDENTIALITY**

11.1 No news releases, public announcements, advertising materials, or confirmation of same, concerning any part of this Agreement or any Purchase Order issued hereunder shall be issued or made without the prior written approval of the Parties. Neither Party shall in any advertising, sales materials or in any other way use any of the names or logos of the other Party without the prior written approval of the other Party.

11.2 Any knowledge or information which Vendor or any of its affiliates shall have disclosed or may hereafter disclose to Purchaser, and which in any way relates to the Products and Services covered by this Agreement shall not, unless otherwise designated by Vendor, be deemed to be confidential or proprietary information, and shall be acquired by Purchaser, free from any restrictions, as part of the consideration for this Agreement.

## **ARTICLE 12 - RIGHT TO AUDIT**

Subject to Vendor's reasonable security and confidentiality procedures, Purchaser, or any third party retained by Purchaser, may at any time upon prior reasonable notice to Vendor, during normal business hours, audit the books, records and accounts of Vendor to the extent that such books, records and accounts pertain to sale of any Products and Services hereunder or otherwise relate to the performance of this Agreement by Vendor. Vendor shall maintain all such books, records and accounts for a period of at least three (3) years after the date of expiration or termination of this Agreement. The Purchaser's right to audit under this Article 12 and Purchaser's rights hereunder shall survive the expiration or termination of this Agreement for a period of three (3) years after the date of such expiration or termination.

## **ARTICLE 13 - REMEDIES**

Except as otherwise provided herein, any right or remedy of Vendor or Purchaser set forth in this Agreement shall not be exclusive, and, in addition thereto, Vendor and Purchaser shall have all rights and remedies under Applicable Law, including without limitation, equitable relief. The provisions of this Article shall survive the expiration or termination of this Agreement.

## **ARTICLE 14 - RELATIONSHIP OF PARTIES**

Vendor is an independent contractor and is not an agent, servant, employee, legal representative, partner or joint venture of Purchaser. Nothing herein shall be deemed or construed as creating a joint venture or partnership between Vendor and Purchaser. Neither Party has the power or authority to bind or commit the other.

## **ARTICLE 15 - NOTICES**

All notices required or permitted to be given or made in this Agreement shall be in writing. Such notice(s) shall be deemed to be duly given or made if delivered by hand, by certified or registered mail or by nationally recognized overnight courier to the address specified below:

If to Lead Contracting Agency:

LEAGUE OF OREGON CITIES  
1201 Court St. NE  
Suite 200

Salem OR 97301  
ATTN: Kevin Toon  
Email: rfp@ORCities.org

If to Vendor:

Ross Recreation Equipment Company, Inc.  
100 Brush Creek Rd.  
Ste. 206  
Santa Rosa, CA 95404  
ATTN: Heather Hailey  
Email: heatherh@rossrec.com

Either Party may change its notice address by giving the other Party written notice of such change in the manner specified above.

#### **ARTICLE 16 - FORCE MAJEURE**

Except for Purchaser's obligation to pay for Products and Services delivered, delay in performance or non-performance of any obligation contained herein shall be excused to the extent such failure or non-performance is caused by force majeure. For purposes of this Agreement, "force majeure" shall mean any cause or agency preventing performance of an obligation which is beyond the reasonable control of either Party hereto, including without limitation, fire, flood, sabotage, shipwreck, embargo, strike, explosion, labor trouble, accident, riot, acts of governmental authority (including, without limitation, acts based on laws or regulations now in existence as well as those enacted in the future), acts of nature, and delays or failure in obtaining raw materials, supplies or transportation. A Party affected by force majeure shall promptly provide notice to the other, explaining the nature and expected duration thereof, and shall act diligently to remedy the interruption or delay if it is reasonably capable of being remedied. In the event of a force majeure situation, deliveries or acceptance of deliveries that have been suspended shall not be required to be made upon the resumption of performance.

#### **ARTICLE 17 - WAIVER**

No delay or failure by either Party to exercise any right, remedy or power herein shall impair such Party's right to exercise such right, remedy or power or be construed to be a waiver of any default or an acquiescence therein; and any single or partial exercise of any such right, remedy or power shall not preclude any other or further exercise thereof or the exercise of any other right, remedy or power. No waiver hereunder shall be valid unless set forth in writing executed by the waiving Party and then only to the extent expressly set forth in such writing.

#### **ARTICLE 18 - PARTIES BOUND; ASSIGNMENT**

This Agreement shall inure to the benefit of and shall be binding upon the respective successors and assigns of the Parties hereto, but it may not be assigned in whole or in part by Vendor without prior written notice to Purchaser which shall not be unreasonably withheld or delayed.

#### **ARTICLE 19 - SEVERABILITY**

To the extent possible, each provision of this Agreement shall be interpreted in such a manner as to be effective and valid under Applicable Law. If any provision of this Agreement is declared invalid or unenforceable, by judicial determination or otherwise, such provision shall not invalidate or render

unenforceable the entire Agreement, but rather the entire Agreement shall be construed as if not containing the particular invalid or unenforceable provision or provisions and the rights and obligations of the Parties shall be construed and enforced accordingly.

#### **ARTICLE 20 - INCORPORATION; ENTIRE AGREEMENT**

20.1 All the provisions of the Attachments hereto are hereby incorporated herein and made a part of this Agreement. In the event of any apparent conflict between any provision set forth in the main body of this Agreement and any provision set forth in the Attachments, including the RFP and/or Vendor's Proposal, the provisions shall be interpreted, to the extent possible, as if they do not conflict. If such an interpretation is not possible, the provisions set forth in the main body of this Agreement shall control.

20.2 This Agreement (including Attachments and Contract Documents hereto) constitutes the entire Agreement of the Parties relating to the subject matter hereof and supersedes any and all prior written and oral agreements or understandings relating to such subject matter.

#### **ARTICLE 21 - HEADINGS**

Headings used in this Agreement are for convenience of reference only and shall in no way be used to construe or limit the provisions set forth in this Agreement.

#### **ARTICLE 22 - MODIFICATIONS**

This Agreement may be modified or amended only in writing executed by Vendor and the Lead Contracting Agency. The Lead Contracting Agency and each Participating Agency contracting hereunder acknowledge and agree that any agreement entered into in connection with any Purchase Order hereunder shall constitute a modification of this Agreement as between the Vendor and the Participating Agency. Any modification of this Agreement as between Vendor and any Participating Agency shall not be deemed a modification of this Agreement for the benefit of the Lead Contracting Agency or any other Participating Agency.

#### **ARTICLE 23 - GOVERNING LAW**

This Agreement shall be governed by and interpreted in accordance with the laws of the State of Oregon or in the case of a Participating Agency's use of this Agreement, the laws of the State in which the Participating Agency exists, without regard to its choice of law provisions.

[Signature page to follow]

## ARTICLE 24 - COUNTERPARTS

This Agreement may be executed in counterparts all of which together shall constitute one and the same Agreement.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the day and year last written below.

PURCHASER:

Signed by:  
 Signature: Patricia M. Mulvihill  
0BD4F25C35F54D0...  
 Printed Name: Patricia M. Mulvihill  
 Title: Executive Director  
 LEAGUE OF OREGON CITIES  
 Dated: July 15, 2025 | 7:49 AM PDT

VENDOR:

Signed by:  
 Signature: Nick Philbin  
A8889D1D70A84BB...  
 Printed Name: Nick Philbin  
 Title: General Manager/Owner  
 ROSS RECREATION EQUIPMENT COMPANY, INC.  
 Dated: July 10, 2025 | 1:52 PM PDT

**ATTACHMENT A**to Master Price Agreement by and between **VENDOR** and **PURCHASER**.**PRODUCTS, SERVICES, SPECIFICATIONS AND PRICES**

<b>EQUIPMENT CATEGORIES PROPOSED</b>	<b>MANUFACTURER PROPOSED</b>	<b>DISCOUNT OFFERED (%) OFF PUBLISHED LIST PRICE</b>	<b>VOLUME DISCOUNT OFFERED</b>
1. SCHOOL AGE PLAYGROUNDS	LANDSCAPE STRUCTURES, INC.	3% MATERIAL DISCOUNT OFF LIST PRICE	> \$250,000 MATERIAL ORDER = ADD'L 2%
2. AQUATIC/SPLASHPADS	AQUATIX BY LANDSCAPE STRUCTURES, INC.	3% MATERIAL DISCOUNT OFF LIST PRICE	> \$250,000 MATERIAL ORDER = ADD'L 2%
3. SHELTERS AND SHADE STRUCTURES	CLASSIC RECREATION; CUSTOM CANOPIES; SKYWAYS BY LANDSCAPE STRUCTURES, INC.	5% MATERIAL DISCOUNT OFF CLASSIC RECREATION & CUSTOM CANOPIES; 3% MATERIAL DISCOUNT OFF SKYWAYS	N/A
4. OUTDOOR FITNESS EQUIPMENT	LANDSCAPE STRUCTURES HEALTHBEAT & FITCORE EXTREME; EP BOULDERS	3% MATERIAL DISCOUNT OFF LIST PRICE	> \$100,000 MATERIAL ORDER = ADD'L 2%
5. SAFETY SURFACING	SURFACE AMERICA RUBBERIZED SURFACING; FLEXGROUND SURFACES; FOREVERLAWN ARTIFICIAL GRASS	4% MATERIAL DISCOUNT OFF SURFACE AMERICA; 5% MATERIAL DISCOUNT OFF FLEXGROUND; 8% MATERIAL DISCOUNT OFF FOREVERLAWN LIST PRICE	SINGLE PROJECT OVER 15,000 SQUARE FEET = ADD'L 2%
6. SITE AMENITIES	DUMOR, INC; SUPERIOR AMENITIES	3% MATERIAL DISCOUNT OFF LIST PRICE	30 UNITS OR MORE* = ADD'L 2%
7. INSTALLATION	MANUFACTURER CERTIFIED INSTALLERS & SUB-CONTRACTORS	QUOTED ON A PER PROJECT BASIS; MARK-UP NOT TO EXCEED 25% ABOVE TOTAL COSTS	N/A
8. OTHER	SCOREMASTER SPORTS GOALS; PW ATHLETIC; JAYPRO ATHLETIC; HAWS DRINKING FOUNTAINS	4% MATERIAL DISCOUNT OFF LIST PRICE	15 UNITS OR MORE* = ADD'L 2%

\*All units ordered at one time on one purchase order.

Discount structure is provided for new, complete products, designs and systems and does not apply to individual parts.

Pricing contained in this Attachment A shall be extended to all NPPGov members upon execution of the Intergovernmental Agreement.

**ATTACHMENT B**

**to Master Price Agreement by and between VENDOR and PURCHASER.**

**ADDITIONAL SELLER WARRANTIES**

To the extent possible, Vendor will make available all warranties from third party manufacturers of Products not manufactured by Vendor, as well as any warranties identified in this Agreement and Vendor's Proposal.



**ATTACHMENT C**

**to Master Price Agreement by and between VENDOR and PURCHASER.**

**PARTICIPATING AGENCIES**

The Lead Contracting Agency in cooperation with National Purchasing Partners (NPPGov) entered into this Agreement on behalf of other government agencies that desire to access this Agreement to purchase Products and Services. Vendor must work directly with any Participating Agency concerning the placement of orders, issuance of the purchase orders, contractual disputes, invoicing, and payment. The Lead Contracting Agency shall not be held liable for any costs, damages, etc., incurred by any Participating Agency.

Any subsequent contract entered into between Vendor and any Participating Agency shall be construed to be in accordance with and governed by the laws of the State in which the Participating Agency exists. Each Participating Agency is directed to execute an Intergovernmental Cooperative Purchasing Agreement ("IGA"), as set forth on the NPPGov web site, [www.nppgov.com](http://www.nppgov.com). The IGA allows the Participating Agency to purchase Products and Services from the Vendor in accordance with each Participating Agency's legal requirements as if it were the "Purchaser" hereunder.

**ATTACHMENT D**

**to Master Price Agreement by and between VENDOR and PURCHASER.**

**Vendor's Proposal**

**(The Vendor's Proposal is not attached hereto.)**

**(The Vendor's Proposal is incorporated by reference herein.)**

**ATTACHMENT E**

**to Master Price Agreement by and between VENDOR and PURCHASER.**

**Purchaser's Request for Proposal**

**(The Purchaser's Request for Proposal is not attached hereto.)**

**(The Purchaser's Request for Proposal is incorporated by reference herein.)**

**ATTACHMENT F**

**to Master Price Agreement by and between VENDOR and PURCHASER.**

**ADDITIONAL VENDOR TERMS OF PURCHASE, IF ANY.**

## **Intergovernmental Cooperative Purchasing Agreement**

This Intergovernmental Agreement (Agreement) is by and between the “Lead Contracting Agency” and participating government entities (“Participating Agencies”), that are members of National Purchasing Partners (“NPPGov”), including members of Public Safety GPO, First Responder GPO, Law Enforcement GPO, Education GPO and EMS GPO that agree to the terms and conditions of this Agreement. The Lead Contracting Agency and all Participating Agencies shall be considered as “parties” to this agreement.

WHEREAS, upon completion of a formal competitive solicitation and selection process, the Lead Contracting Agency has entered into Master Price Agreements with one or more Vendors to provide goods and services, often based on national sales volume projections;

WHEREAS, NPPGov provides group purchasing, marketing and administrative support for governmental entities. NPPGov’s marketing and administrative services are free to its membership, which includes participating public entities and nonprofit institutions throughout North America.

WHEREAS, NPPGov has instituted a cooperative purchasing program under which member Participating Agencies may reciprocally utilize competitively solicited Master Price Agreements awarded by the Lead Contracting Agency;

WHEREAS, the Master Price Agreements provide that all qualified government members of NPPGov may purchase goods and services on the same terms, conditions and pricing as the Lead Contracting Agency, subject to applicable local and state laws of the Participating Agencies;

WHEREAS, the parties agree to comply with the requirements of the Intergovernmental Cooperation Act as may be applicable to the local and state laws of the Participating Agencies;

WHEREAS, the parties desire to conserve and leverage resources, and to improve the efficiency and economy of the procurement process while reducing solicitation and procurement costs;

WHEREAS, the parties are authorized and eligible to contract with governmental bodies and Vendors to perform governmental functions and services, including the purchase of goods and services; and

WHEREAS, the parties desire to contract with Vendors under the terms of the Master Price Agreements;

NOW, THEREFORE, the parties agree as follows:

### **ARTICLE 1: LEGAL AUTHORITY**

Each party represents and warrants that it is eligible to participate in this Agreement because it is a local government created and operated to provide one or more governmental functions and possesses adequate legal authority to enter into this Agreement.

### **ARTICLE 2: APPLICABLE LAWS**

The procurement of goods and services subject to this Agreement shall be conducted in accordance with and subject to the relevant statutes, ordinances, rules, and regulations that govern each party's procurement policies. Competitive Solicitations are intended to meet the public contracting requirements of the Lead Contracting Agency and may not be appropriate under, or satisfy Participating Agencies' procurement laws. It is the responsibility of each party to ensure it has met all applicable solicitation and procurement requirements. Participating Agencies are urged to seek independent review by their legal counsel to ensure compliance with all local and state solicitation requirements.

### **ARTICLE 3: USE OF BID, PROPOSAL OR PRICE AGREEMENT**

- a. A "procuring party" is defined as the Lead Contracting Agency or any Participating Agency that desires to purchase from the Master Price Agreements awarded by the Lead Contracting Agency.
- b. Each procuring party shall be solely responsible for their own purchase of goods and services under this Agreement. A non-procuring party shall not be liable in any fashion for any violation of law or contract by a procuring party, and the procuring party shall hold non-procuring parties and all unrelated procuring parties harmless from any liability that may arise from action or inaction of the procuring party.
- c. The procuring party shall not use this agreement as a method for obtaining additional concessions or reduced prices for similar goods and services outside the scope of the Master Price Agreement.
- d. The exercise of any rights or remedies by the procuring party shall be the exclusive obligation of such procuring party.
- e. The cooperative use of bids, proposals or price agreements obtained by a party to this Agreement shall be in accordance with the terms and conditions of the bid, proposal or price agreement, except as modified where otherwise allowed or required by applicable law, and does not relieve the party of its other solicitation requirements under state law or local policies.

#### **ARTICLE 4: PAYMENT OBLIGATIONS**

The procuring party will make timely payments to Vendors for goods and services received in accordance with the terms and conditions of the procurement. Payment for goods and services, inspections and acceptance of goods and services ordered by the procuring party shall be the exclusive obligation of such procuring party. Disputes between procuring party and Vendor shall be resolved in accordance with the law and venue rules of the state of the procuring party.

#### **ARTICLE 5: COMMENCEMENT DATE**

This Agreement shall take effect after execution of the “Lead Contracting Agency Endorsement and Authorization” or “Participating Agency Endorsement and Authorization,” as applicable.

#### **ARTICLE 6: TERMINATION OF AGREEMENT**

This Agreement shall remain in effect until terminated by a party giving 30 days written notice to “Lead Contracting Agency”

#### **ARTICLE 7: ENTIRE AGREEMENT**

This Agreement and any attachments, as provided herein, constitute the complete Agreement between the parties hereto, and supersede any and all oral and written agreements between the parties relating to matters herein.

#### **ARTICLE 8: CHANGES AND AMENDMENTS**

This Agreement may be amended only by a written amendment executed by all parties, except that any alterations, additions, or deletions of this Agreement which are required by changes in Federal and State law or regulations are automatically incorporated into this Agreement without written amendment hereto and shall become effective on the date designated by such law or regulation.

#### **ARTICLE 9: SEVERABILITY**

All parties agree that should any provision of this Agreement be determined to be invalid or unenforceable, such determination shall not affect any other term of this Agreement, which shall continue in full force and effect.

**THIS INSTRUMENT HAS BEEN EXECUTED IN TWO OR MORE ORIGINALS BY EXECUTION AND ATTACHMENT OF “THE LEAD CONTRACTING AGENCY ENDORSEMENT AND AUTHORIZATION” OR “PARTICIPATING AGENCY ENDORSEMENT AND AUTHORIZATION,” AS APPLICABLE. ONCE EXECUTED, IT IS THE RESPONSIBILITY OF EACH PARTY TO FILE THIS AGREEMENT WITH THE PROPER AGENCY IF REQUIRED BY LOCAL OR STATE LAW.**

## **LEAGUE OF OREGON CITIES ENDORSEMENT AND AUTHORIZATION**

The undersigned acknowledges, on behalf of the League of Oregon Cities (“Lead Contracting Agency”) that he/she has read and agrees to the general terms and conditions set forth in the enclosed Intergovernmental Cooperative Purchasing Agreement regulating use of the Master Price Agreements and purchase of goods and services that from time to time are made available by the League of Oregon Cities to Participating Agencies locally, regionally, and nationally through NPPGov. Copies of Master Price Agreements and any amendments thereto made available by the League of Oregon Cities will be provided to Participating Agencies and NPPGov to facilitate use by Participating Agencies.

The undersigned understands that the purchase of goods and services under the provisions of the Intergovernmental Cooperative Purchasing Agreement is at the absolute discretion of the Participating Agencies.

The undersigned affirms that he/she is an agent of the League of Oregon Cities and is duly authorized to sign this League of Oregon Cities Endorsement and Authorization.

DocuSigned by:  
  
A49AFD929F7246E...

Date: June 13, 2023

BY: Patricia M. Mulvihill  
ITS: Executive Director

League of Oregon Cities Contact Information:

Contact Person: Kevin Toon  
Address: 1201 Court St NE #200, Salem, OR 97301  
Telephone No.: 503-588-6550  
Email: [rfp@orcities.org](mailto:rfp@orcities.org)



**PARTICIPATING AGENCY  
ENDORSEMENT AND AUTHORIZATION**

The undersigned acknowledges, on behalf of \_\_\_\_\_ (“Participating Agency”) that he/she has read and agrees to the general terms and conditions set forth in the enclosed Intergovernmental Cooperative Purchasing Agreement regulating use of the Master Price Agreements and purchase of goods and services that from time to time are made available by the Lead Contracting Agency to Participating Agencies locally, regionally, and nationally through NPPGov.

The undersigned further acknowledges that the purchase of goods and services under the provisions of the Intergovernmental Cooperative Purchasing Agreement is at the absolute discretion of the Participating Agency and that neither the Lead Contracting Agency nor NPPGov shall be held liable for any costs or damages incurred by or as a result of the actions of the Vendor or any other Participating Agency. Upon award of contract, the Vendor shall deal directly with the Participating Agency concerning the placement of orders, disputes, invoicing and payment.

The undersigned affirms that he/she is an agent of \_\_\_\_\_ and is duly authorized to sign this Participating Agency Endorsement and Authorization.

\_\_\_\_\_  
BY: \_\_\_\_\_  
ITS: \_\_\_\_\_

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

**Participating Agency Contact Information:**

Contact Person: \_\_\_\_\_  
Address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Telephone No.: \_\_\_\_\_  
Email: \_\_\_\_\_

# NPP CONTRACT

**ALL PURCHASE ORDERS, CONTRACTS, AND CHECKS TO BE MADE OUT TO:**

ROSS RECREATION EQUIPMENT, INC.

100 BRUSH CREEK RD, #206 SANTA ROSA, CA. 95404

707.538.3800 - accounting@rossrec.com

**Quote #:** 00048405

**Quote Name:** Dundee Park Renovation

**Quote Total:** \$692,392.99

**NPP Contract:** PS21070

**Billing Address:**

South San Francisco, City of

P.O. Box 711

South San Francisco, California 94083

**Shipping Address:**

Dundee Drive Park

Mansfield Drive &amp; Dundee Drive

South San Francisco, California

94080

**Quote Date:** 9/2/25

**Expiration Date:** 10/10/25

Opportunity Name	Lead Time	Payment terms
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Dundee Playground	Check with Sales Rep	Net 30 On Materials Shipment
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QTY	PRODUCT	DESCRIPTION	UNIT PRICE	SUBTOTAL
1.00	Bond	Payment & Performance Bonds	\$20,167.00	\$20,167.00
1.00	Rentals	Temporary construction fencing and bathroom facilities for duration of project construction.	\$4,667.00	\$4,667.00
1.00	Site Work	Mobilization	\$14,000.00	\$14,000.00
1.00	Demolition	Demo of existing conditions per L-1.0 including all demo, clearing and grubbing. *If rock, poor soil conditions, a high water table and/or other unforeseen site conditions exist requiring additional materials and labor, additional charges may be incurred.	\$76,867.00	\$76,867.00
1.00	Site Work	Irrigation and preparation of planting areas as shown on L-5.0, L-8.0, L-8.1 **Does not include any plants, planting or sod shown on L-6.0 and L-8.1. - plants and sod to be supplied and installed by the City at the close of the project.	\$35,066.00	\$35,066.00
1.00	Site Work	BMPs and Tree Protection	\$5,200.00	\$5,200.00
1.00	Site Work	Concrete Paving per site schedule L-2.0 and details shown on L-7.0. Concrete to be broom finish.	\$58,533.00	\$58,533.00
1.00	Site Work	Fences, gates and guardrails as shown on L-2.0 and detailed on L-7.0 Detail I; and L-7.1 Details D, E, F, G and H.	\$92,532.00	\$92,532.00
1.00	Site Work	Asphalt and base per detail C, L-7.0 and L-2.0.	\$47,600.00	\$47,600.00
1.00	Site Work	Supply and installation of TrueBounce Basketball Post/Net per L-7.1, Detail B.	\$11,200.00	\$11,200.00
1.00	Site Work	Asphalt Striping per L-2.0	\$11,334.00	\$11,334.00
1.00	Site Work	Grading and drainage per L-3.0. Includes additional excavation needed to recess play area for EWF.	\$46,800.00	\$46,800.00
1.00	Smart Play, 5-12	Landscape Structures Smart Play Design #1193142-03-02 including Volo w/ Shade, Breeze and Swings.	\$145,460.00	\$145,460.00
1.00	NPP Ross Discount	NPP Discount on LSI Materials	(\$4,363.80)	(\$4,363.80)
1.00	Install - Play Equipment	Installation of Landscape Structures design #1193142-03-02 by a manufacturer certified installer. *Installation price quoted for favorable working conditions. If rock, poor soil conditions, a high water table and/or other unforeseen site conditions exist requiring additional materials and labor, additional charges may be incurred.	\$58,184.00	\$58,184.00

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ROSS RECREATION EQUIPMENT, INC.  
100 BRUSH CREEK RD, #206 SANTA ROSA, CA. 95404  
707.538.3800 - accounting@rossrec.com

**Quote #:** 00048405  
**Quote Name:** Dundee Park Renovation  
**Quote Total:** \$692,392.99  
**NPP Contract:** PS21070

		*Installation quoted includes standard manufacturer provided footing details. If different and/or engineered footing details are provided by the contractor/owner/specifier, a change order will be required.		
1.00	Engineered Wood Fiber	183 cubic yards of Fibar for 3100sf at 14" depth - loose fill chips only (does not include drainage system)	\$7,282.00	\$7,282.00
1.00	Install - Wood Fiber	Blown-in installation of 183 cubic yards of engineered wood fiber at prevailing wage.	\$9,753.00	\$9,753.00
1.00	Install - Site Furnishings	Installation of 2 picnic tables as shown on L-7.1, detail C (to be owner furnished - owner responsible to coordinate delivery with contractor).	\$3,066.00	\$3,066.00
1.00	Inspection	CPSI Playground Inspection and Report *Does not include HIC surfacing test - if desired this can be added for additional cost.	\$2,067.00	\$2,067.00
<b>Totals</b>				
<b>County/ City Tax</b>		(San Mateo County/ South San Francisco 9.8750 %)	<b>Materials</b>	\$148,378.20
			<b>Sales Tax</b>	\$14,652.35
			<b>Labor/ Fees</b>	\$497,036.00
			<b>Freight</b>	\$32,326.44
			<b>Total</b>	\$692,392.99

**Notes to Customer**

**ALL PURCHASE ORDERS, CONTRACTS, AND  
CHECKS TO BE MADE OUT TO:**

ROSS RECREATION EQUIPMENT, INC.  
100 BRUSH CREEK RD, #206 SANTA ROSA, CA. 95404  
707.538.3800 - accounting@rossrec.com

**Quote #:** 00048405  
**Quote Name:** Dundee Park Renovation  
**Quote Total:** \$692,392.99  
**NPP Contract:** PS21070

## Dundee Drive Playground

NPP Contract Document

**PREPARED FOR:**

South San Francisco, City of  
P.O. Box 711  
South San Francisco, California 94083  
Credit Terms: Net 30 On Materials Shipment

**GENERAL TERMS:**

Thank you for choosing Ross Recreation Equipment for your project. This document outlines the arrangements for your selected products, labor and services. It will serve as a Contract Agreement ("Contract") between South San Francisco, City of ("Customer") and Ross Recreation Equipment ("Ross Recreation"). All arrangements described in this Contract will be confirmed by returning your signed Contract Agreement no later than **10/10/25**.

This Contract contains the entire agreement between Ross Recreation and the Customer and takes precedence over all previous quotations, estimates and agreements. No changes, amendments or modifications of this Contract shall be valid unless made in writing and signed by both parties.

Ross Recreation coordinates the ordering, production and shipment of materials with the installation of those materials, if we are providing installation of your equipment. Site readiness is a critical component of shipping coordination. If project and/or site readiness changes after materials are already produced, neither the manufacturer nor Ross Recreation, can hold and store such materials. Once materials ship, the materials will be invoiced based on customer's terms and payment for materials is required regardless of installation status.

Credit terms are established by Ross Recreation and for this order are as follows: **Net 30 On Materials Shipment**. Pay when paid by the Owner is not accepted as alternative payment terms.

Sales tax rates will be charged and determined by the Department of Tax and Fee Administration at the time of shipping. Any changes to the County/City tax rate and/or a change to the ship to location may affect the final total due on this contract. The customer is responsible for these sales tax changes. For this order, the sales tax rate is as follows: **(San Mateo County/ South San Francisco 9.8750 %)**.

Labor costs quoted and contracted are good for six months. If the duration and/or timeline of the project and Ross Recreation's start date is extended beyond six months from the time of an executed contract, additional costs may be incurred reflecting current labor costs at the time the labor is performed.

**ALL PURCHASE ORDERS, CONTRACTS, AND  
CHECKS TO BE MADE OUT TO:**

ROSS RECREATION EQUIPMENT, INC.  
100 BRUSH CREEK RD, #206 SANTA ROSA, CA. 95404  
707.538.3800 - accounting@rossrec.com

**Quote #:** 00048405  
**Quote Name:** Dundee Park Renovation  
**Quote Total:** \$692,392.99  
**NPP Contract:** PS21070

## 1. PRE-DELIVERY INSTRUCTIONS:

The contractor must notify Ross Recreation of any requested delivery changes at least two (2) weeks prior to shipment. If the delivery address on the contract is not correct, please contact our office immediately as a re-consignment fee may be added if materials ship and the delivery address is changed. If Ross Recreation is not installing your equipment, you are responsible for offloading and having equipment for offloading the shipment (i.e. - forklift or similar); the truck driver is not obligated to offload your shipment. If Ross Recreation is installing your equipment, the installers will offload the equipment. It is your responsibility to mark all underground utilities before installation (call USA North, 1-800-227-2600).

## 2. DELIVERY INSTRUCTIONS:

Make sure the materials and quantities match the freight bill/Bill of Lading (BOL) you are signing to ensure you are receiving a complete and intact shipment. Make sure all pieces you are receiving are correctly addressed to the project and site, as trucks carry multiple shipments. Any shortages or visible damage must be noted on both copies of the freight bill/Bill of Lading (BOL), and both copies signed. Jointly inspect each delivered piece for signs of damage (i.e. torn packaging, punctures, etc.) with the driver. Notations on the freight bill/Bill of Lading (BOL) should be as detailed as possible to avoid controversy at a later date if a claim is necessary. Taking photos of any damaged packaging is highly recommended for documentation.

## 2. POST-DELIVERY INSTRUCTIONS:

After receipt of order, inventory your shipment. All shortages must be reported within thirty (30) days of receiving your order. When inspecting the equipment, please minimize the amount of tearing of the packaging and do not dispose of packaging. If concealed damage is found, a Carrier inspection must take place within fifteen (15) days from the time of delivery to protect your rights as the Consignee. Store your equipment in a safe and secure location before installation. Returns are subject to a restocking fee. Credit on returns is contingent upon credit issued from the manufacturer. Materials must be packaged well and received at the manufacturer in new and resalable condition.

## 3. DELAY:

Ross Recreation shall be excused for any delay in completion of the contract caused by acts of God, acts of the Owner or Contractor or the Owner's or Contractor's agent, employee or independent contractor, weather, labor trouble, acts of public utilities, public bodies or inspectors, extra work, failure of the Owner or Contractor to make progress payments promptly, or other contingencies unforeseeable by or beyond the reasonable control of Ross Recreation.

## 4. CONTRACT, PLANS AND SPECIFICATIONS:

The contract, plans and specifications are intended to supplement each other. In case of conflict, the specifications shall control the plans, and the provisions of this contract shall control both. The Project will be constructed according to the plans and specifications and any addenda, which have been signed by the parties hereto.

## 5. CHANGE ORDERS:

Should the Contractor, Owner, inspector or other person direct any modification or addition to the work covered by this contract, the contract price shall be adjusted accordingly. Modifications or additions to the work shall be executed only when a contract Change Order has been signed by both the Contractor and/or Owner and Ross Recreation. The change in the contract price caused by such contract Change Order shall be as agreed and approved in writing. If the parties are not in agreement as to the change in Contract Price, then Ross Recreation's actual cost for all labor, materials, subcontracts and costs associated with the change in scope, plus Ross Recreation's fee of twenty-five percent (25%) shall be the change in the final contract price and final amount due. Ross Recreation shall promptly notify the Contractor or Owner of (1) a site differing materially from those indicated in this contract, (b) unknown physical conditions differing materially from those originally encountered and generally recognized as inherent in the work of the character provided for in this contract, or (c) any additional materials needed to complete the agreed upon scope of work. Any expenses incurred due to such conditions shall be paid for by Contractor or Owner as added work as outlined above.

**ALL PURCHASE ORDERS, CONTRACTS, AND  
CHECKS TO BE MADE OUT TO:**

ROSS RECREATION EQUIPMENT, INC.  
100 BRUSH CREEK RD, #206 SANTA ROSA, CA. 95404  
707.538.3800 - accounting@rossrec.com

**Quote #:** 00048405  
**Quote Name:** Dundee Park Renovation  
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**NPP Contract:** PS21070

**6. RIGHT TO STOP WORK:**

Ross Recreation shall have the right to stop work if any payment is not made under this Agreement and set credit terms. Ross Recreation may keep the job idle until all payments due are received. In the alternative, Ross Recreation may, at its option, terminate the contract and recover from the Contractor or Owner payment for all work executed to the date of such termination.

**7. SITE CONDITIONS:**

Installation price quoted for favorable working conditions. If rock, poor soil conditions, a high-water table, unknown obstructions (ie - old footings, concrete, pipes, conduits, etc), and/or other unforeseen site conditions exist requiring additional materials and labor, additional charges may be incurred. Ross Recreation is not responsible for any additional costs or delays caused by unforeseen site conditions, including but not limited to contaminated soil, hidden utilities, archaeological findings, or other site conditions.

**8. EXCLUSIONS/CLARIFICATIONS:**

Permits, permit fees, licenses, inspections, site work, bonds and any materials or labor unless specifically quoted and included in the approved scope of work are excluded.

**Mobilization:** Labor quoted by Ross Recreation is for one move-in and one move-out mobilization. Delays and/or multiple mobilizations due to inadequate site prep, project delays, or other reasons will require an additional mobilization fee by Ross Recreation.

**Site Access:** Customer must ensure that the site may be accessed by large machinery or equipment (i.e. a Bobcat tractor, lift, etc.) for use of moving equipment, footing excavation, and performing required installation work. Site access must be free from curbs, concrete walkways, fencing, plantings, etc. If such conditions exist, Ross Recreation will do our best to gain access with minimal damage but will not be responsible for needed repairs made due to limited access to the site.

**Labor/Installation:** Ross Recreation will provide materials and installation (if applicable and quoted) only as quoted and per each manufacturer's installation specifications, guidelines, and standard footing details. Installation includes the layout of the equipment, post-footing excavation based on the manufacturer's standard footing details and specifications, concrete for footings, and complete assembly/installation of the purchased materials unless stated otherwise.

**Underground Utilities:** Services for underground utilities that are not marked by USA or other location services are not the responsibility of Ross Recreation. If utilities are inadvertently affected and damaged during the installation and completion of Ross Recreation's scope of work, Ross Recreation is not liable for repair nor any associated repair costs incurred by footing and/or excavation work. Scan/X-ray services prior to the start of work to better identify utilities is highly recommended.

The correct and determined location of the equipment/structure(s) is the sole responsibility of the owner or designated architect, engineer or designer of the project. If the relocation of the equipment/structure(s) is required due to unknown site conditions, permits, project approvals or other occurrences, additional costs may be incurred for re-mobilization, new site considerations and conditions and/or other project specifics.

Existing ground cover or surfacing materials interfering with the installation will require a change order to include removal and/or disposal of materials. Landscape repairs are excluded, including irrigation or/and lines interfering with installation.

Third-party playground equipment inspection/certification to be completed independently from this contract and by others.

**Project Security:** Ross Recreation requires that the customer provide a secure site for the materials and installation of equipment and surfacing. Ross Recreation is not responsible for providing site security nor safeguarding the worksite and providing materials against theft, vandalism, or other criminal activities unless specifically included in the scope of work. Any costs are the responsibility of the customer/Owner.

**ALL PURCHASE ORDERS, CONTRACTS, AND  
CHECKS TO BE MADE OUT TO:**

ROSS RECREATION EQUIPMENT, INC.  
100 BRUSH CREEK RD, #206 SANTA ROSA, CA. 95404  
707.538.3800 - accounting@rossrec.com

**Quote #:** 00048405  
**Quote Name:** Dundee Park Renovation  
**Quote Total:** \$692,392.99  
**NPP Contract:** PS21070

For rubberized surfacing installations, Ross Recreation will require the use of temporary cyclone fencing or a security guard for the curing period following the installation of the rubberized surfacing. If fencing or security is declined, Ross Recreation will require a waiver form provided and signed by the customer accepting liability for securing the site during the surfacing cure time of forty-eight hours.

Ross Recreation excludes any work or items not explicitly listed in the ordered quote and scope of work or otherwise included by reference in this contract. Any additional materials and/or work requested shall be subject to a separate agreement or Change Order.

**9. CLEAN-UP:**

If Ross Recreation is installing your equipment, upon completion of work, Ross Recreation will remove debris and surplus material created by its operation on Owner's property and leave the area where the construction occurred in a neat and broom clean condition.

Off haul of spoils from footings or other construction work is excluded from Ross Recreation's scope of work unless otherwise noted. The customer is to provide a location for spoils to be stored/distributed on-site. If spoils are to be removed from the site, Ross Recreation must be notified and included in the agreed scope of work.

**~~10. ARBITRATION:~~**

~~Any controversy arising out of this contract, construction of the project referred to in this contract or regarding the interpretation of this contract, or any subcontract or sub-subcontract is subject to arbitration. Arbitration shall be had in accordance with the applicable rules of the American Arbitration Association which are in effect at the time the Demand for Arbitration is filed.~~ *AMH*

**11. ATTORNEY FEES:**

In the event, the parties hereto become involved in litigation arising out of this contract, or the performance or breach thereof, the court or arbitrator, in such litigation, or in separate suit, shall award reasonable costs, expenses, and attorney's fees to the prevailing party. The court or arbitrator shall not be bound by any court fee schedule and shall award the full amount of costs, expenses, and attorney's fees incurred in good faith.

**12. ASSIGNMENT:**

Neither party may assign this contract without the written consent of the other party.

**13. HAZARDOUS MATERIALS:**

Unless specifically called out in the contract, this contract does not contemplate the removal or disturbance of asbestos, lead, mold or other hazardous material. The Contractor or Owner warrants that no such material is present. In the event that such material is encountered, Ross Recreation shall stop work immediately and will not start work again until such hazardous materials are clear of the site.

**14. NON UNION CONTRACTORS:**

Ross Recreation will provide labor using a subcontractor for all installation and labor quoted. Neither Ross Recreation nor our subcontractors are signatory to any unions; however compliance with prevailing wage rate requirements will occur in compliance with the Department of Industrial Relations (DIR) guidelines. If union enrollment is required by Ross Recreation's subcontractor and they are able, willing and agree to the enrollment for completion of this project, Ross Recreation will require a change order to cover the costs on a per project enrollment and additional wage/benefit requirements.

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**15. CONTRACTORS:**

Contractors are required by law to be licensed, bonded, and regulated by the Contractor's State License Board whose address is:

Contractor's State License Board  
P.O. Box 26000  
Sacramento, CA 95826

**SIGNATURES:** In witness whereof, both of the Parties have executed this Contract, both Parties by its representative, as of the day and year set forth below. The signature assumes acceptance of stated payment terms. 2% per month late fees will be charged on delinquent payments. The signature below accepting this proposal will constitute a purchase order only upon Ross Recreation Equipment, Inc.'s approval. Customer receipt of an order acknowledgment constitutes such approval.

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Customer Signature

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Customer Print Name

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Date