

**PUBLIC BUILDING COMMISSION OF CHICAGO**



**PROFESSIONAL SERVICES AGREEMENT  
CONTRACT NUMBER PS1921A  
WITH  
PLAYCORE WISCONSIN INC., d/b/a GAMETIME DIVISION  
FOR  
PLAYGROUND EQUIPMENT AND SERVICES**

---

**Mayor Rahm Emanuel**

**Chairman**

**Erin Lavin Cabonargi**

**Executive Director**

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

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**EXECUTION PAGE  
PROFESSIONAL SERVICES AGREEMENT  
FOR  
PLAYGROUND EQUIPMENT AND SERVICES  
CONTRACT NUMBER PS1921A**

**THIS AGREEMENT** for Playground Equipment and Services (the "**Agreement**") dated as of August 14, 2012 but actually executed on the date witnessed, is entered into by and between the **Public Building Commission of Chicago**, a municipal corporation of the State of Illinois, having its principal office at Room 200, Richard J. Daley Center, 50 West Washington Street, Chicago, Illinois 60602, (the "**Commission**"), and **PlayCore Wisconsin Inc., d/b/a/ GameTime Division**, 150 PlayCore Drive S.E., Fort Payne, Alabama 35967 (the "**MANUFACTURER**").

**BACKGROUND INFORMATION**

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

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

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

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

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

PROFESSIONAL SERVICES AGREEMENT  
FOR  
PLAYGROUND EQUIPMENT AND SERVICES  
CONTRACT NUMBER PS1921A

PUBLIC BUILDING COMMISSION OF CHICAGO

Ralph Emanuel

Chairman

Date:

ATTEST:

[Signature]

Secretary

Date:

GAME TIME DIVISION (Manufacturer):

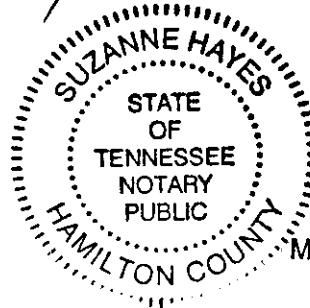
[Signature]  
Spencer Cheak, Senior Vice-President

December 17, 2012  
Date

AFFIX CORPORATE

SEAL, IF ANY, HERE

County of: Hamilton  
State of: Tennessee



Subscribed and sworn to before me by Spencer Cheak and \_\_\_\_\_  
on behalf of the Manufacturer this 17th day of December, 2012

[Signature]  
Notary Public

My Commission expires:  
(SEAL OF NOTARY)

Approved as to form and legality

[Signature]  
Neal & Leroy, LLC

12/27/2012  
Date:



**PROFESSIONAL SERVICES AGREEMENT  
FOR  
PLAYGROUND EQUIPMENT AND SERVICES  
CONTRACT NUMBER PS1921A**

**SCHEDULE A**

**TERMS AND CONDITIONS**

1. **Recitals.** The Recitals set forth on the Execution Page of this Agreement are hereby incorporated herein by reference.

2. **Definitions.** The herein words and phrases have the following meanings for purposes of this Agreement.

a. **Agreement** means this Agreement for Playground Equipment and Services, including all schedules, exhibits or documents attached hereto and/or incorporated by reference herein, and all amendments, supplements or Task Orders made in accordance with the terms hereof.

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

c. **Commission** means the Public Building Commission of Chicago, a municipal corporation organized under the Public Building Commission Act of the State of Illinois, as amended, or its duly authorized officers or employees.

d. **CW System** or **CW** means the on-line collaboration workspace and document management system established and maintained by the Commission for electronic submission and receipt of documents and reports.

e. **Deliverables** means the Playground Equipment documents, in any format (electronic or hard copy) requested by the Commission, including without limitation drawings, technical specifications, designs, plans, reports, forms, recommendations, and analyses, material lists, minutes, instructions, guidelines, checklists, punch lists, warranties and interpretations, that the Manufacturer is required under this Agreement to provide to the Commission.

f. **Design** means layouts, specifications and material lists requested by the Commission or a User Agency for specific Task Orders, provided and/or created by the Manufacturer.

g. **Executive Director** means the person employed by the Commission as its Executive Director or the duly authorized representative thereof.

h. **Key Personnel** means those job titles and persons as identified in such positions in Schedule E of this Agreement.

i. **Manufacturer** means the company or other entity identified in this Agreement, and such successors or assigns, if any, as may be authorized to perform the Services required by the terms and conditions of this Agreement.

j. **Services** means collectively, the duties, responsibilities and tasks that are necessary in order for the Manufacturer to provide the Scope of Services required by the Commission under Schedule B of this Agreement and the assigned Task Order.

k. **Sub-Manufacturer or Subcontractor** means a partnership, firm, corporation or entity other than the Manufacturer that furnishes labor, materials and/or equipment to the Manufacturer related to the performance of the Services and/or improvement of the Project.

l. **Task Order** means a document issued by the Commission to the Manufacturer pursuant to this Agreement that authorizes in writing Services and/or Deliverables to be provided by the Manufacturer, together with any applicable exhibits or schedules, a timetable for any Deliverables and the applicable fees.

m. **User Agency** means a governmental agency or agencies that issues or requested the Commission to issue a Task Order under this Agreement.

## 2. Incorporation of Documents.

a. **MBE/WBE Ordinance.** The Resolution passed by the Board of Commissioners of the Commission on June 12, 2012, concerning utilization of minority business enterprises ("MBE") and women business enterprises ("WBE"), as the same may be amended from time to time, is hereby incorporated in and made a part of this Agreement. By executing this Agreement, Manufacturer acknowledges and agrees that Manufacturer is familiar with the contents of such Resolution and will comply fully with all applicable portions thereof in performing the Services.

b. **Ethics Resolution.** The Seller has read and agrees to comply with all provisions of the Code of Ethics Resolution passed by the Commission on October 3, 2011, which is available on the Commission's website at [http://www.pbcchicago.com/pdf/RES\\_PBC\\_ECR\\_Code\\_of\\_EthicsAmendOct32011\\_20110920.pdf](http://www.pbcchicago.com/pdf/RES_PBC_ECR_Code_of_EthicsAmendOct32011_20110920.pdf), and is incorporated into this Agreement by reference.

c. **PBC Inspector General.** The Company agrees to cooperate fully and expeditiously with the Customer's Inspector General in all investigations or audits. The Company agrees to provide all documents, data, files and other information and access to all witnesses specified by the Customer's Inspector General. This obligation applies to all officers, directors, agents, partners, and employees of the Company. The Company agrees to insert this provision in any subcontracts that it awards:

## 3. Engagement and Standards for Performing Services.

a. **Engagement.** The Commission hereby engages the Manufacturer, for the design, acquisition, inspection and repair of Playground Equipment as requested in specific Task Orders. The Manufacturer hereby accepts such engagement, to provide the Services generally described in this

Agreement, and more specifically described in the Task Orders, as the same may be amended, in writing, from time to time by mutual agreement of the Commission and the Manufacturer.

b. **Performance Standard.** The Manufacturer represents and agrees that the Services performed under this Agreement will proceed with efficiency, promptness and diligence and will be executed in a competent and thorough manner, in accordance with reasonable professional standards in the field consistent with that degree of skill and care ordinarily exercised by practicing consulting professionals performing services of a scope, purpose, and magnitude comparable with the Services to be provided under this Agreement and the assigned Task Order. If in the course of performing the Services, Manufacturer identifies any condition, situation, issue or problem that may impact the performance of the Services or the Project, Manufacturer shall promptly provide notice to the Commission.

c. **Manufacturer's Personnel.** The Manufacturer agrees that it will assign at all times during the term of the Agreement the number of experienced, appropriately trained employees necessary for the Manufacturer to perform the Services and the assigned Task Order in the manner required by this Agreement. Manufacturer must not reassign or replace Key Personnel without the written consent of the Commission. Manufacturer must ensure that all Services and Deliverables that require the exercise of professional skills or judgment are accomplished by professionals qualified and competent in the applicable discipline and appropriately licensed, if required by law. Manufacturer must maintain current copies of any such licenses and provide such copies, upon request, to the Commission. Manufacturer remains responsible for the professional and technical accuracy of all Services and Deliverables furnished, whether by the Manufacturer or others on its behalf. Manufacturer must at all times use its best efforts on behalf of the Commission to assure timely and satisfactory rendering and completion of the Services. Manufacturer must perform all Services in accordance with the terms and conditions of this Agreement, to the reasonable satisfaction of the Commission. All Deliverables must be prepared in a format satisfactory to the Commission and delivered in a timely manner consistent with the requirements of this Agreement and the assigned Task Order.

d. **Independent Contractor.** In performing the Services under this Agreement, Manufacturer shall at all times be an independent contractor, and does not and must not act or represent itself as an agent or employee of the Commission or the User Agency. As an independent contractor, Manufacturer is solely and wholly responsible for determining the means and methods for performing the Services. The Agreement will not be construed as an agreement of partnership, joint venture, or agency.

e. **Limitations on Sub-Manufacturers and Subcontractors.** Manufacturer must not use any business or individual who is disqualified by the Commission or debarred under any other governmental agency's procedures to provide the Services under the Agreement.

f. **Community Involvement.** The Commission and the User Agencies may seek community involvement, or development of apprenticeships and mentoring opportunities during the term of



this Agreement. The Manufacturer will be expected to reasonably participate in these projects as trainers and mentors.

g. **Failure to Meet Performance Standard.** If the Manufacturer fails to comply with its obligations under the standards of the Agreement, the Manufacturer must perform again, at its own expense, all Services required to be re-performed as a direct or indirect result of that failure. Any review, approval, acceptance or payment for any of the Services by the Commission does not relieve Manufacturer of its responsibility to render the Services and Deliverables with the professional skill and care and technical accuracy required by the Agreement. This provision in no way limits the Commission's rights against the Manufacturer, either under the Agreement, at law or in equity.

h. **Changes to the Services.** The Commission may from time to time, request changes to the terms of the Agreement, Task Order or the Services of the Manufacturer to be performed hereunder. Such changes, including any increase or decrease in the amount of compensation and revisions to the duration of the Services or timetable for Deliverables, which are mutually agreed upon by and between the Commission and Manufacturer, shall be incorporated in a written amendment to this Agreement or the Task Order. The Commission shall not be liable for any changes absent such written amendment.

i. **Price Reduction Clause.** If at any time after the date of the offer the Manufacturer makes a general price reduction in the comparable price of any material covered by the Agreement to customers generally, an equivalent price reduction based on similar quantities and/or considerations shall apply to the Agreement for the duration of the term of the Agreement (or until the price is further reduced). Such price reduction will be effective at the same time and in the same manner as the reduction in the price to customers generally. For purpose of this provision, a general price reduction will mean any horizontal reduction in the price of an article or service offered (1) to Manufacturer's customers generally, or (2) in the Manufacturer's price schedule for the class of customers, i.e., wholesalers, jobbers, retailers, etc., which was used as the basis for the offer on this Agreement. An occasional sale at a lower price, or sale of distressed merchandise at a lower price, shall not be considered a general price reduction under this provision. The Manufacturer must invoice the Commission at such reduced prices indicating on the invoice that the reduction is pursuant to the Price Reduction provision of this Agreement. The Manufacturer, in addition, must within ten (10) calendar days of any general price reduction notify the assigned Procurement Officer of the Commission of such reduction by letter. Failure to do so may require termination of the Agreement.

The Manufacturer must furnish, within ten (10) calendar days after the end of the Agreement, a statement certifying either:

- i. That no general price reduction, as defined above, was made after the date of the offer;
- or

- ii. If any such general price reductions were made, that is provided above, they were reported to the Procurement Officer within ten (10) calendar days, and the Commission was billed at the reduced prices.

Where one or more general price reductions were made, the statement furnished by the Manufacturer must include with respect to each price reduction:

- i. The date when notice of any such reduction was issued;
- ii. The effective date of the reduction; and
- iii. The date when the Procurement Officer was notified of any such reduction.

#### 4. Playground Standards

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

(b) Repair or Replacement Parts. Playground equipment replacement and repair parts or equivalent/compatible parts must be available from the Manufacturer throughout the warranty period.

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

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

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

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

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

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

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

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

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

## 5. **Task Orders.**

a. **Task Order Service Requests.** During the term of the Agreement, the Commission may issue one or more requests or solicitations for specific Services to be performed under the Agreement (a "Task Order Service Request" or "TOSR"). Each such Task Order Request will identify the Project, describe the specific Services to be performed, the desired completion date, and any other information or documents to be provided by the Manufacturer in responding to the Task Order Service Request.

b. **Task Order Proposals.** Manufacturer must submit to the Commission a written response to the Task Order Service Request by providing the information and documents requested (the "Task Order Proposal"). The Task Order Proposal will propose a schedule, budget, Deliverables, a list of technical personnel who will perform the Services and any other information or documents listed in the

Task Order Service Request. The Task Order Proposal must be submitted within the time specified in the Task Order Service Request. Any costs associated with the preparation of such Task Order Proposal are not compensable under the Agreement and the Commission is not liable for any such costs.

c. **Review Process.** The Commission will review the Task Order Proposal and may elect to approve it, reject it, or use it as a basis for further negotiations with Manufacturer regarding the Task Order and specific Services to be performed and/or Deliverables to be provided. If the Commission and Manufacturer negotiate changes to the Task Order regarding the specific Services and/or Deliverables to be provided, Manufacturer must submit a revised Task Order Proposal (based upon such negotiations) to the Commission.

d. **Notice of Approval of Task Orders.** All Task Orders are subject to the written approval of the Commission and no Task Order will become binding upon the Commission until it is approved in writing by the Executive Director. Absent approval of a Task Order and issuance of a Notice to Proceed as provided in the following sub-paragraph, the Commission will not be obligated to pay or have any liability to Manufacturer for any Services or Deliverables provided by Manufacturer pursuant to such Task Order.

e. **Notice to Proceed.** After approval of the Manufacturer's engagement to perform Services under a Task Order (as evidenced by the execution of the Notice of Award by the Executive Director, the Commission shall issue a Notice to Proceed authorizing the Services that are within the scope of such Task Order and attaching or incorporating the applicable Task Order. Upon receipt of an executed Notice to Proceed issued by the Project Manager, Manufacturer will promptly commence and perform, in accordance with the Task Order, the Services set forth in the Task Order. Manufacturer shall not commence the applicable Services unless and until the Commission issues the Notice to Proceed.

e. **No Obligation.** Manufacturer acknowledges and agrees that the Commission is under no obligation to issue any Task Orders, and that it is within the Commission's discretion whether to include Manufacturer in any solicitation for Task Order Proposals.

## 6. **Duties and Obligations of Manufacturer.**

a. **Nondiscrimination.** The Manufacturer agrees that in performing this Agreement it shall not discriminate against any worker, employee or applicant for employment, or any member of the public, because of race, creed, gender, color, national origin or disability, or otherwise commit an unfair labor practice. Attention is called to applicable provisions of the Civil Rights Act of 1964, 88-352, July 2, 1964, 78 Stat. 241 *et. Seq.*, the Americans with Disabilities Act of 1990, 42 U.S.C. 12010 *et. Seq.*, the Age Discrimination Act, 43 U.S.C. Sec. 6101-6106 (1981); Illinois Human Rights Act 775 ILCS 5/1-101 *et. Seq.* and the Public Works Employment Discrimination Act 775 ILCS 10/0.0 1 through 10/20, the Chicago Human Rights Ordinance, Chapter 2-160, Section 2-160-010 *et seq.* of the Municipal Code (1990), as amended, and a Resolution passed by the Board of Commissioners of the Public Building Commission of Chicago on June 12, 2012, concerning participation of Minority Business Enterprises and Women Business

Enterprises on contracts awarded by the Commission. The Manufacturer will furnish such reports and information as requested by the Commission or the Illinois Department of Human Relations or any other administrative or governmental entity overseeing the enforcement, administration or compliance with the above referenced laws and regulations.

b. **Employment Procedures, Preferences and Compliances.** Salaries of employees of Manufacturer performing work under this Agreement shall be paid unconditionally and not less often than once a month without deduction or rebate on any account except only such payroll deductions as are mandatory or permitted by the applicable law or regulations. Attention is called to Illinois Compiled Statutes, 1992 relating to Wages and Hours including 820 ILCS 130/0.01 through 130/12 thereof (Prevailing Wage Act), 30 ILCS 570/1 through 570/7 (Employment of Illinois Workers on Public Works Act) and 30 ILCS 560/0.01 through 560/7 (Public Works Preference Act). The Manufacturer shall comply with all applicable "Anti-Kickback" laws and regulations, including the "Anti-Kickback" Act of June 13, 1934 (48 Stat. 948; 62 Stat. 740; 63 Stat. 108; 18 U.S.C. § 874; 40 U.S.C. § 276c) and the Illinois Criminal Code of 1961 720 ILCS 5/33E-1 *et. seq.* If, in the performance of this Agreement, there is any direct or indirect kickback, the Commission shall withhold from the Manufacturer, out of payments due to it, an amount sufficient to pay employees underpaid the difference between the salaries required hereby to be paid and the salaries actually paid such employees for the total number of hours worked. The amounts withheld shall be disbursed by the Commission for and on account of the Manufacturer to the respective employees to whom they are due.

c. **Compliance with Policies Concerning MBE and WBE.\*** Without limiting the generality of the requirements of the policies of the Commission referred to in paragraph 2 above, the Manufacturer agrees to use best efforts to utilize minority business enterprises for not less than twenty five percent (25%) and women business enterprises for not less than five percent (5%) of the value of the Services, in accordance with the Resolution passed by the Board of Commissioners of the Commission on June 12, 2012, concerning participation of minority business enterprises and women business enterprises on contracts awarded by the Commission. Manufacturer agrees to furnish to the Commission, reports and other information concerning compliance with such Resolution as may be requested by the Commission from time to time.

d. **Delays.** The Manufacturer agrees that no charges for damages or claims for damages shall be asserted by it against the Commission for any delays or hindrances from any cause whatsoever during the progress of any portion of the Services. Such delays or hindrances, if any, shall be compensated for by an extension of time to complete the Services, for such reasonable period as may be mutually agreed upon between the parties, it being understood, however, that the agreement of the Commission to allow the Manufacturer to complete the Services or any part of them after the time provided for the completion thereof herein shall in no way operate as a waiver on the part of the Commission of any of its rights hereunder.

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e. **Records.** The Manufacturer shall maintain accurate and complete records of expenditures, costs and time incurred by Manufacturer in connection with the Project and the Services. Such records shall be maintained in accordance with recognized commercial accounting practices. The Commission may examine such records at Manufacturer's offices upon reasonable notice during normal business hours. Manufacturer shall retain all such records for a period of not less than five calendar years after the termination of this Agreement.

f. **CW System.** The Commission may require the Manufacturer to use the Commission's electronic document management system in performing the Services and the assigned Task Order. At the direction of the Commission, the Manufacturer must follow the CW procedures and submit progress reports and other Deliverables through the CW System. The Manufacturer must attend courses and receive training on the CW System provided by or on behalf of the Commission. Any costs incurred by Manufacturer as a result of the attendance of Manufacturer's personnel at CW System courses are not compensable by the Commission.

g. **Time of Essence.** The Manufacturer acknowledges and agrees that time is of the essence in the performance of this Agreement and that timely completion of the Services is vital to the completion of the Project by the Commission. Manufacturer agrees to use its best efforts to expedite performance of the Services and the assigned Task Order and performance of all other obligations of the Manufacturer under this Agreement and any other agreement entered into by the Commission which are managed or administered by the Manufacturer as a result of the Manufacturer's engagement hereunder.

h. **Compliance with Laws.** In performing its engagement under this Agreement, the Manufacturer shall comply with all applicable federal, state and local laws, rules and regulations including but not limited to, those referenced in subparagraphs (a) and (b) above.

i. **Progress Meetings.** Meetings to discuss the progress of the Project and/or to review the performance of the Manufacturer may be scheduled upon the Commission's request, at mutually agreeable times and locations, and the Manufacturer agrees to cause such meetings to be attended by appropriate personnel of the Manufacturer engaged in performing or knowledgeable of the Services.

## 7. **Term.**

a. The term of this Agreement commences on September 1, 2012 and continues for two (2) years with three (3) successive one (1)-year renewal options at the sole discretion of the Commission. The term of this Agreement shall begin upon the final execution of this Agreement, and, subject to the provisions of subparagraph (b) below, shall expire two (2) years after the effective date of this Agreement, or any renewal option period if exercised by the Commission. If extended, sixty (60) days prior to end of the original 2 year period, or any renewal option period, price changes, if any, will be negotiated based on appropriate indices.

b. The Commission shall have the right, at any time, to terminate the term of this Agreement, with or without cause, by written notice given to the Manufacturer at least thirty (30) days prior to the effective date of termination. In addition, the Commission shall have the right, at any time and from time to time, with or without cause, to suspend the performance of the Manufacturer hereunder with respect to all or any part of the Services, by written notice given to the Manufacturer at least five (5) days prior to the effective date of suspension. Termination or suspension of this Agreement shall not relieve the Manufacturer from liability for the performance of any obligation of the Manufacturer under this Agreement performed or to have been performed by the Manufacturer on or before the effective date of termination or suspension. Provided the Manufacturer is not in default under this Agreement at the time of termination or suspension, the Commission agrees to pay to the Manufacturer, in accordance with the terms of this Agreement, all compensation and reimbursements due to the Manufacturer for periods up to the effective date of termination or suspension. In no event shall the Commission be liable to the Manufacturer for any loss, cost or damage which the Manufacturer or any other party may sustain by reason of the Commission terminating or suspending this Agreement as provided herein; provided, however, that the Commission may, in its sole discretion, reimburse the Manufacturer for actual expenses approved by the Commission.

c. If the Project, in whole or substantial part, is stopped for a period longer than thirty (30) days under an order of any court or other governmental authority having jurisdiction of the Project, or as a result of an act of government, such as a declaration of national emergency making materials unavailable, through no act or fault of the Manufacturer, or if the Commission fails to make any payment or perform any other obligation hereunder, the Manufacturer shall have the right to terminate this Agreement, by written notice given to the Commission at least seven (7) days prior to the effective date of termination, and shall have the right to recover from the Commission all compensation and reimbursements due to the Manufacturer for periods up to the effective date of termination.

**8. Compensation of Manufacturer; Submission of Invoices through CW.** The total amount of fees and costs to be paid by the Commission during the term of this Agreement, excluding any renewal option periods, shall not exceed the sum of \$2,000,000 per year. The Commission shall compensate the Manufacturer for the Services in the manner set forth in Schedule D of this Agreement, or as modified by assigned Task Order. The Manufacturer shall submit all invoices, no more frequently than once every thirty (30) days, in electronic format using the CW System. All submitted invoices shall include a cover page as provided by the Commission and the assigned Task Order number. Failure to submit invoices through CW will result in delayed or non-payment to the Manufacturer.

**9 Rights and Obligations of Commission.** In connection with the administration of the Project by the Commission and the performance of this Agreement by the Manufacturer, the Commission shall have the following rights and obligations, in addition to those provided elsewhere in this Agreement:

a. **Information.** The Commission shall provide the Manufacturer all reasonably requested information concerning the Commission's requirements for the Project and the Services.

b. **Review of Documents.** Subject to the provisions of subparagraph 6(d) above, the Commission agrees to make a reasonable effort to examine documents submitted by the Manufacturer and render decisions pertaining thereto with reasonable promptness.

c. **Site Data.** To the extent the Commission determines to be necessary for the Manufacturer to perform the Services and the assigned Task Order, the Commission may furnish to the Manufacturer information concerning the nature of the Project, existing conditions and other data or reports pertaining to the site and the proposed development thereof.

d. **Tests and Reports.** The Commission may also furnish structural, civil, chemical, mechanical, soil mechanical and/or other tests and reports if determined by the Commission in its sole discretion to be necessary in order for the Manufacturer to perform the Services and the assigned Task Order.

e. **Legal, Auditing and other Services.** The Commission shall arrange and pay for such legal, auditing, insurance counseling and other services as the Commission, in its sole discretion, may determine to be required for the Manufacturer to perform the Services. Such payments shall not include legal or auditing expenses arising out of or relating to any errors or omissions, or claimed errors or omissions, of Manufacturer.

f. **Authorized Commission Representative(s).** The Commission may designate, at its sole discretion, one or more representatives authorized to act in its behalf.

g. **Ownership of Documents.** All documents, data, studies and reports prepared by the Manufacturer or any party engaged by the Manufacturer, pertaining to the Services shall be the property of the Commission, including copyrights.

h. **Audits.** The Commission shall have the right to audit the books and records of the Manufacturer on all subjects relating to the Services.

**10. Indemnification of Commission.**

a. **Professional Indemnity.** For claims alleging professional negligence, the Manufacturer must defend, indemnify and hold the Commission and the User Agency and their respective commissioners, board members, officers, officials and employees (hereafter the Indemnified Parties) free and harmless from and against all claims, demands, suits, losses, costs and expenses, including the fees and expenses of attorneys, court costs and expert's fees, that may arise out of the Manufacturer's negligent acts, errors and omissions and misconduct in the Manufacturer's performance under this Agreement or the performance of any Subcontractor retained by the Manufacturer in connection with this Agreement.

b. **General Indemnity.** For all other claims, the Manufacturer must protect, defend, indemnify, hold the Commission and the User Agency and their respective commissioners, board members, officers, officials and employees (hereafter the Indemnified Parties) free and harmless from and



against all claims, demands, suits, losses, liens, judgments, settlements, penalties, professional fees, costs and expenses, including the fees and expenses of attorneys, court costs and expert's fees, (hereafter all of the foregoing referred to as "Damages") that may arise out of or be based on any injury to persons or property that is, or is claimed to be, the result of the Manufacturer's performance under this Agreement or any Subcontractor retained by the Manufacturer in connection with this agreement provided that the damages are caused by Manufacturer or its Subcontractor.

c. **Scope of Indemnification.** The indemnification obligations provided in this Section 10 will be effective to the maximum extent permitted by law unless otherwise restricted or stated herein. This indemnity extends to all legal costs, including, without limitation: attorney fees, costs, liens, judgments, settlements, penalties, professional fees or other expenses incurred by the Indemnified Party(ies), including but not limited to reasonable settlement of such claims. This indemnification is not limited by any amount of insurance required under this Agreement. Further, the indemnity contained in this section will survive the expiration or termination of this Agreement. For claims subject to the general indemnity, the Manufacturer shall be solely responsible for the defense of any and all claims, demands, or suits against the Indemnified Parties, including without limitation, claims by an employee, subcontractor, agents or servants of the Manufacturer even though the claimant may allege that the Indemnified Parties were in charge of the Services or allege negligence on the part of the Indemnified Parties. The Indemnified Party/Parties will have the right, at its sole option, to participate in the defense of any such suit, without relieving the Manufacturer of its obligations hereunder.

To the extent permissible by law, the Manufacturer waives any limits to the amount of its obligations to indemnify or contribute to any sums due pursuant to Manufacturer's obligations. Notwithstanding the foregoing, nothing herein obligates the Manufacturer to indemnify an Indemnified Party for the Indemnified Party's own negligence or willful misconduct. Defense costs shall be allocated on a comparable fault basis.

11. **Insurance to be Maintained by Manufacturer.** The Manufacturer shall purchase and maintain at all times during the performance of Services hereunder, for the benefit of the Commission, the User Agency and the Manufacturer, insurance coverage as set forth in Schedule D.

12. **Ownership of Documents.** All Deliverables, data, findings or information in any form prepared, assembled or encountered by or provided to the Manufacturer under this Agreement are property of the Commission, including, all copyrights inherent in them or their preparation. During performance of its Services, the Manufacturer is responsible for any loss or damage to the Deliverables, data, findings or information while in the Manufacturer's or any Subcontractor's possession. Any such lost or damaged Deliverables, data, findings or information must be restored at the expense of the Manufacturer. If not restorable, the Manufacturer must bear the cost of replacement and of any loss suffered by the Commission on account of the destruction, as provided in Section 11.

13. **Copyright Ownership**

(a) The Manufacturer and the Commission intend that, to the extent permitted by law, the Deliverables (but specifically excluding catalogs, directions and instructions for the Playground Equipment) to be produced by the Manufacturer under this Agreement are conclusively deemed "works made for hire" within the meaning and purview of Section 101 of the United States Copyright Act, 17 U.S.C. '101 *et seq.*, and that the Commission will be the sole copyright owner of the Deliverables and of all aspects, elements and components of them in which copyright can subsist, and of all rights to apply for copyright registration or prosecute any claim of infringement.

(b) To the extent that any Deliverable does not qualify as a "work made for hire," the Manufacturer hereby irrevocably grants, conveys, bargains, sells, assigns, transfers and delivers to the Commission, its successors and assigns, all right, title and interest in and to the copyrights and all U.S. and foreign copyright registrations, copyright applications and copyright renewals for them, and other intangible, intellectual property embodied in or pertaining to the Deliverables prepared for the Commission under this Agreement, and all goodwill relating to them, free and clear of any liens, claims or other encumbrances, to the fullest extent permitted by law. The Manufacturer will, and will cause all of its Subcontractors, employees, agents and other persons within its control to, execute all documents and perform all acts that the Commission may reasonably request in order to assist the Commission in perfecting its rights in and to the copyrights relating to the Deliverables, at the sole expense of the Commission. The Manufacturer warrants to the Commission, its successors and assigns, that on the date of transfer the Manufacturer is the lawful owner of good and marketable title in and to the copyrights for the Deliverables and has the legal rights to fully assign them. The Manufacturer further warrants that it has not assigned and will not assign any copyrights and that it has not granted and will not grant any licenses, exclusive or nonexclusive, to any other party, and that it is not a party to any other agreements or subject to any other restrictions with respect to the Deliverables. The Manufacturer warrants that the Deliverables are complete, entire and comprehensive, and that the Deliverables constitute a work of original authorship.

#### 14. Default.

a. Events of Default. Any one or more of the following occurrences shall constitute an Event of Default under this Agreement:

i. Failure or refusal on the part of the Manufacturer duly to observe or perform any obligation or Agreement on the part of the Manufacturer contained in this Agreement, which failure or refusal continues for a period of ten (10) days (or such longer period as the Commission, in its sole discretion, may determine if such failure is not capable of being cured within such ten (10) day period) after the date on which written notice thereof shall have been given to the Manufacturer by the Commission;

ii. Failure of Manufacturer to perform the Services to the standard of performance set forth in this Agreement;

iii. Any representation or warranty of the Manufacturer set forth herein or otherwise delivered pursuant to this Agreement shall have been false in any material respect when so made or furnished;

iv. The Manufacturer becomes insolvent or ceases doing business as a going concern, or makes an assignment for the benefit of creditors, or generally fails to pay, or admits in writing its inability to pay, its debts as they become due, or files a voluntary petition in bankruptcy, or is adjudicated a bankrupt or an insolvent, or files a petition seeking for itself any reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar arrangement under any present or future statute, law or regulation relating to bankruptcy or insolvency, or files an answer admitting the material allegations of a petition filed against it in any such proceeding, or applies for, consents to or acquiesces in the appointment of a trustee, receiver, liquidator or other custodian of it or of all or any substantial part of its assets or properties, or if it or its principals shall take any action in furtherance of any of the foregoing; or

v. There shall be commenced any proceeding against the Manufacturer seeking reorganization, arrangement, readjustment, liquidation, dissolution or similar relief under any present or future statute, law or regulation relating to bankruptcy which is not vacated, stayed, discharged, bonded or dismissed within sixty (60) days thereof, or there shall be appointed, without the Manufacturer's consent or acquiescence, any trustee, receiver, liquidator or other custodian of Custodian or of all or any substantial part of the Manufacturer's assets and properties, and such appointment shall not have been vacated, stayed, discharged, bonded or otherwise dismissed within sixty (60) days thereof.

b. **Remedies.** If an Event of Default shall occur and be continuing, then the Commission may exercise any right, power or remedy permitted to it by law or in equity and shall have, in particular, without limiting the generality of the foregoing, the right to terminate this Agreement upon written notice to the Manufacturer, in which event the Commission shall have no further obligations hereunder or liability to the Manufacturer except as to payment for Services actually received and accepted by the Commission through the effective date of termination. No course of dealing on the part of the Commission or delay or failure on the part of the Commission to exercise any right shall operate as a waiver of such right or otherwise prejudice the Commission's rights, powers or remedies.

c. **Remedies not Exclusive.** No right or remedy herein conferred upon or reserved to the Commission is exclusive of any right or remedy herein or by law or equity provided or permitted, but each shall be cumulative of every other right or remedy given hereunder or now or hereafter existing at law or in equity or by statute or otherwise, and may be enforced concurrently therewith or from time to time.

15. **Confidentiality.** All of the reports, information, or data prepared or assembled by the Manufacturer under this Agreement are confidential, and the Manufacturer agrees that such reports, information or data shall not be made available to any party without the prior written approval of the

Commission. In addition, the Manufacturer shall not, without the prior written consent of the Commission, prepare or distribute any news releases, articles, brochures, advertisements or other materials concerning this Agreement, the Project, the Services or any assigned Task Order. Manufacturer acknowledges that it is entrusted with or has access to valuable and confidential information and records of the Commission and User Agency. Manufacturer must at all times act in the best interests of the Commission and User Agency consistent with the professional obligations assumed by Manufacturer in entering into this Agreement. Manufacturer promises to cooperate with the officials, employees and agents of the Commission and User Agency in furthering the Commission's and User Agency's interests.

16. **Assignment.** The Manufacturer acknowledges that the Commission is induced to enter into this Agreement by the personal qualifications of the principals, staff and employees of the Manufacturer and agrees, therefore, that neither this Agreement nor any right or obligation hereunder may be assigned by the Manufacturer, in whole or in part, without the prior written approval of the Commission. The Commission expressly reserves the right to assign or otherwise transfer all or any part of its interests hereunder without the consent or approval of the Manufacturer.

17. **Personnel.** The Manufacturer further acknowledges that the Manufacturer has represented to the Commission the availability of certain members of the Manufacturer's staff who will be assigned to the Project, and agrees, therefore, that in the event of the unavailability of such members, the Manufacturer shall so notify the Commission in writing, and, upon the approval of the Executive Director, shall assign other qualified members of the Manufacturer's staff, to the Project.

18. **Relationship of Parties.** The relationship of the Manufacturer to the Commission hereunder is that of an independent contractor, and the Manufacturer, except to the extent expressly provided to the contrary in this Agreement, shall have no right or authority to make contracts or commitments for or on behalf of the Commission, to sign or endorse on behalf of the Commission any instruments of any nature or to enter into any obligation binding upon the Commission. This Agreement shall not be construed as an Agreement of partnership, joint venture, or agency.

19. **Miscellaneous.**

a. **Counterparts.** This Agreement may be executed in any number of counterparts, any of which shall be deemed an original.

b. **Entire Agreement.** This Agreement constitutes the entire understanding and Agreement between the parties hereto and supersedes any and all prior or contemporaneous oral or written representations or communications with respect to the subject matter hereof, all of which communications are merged herein. This Agreement shall not be modified, amended or in any way altered except by an instrument in writing signed by both of the parties hereto.

c. **Force Majeure.** Neither of the parties shall be liable to the other for any delay or failure in performance hereunder due to causes which are beyond the control of the party unable to

perform. If a force majeure occurs, the party delayed or unable to perform shall give prompt notice to the other party, and the Commission may, at any time during the continuation of the force majeure event, elect to suspend the performance of the Manufacturer under this Agreement for the duration of the force majeure. The Commission shall not be obligated to pay for Services to the extent and for the duration that performance thereof is delayed or prevented by force majeure, but, provided the Manufacturer is not in default of any obligation of the Manufacturer hereunder, the Commission shall pay to the Manufacturer, according to the terms hereof, all compensation and reimbursements due to the Manufacturer for periods up to the effective date of suspension.

d. **Governing Law.** This Agreement has been negotiated and executed in the State of Illinois and shall be construed under and in accordance with the internal laws of the State of Illinois.

e. **No Waiver.** The waiver by either party of any breach of this Agreement shall not constitute a waiver as to any succeeding breach.

f. **Notices.** All notices required to be given hereunder shall be given in writing and shall be hand delivered or sent by United States certified or registered mail, postage prepaid, addressed to Commission and to the Manufacturer at their respective addresses set forth above. If given as herein provided, such notice shall be deemed to have been given on the date of delivery, if delivered by hand, and on the second business day after mailing, if given by mail. The Commission or the Manufacturer may, from time to time, change the address to which notices hereunder shall be sent by giving notice to the other party in the manner provided in this subparagraph.

g. **Severability.** In the event that any provisions of this Agreement shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

h. **Successors and Assigns.** Except as otherwise provided herein, this Agreement shall be binding upon and inure to the benefit of each of the parties hereto and their respective successors and assigns.

i. **Manufacturer's Authority.** Execution of this Agreement by the Manufacturer is authorized by a resolution of its Board of Directors, if a corporation, or similar governing document if a partnership or a joint venture, and the signatures(s) of each person signing on behalf of the Manufacturer have been made with complete and full authority to commit the Manufacturer to all terms and conditions of this Agreement, including each and every representation, certification and warranty contained or incorporated by reference in it.

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**PROFESSIONAL SERVICES AGREEMENT  
FOR  
PLAYGROUND EQUIPMENT AND SERVICES  
CONTRACT NUMBER PS1921A**

**SCHEDULE D**

**INSURANCE REQUIREMENTS**

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

**D.1. INSURANCE TO BE PROVIDED:**

**D.1.1. Workers' Compensation and Employers Liability**

Workers' Compensation Insurance, as prescribed by applicable law covering all employees who are to provide a service under the Agreement and Employers Liability coverage with limits of not less than \$1,000,000 each accident, illness, or disease.

**D.1.2. Commercial General Liability (Primary and Umbrella)**

Commercial General Liability Insurance or equivalent with limits of not less than \$5,000,000 per occurrence for bodily injury, personal injury, and property damage liability. Coverage must include, but are not limited to the following: All premises and operations, products/completed operations, defense, and contractual liability. The Public Building Commission of Chicago the City of Chicago and the User Agency must be named as Additional Insured on a primary, non-contributory basis for any liability arising directly or indirectly from the Services as described under this Agreement and Task Orders.

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

**D.1.3. Automobile Liability (Primary and Umbrella)**

When any motor vehicles (owned, non-owned and hired) are used in connection with work to be performed, the Manufacturer must provide Automobile Liability Insurance, with limits of not less than \$2,000,000 per occurrence for bodily injury and property damage. The Public Building Commission of Chicago the City of Chicago and the User Agency must be named as Additional Insured on a primary basis for any liability arising directly or indirectly from the Manufacturer's use of motor vehicles in connection with the Services as described under this Agreement and Task Orders.

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

**D.1.4. Professional Liability**

When Manufacturer performs work in connection with the Agreement, Professional Liability Insurance must be

maintained with limits of not less than \$2,000,000 covering acts, errors, or omissions. The policy will include coverage for wrongful acts, including but not limited to errors, acts or omissions, in the rendering or failure to render professional services resulting in a pollution incident. When policies are renewed or replaced, the policy retroactive date must coincide with, or precede the, start of work on the Agreement. Coverage must be maintained for two years after substantial completion. A claims-made policy, which is not renewed or replaced, must have an extended reporting period of two (2) years.

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

#### **D.1.5. Property**

The Manufacturer is responsible for all loss or damage to equipment at full replacement cost up until it is accepted by contractor responsible for the installation. The requirement includes equipment while in transit.

#### **D.1.6. Valuable Papers**

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

### **ADDITIONAL REQUIREMENTS**

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

The PBC reserves the right to obtain copies of insurance policies and records from the Manufacturer and/or its subcontractors at any time upon written request.

The insurance must provide for 30 days prior written notice to be given to the PBC if coverage is substantially changed, canceled, or non-renewed.

Any deductibles or self-insured retentions on referenced insurance coverage must be borne by Manufacturer. All self-insurance, retentions and/or deductibles must conform to these requirements.

The Manufacturer hereby waives and agrees that their insurers waive their rights of subrogation against the Public Building Commission of Chicago, the City of Chicago and the User Agency, their respective Board members,

employees, elected officials, or representatives.

If Manufacturer is a joint venture or limited liability company, the insurance policies must name the joint venture or limited liability company as a Named Insured.

The insurance coverage and limits provided by Manufacturer in no way limit the Manufacturer's liabilities and responsibilities specified within the Agreement or by law.

Any insurance or self-insurance programs maintained by the Public Building Commission of Chicago, the City of Chicago and the User Agency do not contribute with insurance provided by the Manufacturer under the Agreement.

The required insurance to be carried is not limited by any limitations expressed in the indemnification language in this Agreement or any limitation placed on the indemnity in the Agreement given as a matter of law.

The Manufacturer must require all its subcontractors to provide the insurance required in this Agreement, or Manufacturer may provide the coverage for its subcontractors. All subcontractors are subject to the same insurance requirements of Manufacturer unless otherwise specified in this Agreement.

If Manufacturer or its subcontractors desires additional coverage, the party desiring the additional coverage is responsible for the acquisition and cost.

The Public Building Commission's Director of Risk Management maintains the rights to modify, delete, alter or change these requirements. This right shall only apply to new Task Orders and not to work underway by Manufacturer unless such changes are acceptable to Manufacturer.



**PROFESSIONAL SERVICES AGREEMENT  
FOR  
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CONTRACT NUMBER PS1921A**

**SCHEDULE B**

**SCOPE OF SERVICES**

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

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

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

**1) VOLUME**

Task Orders will be issued by the Commission on behalf of the User Agencies for Playground Equipment and Services for approximately 100 new sites, which will be constructed over the two year period. Playgrounds will vary in size, site conditions and equipment selected at the time of construction. The Manufacturer will provide Playground Equipment and Services at the new sites, replacements and new assemblies for existing sites, during the term of this Agreement. Finally, the Commission will issue Task Orders for repair, replacement parts and upgrades to existing playgrounds.

**2) EQUIPMENT**

The proposed playground equipment must be a high-quality, safe and attractive product. Assemblages or combinations of playground equipment from 2 or more manufacturers will not be accepted. The manufacturing processes must meet the current and relevant standards for such processes and the standards and requirements of the Agreement. The playground equipment and services must conform to the standards in the Agreement.

**3) WARRANTY**

- a) The Manufacturer must provide warranty and services support.
- b) The Manufacturer shall provide the warranty periods, provided for items (1) through (4) below, that includes material, labor, collateral expenses, and replacement parts. Warranty repairs and collateral

work will be performed by Manufacturer, the warranty periods provided for items (1i) through (4) below:

- (1) **Ten (10) years:** Limited warranty on all steel deck posts, clamp system and associated fastening hardware against structural failure caused by corrosion or deterioration from exposure to weather or by defective materials, or defective workmanship;
  - (2) **Fifteen (15) years:** Limited warranty on all steel support legs and decks against structural failure caused by corrosion, defective materials or defective workmanship; and
  - (3) **Fifteen (15) years:** Limited warranty on all play system steel components including railings, rungs rigid climbers, and plastic against structural failure caused by defective materials or defective workmanship.
  - (4) **Two (2) years:** Full replacement after purchase of any component part or assembly that fails to perform up to specification for any reason.
- c) Playground equipment replacement and repair parts or equivalent/compatible parts must be available from the Manufacturer throughout the warranty period.

#### 4) SERVICES AND DELIVERABLES

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

- 1) Provide the name and title of the primary contact person for the Commission and User Agencies at the start of each Task Order.
- 2) Provide the following documents in hard copy and on CD (using Autodesk® and AutoCAD® software in authentic DWG™, DXF™, and DWF™ file format for designs, drawings, instructions and other documents as requested by the Commission or User Agency):
  - a) Task Order guidelines
  - b) Planning checklist
  - c) Designs in 2-dimensional plan view
  - d) Color renderings in 3-dimensions
  - e) Technical specification sheets
  - f) Installation instructions
  - g) Bill of materials
  - h) Cost estimate
  - i) Digital photos

- 3) Provide the following materials:
  - a) Specimen color samples
  - b) Maintenance kit
  - c) Inspection certification check list
- 4) Provide a written estimate of the schedule from issuance of Task Order to expected delivery date of materials.
- 5) Attend the planning/design meeting. Provide a summary of the action items assigned to the Provider to either the Commission or the specific User Agency, as appropriate.
- 6) When directed by the Commission, consult with the Mayor's Office of People with Disabilities (MOPD) Architectural Services Unit (ASU) regarding design and advise the Commission and the specific User Agency regarding the ASU recommendations.
- 7) Place the order for Playground Equipment as directed by the Commission or the specific User Agency.
- 8) Inspect the playground equipment and installation during the punch list review site inspection set for each playground by the Commission or the specific User Agency.
- 9) Present certification to the Commission or the specific User Agency, a written certification of compliance and warranty for the playground equipment and installation or a written punch list of items that must be corrected before compliance and certification.
- 10) 1 year after installation, replacement or repair of Playground Equipment under this Agreement, re-inspect the Playground Equipment and present a report to the Commission or the specific User Agency within 7 days of such inspection. The report will include a description of the condition of the Playground Equipment and recommendations for replacement, repair, maintenance and upgrades.

## 5) ADDITIONAL SERVICES

Additional Services are those services which are within the general scope of Services of this Agreement, but beyond the description of services required under **Schedule A - Section 3(a)** of this Agreement, and all services reasonably necessary to complete the Additional Services to the standards of performance required by this Agreement. Any Additional Services require the approval of the Commission in a written amendment under **Schedule A - Section 3(h)** of this Agreement before the Manufacturer is obligated to perform those Additional Services and before the Commission becomes obligated to pay for those Additional Services.

**PROFESSIONAL SERVICES AGREEMENT  
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CONTRACT NUMBER PS1921A**

**SCHEDULE C**

**COMPENSATION OF MANUFACTURER**

**1) GENERAL**

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

**2) CATALOG PRICING**

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

**3) VOLUME DISCOUNT**

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

Volume	Discount Percentage
\$1-\$500,000	20 %
\$500,001-\$1,000,000	21 %
\$1,000,001-\$1,500,000	22 %
\$1,500,001-\$2,000,000	23 %
\$2,000,001-\$2,500,000	24 %
\$2,500,001-\$3,000,000	25 %
\$3,000,001-\$3,500,000	27 %
\$3,500,001-\$4,000,000	29 %

\$4,000,001-\$4,500,000	31 %
\$4,500,001-\$5,000,000	33 %
\$5,000,001-\$5,500,000	35 %
\$5,500,001-\$6,000,000	37 %
\$6,000,001- over	39 %

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

**4) COMPENSATION FOR BASIC SERVICES**

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

**5) COMPENSATION FOR ADDITIONAL SERVICES**

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

**PROFESSIONAL SERVICES AGREEMENT  
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**SCHEDULE E**

**KEY PERSONNEL**

<b>NAME</b>	<b>FIRM</b>	<b>TITLE</b>	<b>E-MAIL ADDRESS</b>
Robert V. Barron	GameTime, Division of Playcore	Senior Vice President of Sales	
Don King	GameTime, Division of Playcore	Director of Sales Administration	
Scott Cunningham	Cunningham Recreation	President	
Bill Patterson	Cunningham Recreation	Sales Associate	
Garry Graham	Cunningham Recreation	Sales Associate	
Courtney Stirewalt	Cunningham Recreation	Office Manager	
Bob Collins	Cunningham Recreation	Landscape Architect	
Xochitl Medina	Chicago Xteriors	Owner Operator	
Sergio Medina	Chicago Xteriors	Supervisor	

## Professional Career Summary



**Robert V. Barron**  
Senior Vice President of Sales  
GameTime, Division of PlayCore  
Employment: 10/02 – Present

Responsible for managing all field sales activities including sales force management, customer service, training and support of CRM implementation

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### Prior Employment History

**Allegiance Healthcare, Division of Cardinal Health** 2000 – 2002  
Director of Sales, Custom Products  
Medical/Surgical Distribution and Manufacturing  
Annual Sales: \$5 billion

Managed all sales activities for \$110 million Custom Products Division that produces sterile procedure trays and custom packs. Responsibilities included; Management of the Custom Products sales force, Clinical Analysis team, coordination of the team selling program with the Medical/Surgical and Custom Sterile sales forces, and Group Purchasing Accounts.

**NIMed, Division of Oak Medical Industries** 1999 – 2000  
Vice President of Sales and Marketing, Equity Partner  
Manufacturer/Assembler of Sterile Minor Procedure Trays and Packs  
Annual Sales: \$20 million

Managed all sales and marketing activities for manufacturer of sterile minor procedure trays. Responsibilities included; Development and management of independent sales force for hospital and urgent care market, direct sales to national medical/surgical distributors and GPO accounts. Executed 5 year plan to sell the company to Allegiance Healthcare in 2 years.

**Little Tikes Commercial Play Systems, Div. of Newell/Rubbermaid** 1986 – 1999  
Vice President of Global Sales  
Manufacturer of Commercial Play and Park Equipment  
Annual Sales: \$90 million

Managed all domestic and international sales activities for commercial manufacturer of play and park equipment. Responsibilities included; Management of direct and independent sales forces operating in 24 countries, customer service, telemarketing, and corporate accounts. Served on Rubbermaid business development and acquisition team.

Education: Southeast Missouri State University; B.S. Business Administration – Marketing and Sales Management

Family and Personal Interest: Married with two children and live in Signal Mountain, TN. I enjoy golf, fly fishing, and hunting.

Community: Mountain Education Committee, Church Youth Counselor, Little League Coach



## DON KING

### DIRECTOR OF SALES ADMINISTRATION

GameTime employee August, 1997 to present  
GameTime consultant September, 1994 – July, 1997

Directs Surfacing, Sales Support, and Sales Administration groups; assists Vice President of Sales in the formation and implementation of the company's sales and customer service policies; provides support for sales training, national account sales, trade shows and meetings. Develops annual product pricing rollup, manages International sales, oversees daily sales discounting activities, and prepares annual department budget. Obtained and administers U.S. Communities Contract (\$13,828,901 sales in 2006), California Multiple Award Schedule (CMAS), and GSA Contract. Administers warranty and field reimbursement policies; prepares special sales proposals (KaBOOM, etc.); disseminates field communications; and participates on the Product Development Team. Obtained and maintains specialty contractor's licenses in six states; Three-term NPSI Certified Playground Safety Inspector. Received President's Excellence Award in 2005.

#### Prior Employment History:

##### **1985 – 1997 WoodForm, Inc., Portland, Oregon**

Company Founder, President and Secretary

Produced exterior lighting fixtures and outdoor adult fitness systems (Parcourse)

Annual sales: \$500,000

Designed and engineered seven principal product lines; created and managed sales and marketing programs; developed national network of manufacturer's representatives and dealers in Japan and The Netherlands; designed and established woodworking manufacturing facility; directed purchases and sub-contracting; prepared all product technical data; developed product costing and pricing; prepared company financial reports. Designed GameTime Parcourse system and StreetScape UF-9000 series site furnishings as outside consultant and vendor.

##### **1972 – 1985 Columbla Cascade Company, Inc., Portland, Oregon**

Company Co-Founder, Officer, Director, Operations Manager and Sales Manager

Produces institutional playground equipment and site furnishings

Annual sales \$12,000,000

Operations Manager: supervised all new product development; developed *Play Platforms* and *PipeLine* signature product lines; designed, developed and managed timber fabrication plant; developed and managed metal fabricating and powder coating facilities; supervised engineering department; responsible for product costing and pricing; negotiated plant labor contracts; coordinated and scheduled all production; scheduled shipping and supervised transportation; maintained raw material inventory.

Sales Manager: managed national network of independent manufacturer's representatives; pioneered and serviced New York City territory; estimated, sold and administered company's major contracts.

Education: University of Kansas 1960-61; Portland State University 1978-82

Community: Founding member Unity of Chattanooga; Board of Trustees Treasurer 1999 - 2005





**CUNNINGHAM RECREATION**

[www.cunninghamrec.com](http://www.cunninghamrec.com)

Box 240981

Charlotte, NC 28224

Office: 704.525.5174

Fax: 704.525.7356

Toll Free: 800.438.2780

## Cunningham Recreation Company Profile

### Company History



George Cunningham founded Cunningham Recreation in Richmond Virginia in 1966. Forty-Six Years and two generations later, we have designed, installed and serviced over 2500 playground projects. With offices located in Charlotte NC and Naperville IL, we are proud to be GameTime's exclusive representative of playground equipment in 14 states making us the largest manufacturer's playground rep in the industry.

### Key Personnel



**Scott Cunningham – President**

Scott, a third generation playground professional, has been designing and installing playground equipment for over eighteen years. He runs the day-to-day operations of the business, manages the sales team, and is heavily involved in the management of contracts and large projects.



**Bill Patterson – Sales Associate**

Bill is a Chicago resident with 3 years of experience in the playground industry. He is a NPSI certified playground safety inspector and handles design, project management, service, and inspections. His territory includes the greater Chicago area and northern Illinois.



**Garry Graham – Sales Associate**

Garry, former owner of Recreation Concepts, has been in the playground industry servicing the state of Illinois for over 35 years. Garry, a resident of Oswego, covers south Chicago and the south suburbs. His role includes design, project management, and service.

Design • Build • PLAY!





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**Courtney Stirewalt – Office Manager** Courtney is a NPSI certified playground safety inspector with over 8 years of experience in the industry. She manages the office personnel, designs playground areas, and manages large projects and contracts.



**Bob Collins – Landscape Architect** Bob is a licensed landscape architect and a NPSI certified playground inspector. Based out of Naperville, he has designed hundreds of play areas in the greater Chicago area. He is also available for inspections of completed projects.

#### Range of Projects

Cunningham Recreation is a full service park and playground company. In addition to playground equipment we offer complimentary lines of site amenities, shelters, shade, surfacing, water play, skate parks, and dog parks. In our 46-year history, we have managed projects from \$5000 to well over \$2,000,000

#### Service Philosophy

Cunningham Recreation takes great pride in our customer service reputation. We have 15 field sales associates, 6 project managers, 1 sales manager, and 3 other administrative personnel. Due to our large staffing, we typically are able to respond on site, when requested, within 24 hours. Also, with the use of modern electronic equipment, we are reachable at any time. When confronted with an equipment discrepancy, GameTime has the capability to ship replacement parts on an emergency basis within 24 hours.

#### Project Approach

First we listen! Our goal is to meet the needs and desires of the community as economically and prudently as possible. We normally begin by meeting with community groups that include adults as well as children. We establish a budget and then design, with community involvement, to that level. Naturally, the physical site will play an important role in the projects final layout. We will begin by providing simple 2D layouts until we come up with equipment approved by your designee. Then we will provide details to include 3D renderings similar to those attached.

Design • Build • PLAY!



Xochitl Medina  
5216 N. Lamon  
Chicago, IL 60630  
Tel: 773/984-2037  
Fax: 773/777-5276  
e-mail: [xmedina\\_1@hotmail.com](mailto:xmedina_1@hotmail.com)

#### QUALIFICATIONS

Proficiency in landscape design and maintenance, and in Windows based software for landscape design and estimating, Manage accounts on a residential and commercial level, Created all of my marketing materials and logos, Managed staff in the office and in the field, Purchased materials necessary to execute jobs, Assembled comprehensive proposals for all clients, Created yearly landscape plans which included snow removal for clients, Executed all payroll and HR policies and procedures.

#### WORK HISTORY

Owner Operator of Chicago Xteriors - 6/2005 - PRESENT  
3610 N. Cicero Avenue  
Chicago, IL 60641  
773/777-9837

MAJOR RESPONSIBILITIES: Coordinating of all projects on a large and small scale; Estimating and design; Acting as liason between clients and sub-contractors; Bookkeeping; Payroll; Marketing; Accounts payable/ receivable.

Office Manager of Medina Lawncare - 9/2003 - 6/2005  
3610 N. Cicero Avenue  
Chicago, IL 60641  
773/617-5538

Immediate Supervisor: Carlos Medina Jr.

MAJOR RESPONSIBILITIES: Sales; Coordinating of maintenance routes; Customer service; Purchasing of raw materials for jobs; Payroll; Accounts payable/receivable.

Local Sales Manager of Radio Unica - 6/2000 - 9/2003  
541 N. Fairbanks Court  
Chicago, IL 60611  
Telephone Number not available

Immediate Supervisor: Carlos San Jose

MAJOR RESPONSIBILITIES: Created new revenue streams for radio station both on a local and national level; Cold called on local retailers in the Hispanic market of Chicago; Collections of aging receivables; Managed a staff of over 10 sales account executive; created commercial copy; Coordinated special events for the Hispanic community.

Account Executive - WOJO (HBC MEDIA) 6/1996 - 6/2000  
500 N. Michigan Avenue  
Chicago, IL 60611

Immediate Supervisor: Jim Allen

MAJOR RESPONSIBILITIES: Created new sales in the local Hispanic market of Chicago; Maintained a local list of clients; Collections of receivables; wrote commercial copy.

#### EDUCATION:

Graduate of Lake View HS - 6/1984

#### SPECIAL SKILLS:

DYNASCAPE DESIGN SOFTWARE; SMART DRAW; QUICKBOOKS FOR WINDOWS; FLUENT IN SPANISH; ATTENDED AND COMPLETED SEVERAL CLASSES AT THE BOTANIC GARDENS

Sergio Medina  
3735 N. Spaulding  
Chicago, IL 60618  
773-671-9915  
[Scurgen@msn.com](mailto:Scurgen@msn.com)

**Experience**

**2005 - Present**  
**773-777-9837**

**Chicago Xteriors, Inc.**

**3610 N. Cicero Chicago, IL 60641**

Supervisor - Oversee grounds maintenance crews; snow removal including driving of snow plow; estimating jobs; install hard scape and soft scapes; oversee subcontractors when necessary

**2007 - 2008**  
**773-549-4444**

**Bar 134**

**2345 W. Belmont Chicago, IL 60657**

**General Manager - NIGHT POSITION**

Management skills include profit and loss reports; manage inventory; bank audits; unit accounting; purchasing; marketing staff training and management including interviewing and scheduling; bar tending; guest relation; creative contacts; maintain building and vendor reports; schedule and execute private and public events; provide security for facility;

**2004 - 2007**  
**312-787-5269**

**O'Neils Bar and Grill**

**152 E. Ontario Chicago, IL 60611**

**Bar Tender/Shift Manager - NIGHT POSITION**

Provided a responsible and fun environment to customers while maintaining timely execution of high volume to go food and server drink orders; consulted potential party hosts on multiple event packages available from decorations and catering to liquor packages and room set up options; responsible for accurate server drops and maintaining bar change bags and drawer

**2001**

**Columbla Pictures - ALI (Directed by Michael Mann)**

**Greens Foreman - Landscape design and installation; construction and demolition crew**

**1997 - 2005**  
**773-463-3502**

**Medina Lawncare**

**3731 N. Spaulding Chicago, IL 60618**

Manager - Eight years of landscape installation/design and building; installation of stone pavers and decorative retaining walls; custom stone and boulder installation; review blue print specifications and drawings; attend pre bid meetings and prepare estimates by calculating complete take off of scopes of work; work closely with business developers to provide complete scopes of work according to clients requirements; knowledge of most plants and ground covers; have good understanding of cost and labor production capabilities; determine work procedures; prepare work schedules; expedite work flow; assign and monitor duties to service personnel for efficiency as well as monitor and ensure the efficient use of materials and equipment by employees.

**Education**

**DeVry Technical Institute**

**Majored in Business Administration and Computer Science**

**Lake View HS - Graduate**

**Skills**

**Proficient in Microsoft Office**

**Quick Books Pro**

**POS System**

**Fluent in Spanish and English**

**Skid Steer Operation**

**Front end Loader Operation**

**PROFESSIONAL SERVICES AGREEMENT  
FOR  
PLAYGROUND EQUIPMENT AND SERVICES  
CONTRACT NUMBER PS1921A**

**SCHEDULE F-1**

**DISCLOSURE OF RETAINED PARTIES  
PLAYGROUND EQUIPMENT AND SERVICES  
VARIOUS PROJECT SITES**

**PUBLIC BUILDING COMMISSION OF CHICAGO  
REQUEST FOR PROPOSALS  
PLAYGROUND EQUIPMENT – PS1921**

**EXHIBIT 7 – DISCLOSURE OF RETAINED PARTIES**

**A. Definitions and Disclosure Requirements**

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

**B. Certifications**

Contractor hereby certifies as follows:

1. This Disclosure relates to the following transaction: RFP PS1921  
Description or goods or services to be provided under Contract#: Providing playground equipment
2. Full Legal Name of Contractor: PlayCore Wisconsin, Inc. d/b/a GameTime
3. EACH AND EVERY attorney, lobbyist, accountant, consultant, subcontractor, or other person retained or anticipated to be retained by the Contractor with respect to or in connection with the contract or lease is listed below. Attach additional pages if necessary.

NOTE: You must include information about certified MBE/WBEs you have retained or anticipate retaining, even if you have already provided that information elsewhere in the contract documents.

Retained Parties:

Name	Business Address	Relationship (Attorney, Lobbyist, Subcontractor, etc.)	Fees (indicate whether paid or estimated)
Cunningham Recreation, Inc.	2135 Citygate Ln, #300 Naperville, IL 60563	Manufacturer's Representative	16% of Fees (estimate)
Chicago Xteriors	3610 N. Cicero Ave. Chicago, IL 60641	Subcontractor	18% of Fees (estimate)

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

4. The Contractor certifies that it understands and agrees as follows:

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The information provided in this Disclosure of Retained Parties is a material inducement to the Commission to execute the contract or other action with respect to which this Disclosure of Retained Parties form is being certified, and the Commission may rely on the information provided in it. Furthermore, if the Commission determines that any information provided in it is false, incomplete, or inaccurate, the Commission may at its sole option terminate the contract or other transaction, and may terminate the Contractor's participation in the contract or other transactions with the Commission.

If the Contractor is uncertain whether a disclosure is required under this Disclosure of Retained Parties, Contractor must either ask the Commission's Representative or his or her manager at the Commission whether disclosure is required, or make the disclosure.

This Disclosure of Retained Parties form, some or all of the information provided in it, and any attachments may be made available to the public on the Internet, in response to a Freedom of Information Act request, or otherwise. The Contractor waives and releases any possible rights or claims it may have against the Commission in connection with the public release of information contained in the completed Disclosure of Retained Parties form and any attachments.

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

Donald R. King  
Signature of Authorized Officer

Donald R. King  
Name of Authorized Officer (Print or Type)

Director of Sales Administration  
Title

State of Tennessee

County of Hamilton

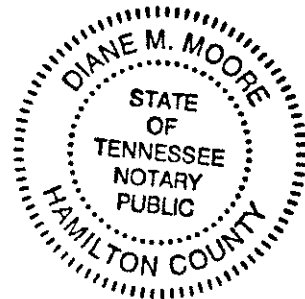
Signed and sworn to before me on this 16<sup>th</sup> day of June, 2012

By Donald R. King as Director of Sales Administration  
Name Title

Of GameTime Division (Bidder, Proposer or Contractor)

Diane M. Moore  
Notary Public Signature

My Commission expires: 01/22/2014 (SEAL OF NOTARY)



**PROFESSIONAL SERVICES AGREEMENT  
FOR  
PLAYGROUND EQUIPMENT AND SERVICES  
CONTRACT NUMBER PS1921A**

**SCHEDULE F-2**

**DISCLOSURE AFFIDAVIT  
PLAYGROUND EQUIPMENT AND SERVICES  
VARIOUS PROJECT SITES**





**PUBLIC BUILDING COMMISSION OF CHICAGO  
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4. If the corporation has fewer than 100 shareholders indicate here or attach a list of names and addresses of all shareholders and the percentage interest of each.

Name (Print or Type)	Address	Ownership Interest
<u>PCH Holdings, LLC</u>	<u>277 Park Ave., 39th Floor, New York, NY 10172</u>	<u>100</u> %
_____	_____	_____ %
_____	_____	_____ %

5. If the corporation has 100 or more shareholders, indicate here or attach a list of names and addresses of all shareholders owning shares equal to or in excess of 7.5% of the proportionate ownership of the corporation and indicate the percentage interest of each.

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

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

\_\_\_\_\_

7. For LLC's identify each member

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

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

Yes

No

**PUBLIC BUILDING COMMISSION OF CHICAGO  
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If "yes" provide the above information, as applicable, for each such corporation or entity.

**B. PARTNERSHIPS**

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

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

**C. SOLE PROPRIETORSHIP**

1. The bidder, proposer or contractor is a sole proprietorship and is not acting in any representative capacity on behalf of any beneficiary:

Yes [ ]      No [ ], If NO, complete items 2 and 3 of this Section C.

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

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

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

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

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

**D. LAND TRUSTS, BUSINESS TRUSTS, ESTATES & OTHER ENTITIES**

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

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Name(s)

Address(es)

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

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

**E. NOT-FOR-PROFIT CORPORATIONS**

1. State of incorporation \_\_\_\_\_

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

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

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

**II. CONTRACTOR CERTIFICATION**

**A. CONTRACTOR**

1. The Contractor, or any subcontractor to be used in the performance of this contract, or any affiliated entities of the Contractor or any such subcontractor, or any responsible official thereof, or any other official, agent or employee of the Contractor, any such subcontractor or any such affiliated entity, acting pursuant to the direction or authorization of a responsible official thereof has not, during a period of three years prior to the date of execution of this certification or if a subcontractor or subcontractor's affiliated entity during a period of three years prior to the date of award of the subcontract:

- a) Bribed or attempted to bribe, or been convicted of bribery or attempting to bribe a public officer or employee of the City of Chicago, the State of Illinois, any agency of the federal government or any state or local government in the United States (if an officer or employee, in that officer's or employee's official capacity); or

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

**B. SUBCONTRACTOR**

1. The Contractor has obtained from all subcontractors being used in the performance of this contract or agreement, known by the Contractor at this time, certifications substantially in the form of Section 1 of this Disclosure Affidavit. Based on such certification(s) and any other information known or obtained by the Contractor, is not aware of any such subcontractor or subcontractor's affiliated entity or any agent, partner, employee or officer of such subcontractor or subcontractor's affiliated entity having engaged in or been convicted of (a) any of the conduct describe in Section II(A) (1)(a) or (b) of this certification; (b) bid-rigging, bid-rotating, or any similar offense of any state or the United States which contains the same elements as bid-rigging or bid-rotating, or having made an admission of guilt of the conduct described in Section II(A)(1)(a) or (b) which is matter of record but has/have not been prosecuted for such conduct.
2. The Contractor will, prior to using them as subcontractors, obtain from all subcontractors to be used in the performance of this contract or agreement, but not yet known by the Contractor at this time, certifications substantially in the form of this certification. The Contractor shall not, without the prior written permission of the Commission, use any of such subcontractors in the performance of this contract if the Contractor, based on such certifications or any other information known or obtained by Contractor, became aware of such subcontractor, subcontractor's affiliated entity or any agent, employee or officer of such subcontractor or subcontractor's affiliated entity having engaged in or been

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convicted of (a) any of the conduct describe in Section II(A)(1)(a) or (b) of this certification or (b) bid-rigging, bid-rotating or any similar offenses of any state or the United States which contains the same elements as bid-rigging or bid-rotating or having made an admission of guilt of the conduct described in Section II(A)(1)(a) or (b) which is a matter of record but has/have not been prosecuted for such conduct. The Contractor shall cause such subcontractors to certify as to Section II(A)(5). In the event any subcontractor is unable to certify to Section II(A)(5), such subcontractor shall attach an explanation to the certification.

3. For all subcontractors to be used in the performance of this contract or agreement, the Contractor shall maintain for the duration of the contract all subcontractors' certifications required by Section II(B)(1) and (2) above, and Contractor shall make such certifications promptly available to the Public Building Commission of Chicago upon request.

4. The Contractor will not, without the prior written consent of the Public Building Commission of Chicago, use as subcontractors any individual, firm, partnership, corporation, joint venture or other entity from whom the Contractor is unable to obtain a certification substantially in the form of this certification.

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

**C. STATE TAX DELINQUENCIES**

1. The Contractor is not delinquent in the payment of any tax administered by the Illinois Department of Revenue or, if delinquent, the Contractor is contesting, in accordance with the procedures established by the appropriate Revenue Act, its liability for the tax or amount of the tax.

2. Alternatively, the Contractor has entered into an agreement with the Illinois Department of Revenue for the payment of all such taxes that are due and is in compliance with such agreement.

3. If the Contractor is unable to certify to any of the above statements [Section II (C)], the Contractor shall explain below. Attach additional pages if necessary.

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

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

**D. OTHER TAXES/FEEES**

1. The Contractor is not delinquent in paying any fine, fee, tax or other charge owed to the City of Chicago.

2. If Contractor is unable to certify to the above statement, Contractor shall explain below and attach additional sheets if necessary.

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**PUBLIC BUILDING COMMISSION OF CHICAGO  
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If the letters "NA", the word "NONE" or no response appears on the lines above, it will be conclusively presumed that the Undersigned certified to the above statements.

**E. ANTI-COLLUSION**

The Contractor, its agents, officers or employees have not directly or indirectly entered into any agreement, participated in any collusion, or otherwise taken any action in restraint of free competitive bidding in connection with this proposal or contract. Failure to attest to this section as part of the bid will make the bid non-responsive and not eligible for award consideration.

**F. PUNISHMENT**

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

**G. JUDICIAL OR ADMINISTRATIVE PROCEEDINGS**

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

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

**III. CERTIFICATION OF ENVIRONMENTAL COMPLIANCE**

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

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

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

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

**B.** Without the prior written consent of the Public Building Commission of Chicago, Contractor will not employ any subcontractor in connection with the contract or proposal to which this Affidavit pertains without obtaining from such subcontractor a certification similar in form and substance to the certification contained in Paragraph A of this Section III prior to such subcontractor's performance of any work or services or furnishing any goods, supplies or materials of any kind under the proposal or the contract to which this Affidavit pertains.

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

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

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

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

**Check one:**

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



PUBLIC BUILDING COMMISSION OF CHICAGO  
REQUEST FOR PROPOSALS  
PLAYGROUND EQUIPMENT – PS1921

V. INCORPORATION INTO CONTRACT AND COMPLIANCE

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

VI. VERIFICATION

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

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

  
Signature of Authorized Officer

Donald R. King  
Name of Authorized Officer (Print or Type)

Director of Sales Administration  
Title

256/997-5255  
Telephone Number

State of Tennessee

County of Hamilton

Signed and sworn to before me on this 17<sup>th</sup> day of December, 2012

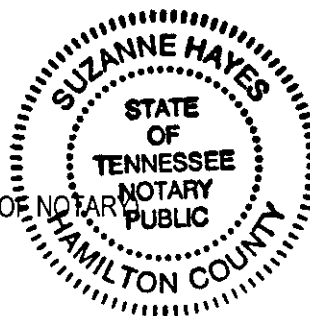
By Donald R. King as Director of Sales Administration  
Name Title

Of GameTime Division (Bidder, Proposer or Contractor)

  
Notary Public Signature

My Commission Expires September 10, 2016  
My Commission expires:

(SEAL OF NOTARY)



**PROFESSIONAL SERVICES AGREEMENT  
FOR  
PLAYGROUND EQUIPMENT AND SERVICES  
CONTRACT NUMBER PS1921A**

**SCHEDULE G**

**SPECIAL CONDITIONS REGARDING THE UTILIZATION OF  
MINORITY AND WOMEN OWNED BUSINESS ENTERPRISES  
FOR PROFESSIONAL SERVICES**

1. Policy Statement

- a. It is the policy of the Commission to ensure competitive business opportunities for MBE and WBE firms in the performance of Contracts, to prohibit discrimination in the award of or participation in Contracts, and to abolish arbitrary barriers to full participation in Contracts by all persons, regardless of race, sex or ethnicity. Therefore, during the performance of this Contract, the Consultant must agree that it will not discriminate against any person or business on the basis of race, color, religion, ancestry, age, marital status, physical or mental handicap, unfavorable discharge from military service, parental status, sexual orientation, national origin or sex, in the solicitation or the purchase of goods and services or the subcontracting of work in the performance in this Contract.
- b. The Commission requires the Consultant also agree to take affirmative action to ensure that MBE and WBE firms have the maximum opportunity to compete for and perform subcontracts with respect to this Contract.
- c. The Commission requires the Consultant to notify MBE and WBE firms, utilized on this contract, about opportunities on contracts without affirmative action goals.

2. Aspirational Goals

- a. Upon the effective date of these Special Conditions, the bi-annual aspirational goals are to award 25% of the annual dollar value of all Commission Contracts to MBEs and 5% of the annual dollar value of all Commission Contracts to WBEs.
- b. Further, the Consultant must agree to use its best efforts to include MBE and WBE firms in any Contract modification work that increases the Contract value by 10% of the initial Contract value or \$50,000, whichever is less. Where the proposed contract modification involves work which can be performed by MBEs and WBEs already performing work on the contract such MBEs and WBEs will participate in such work specified in the contract modification.
- c. Failure to carry out the commitments and policies set forth in this Program constitute a material breach of contract and may result in termination of the Consultant or such other remedy, as the Commission deems appropriate.

### 3. Definitions

a. For purposes of this Special Condition, the following definitions applies:

(1) "Certified Minority Business Enterprise" means a person or entity granted certification by the City of Chicago or County of Cook.

(2) "Certified Women's Business Enterprise" means a person or entity granted certification by the City of Chicago or County of Cook.

(3) "Contract" means a contract for the construction, repair, alteration, renovation or improvement, or professional services for any building, facility or other structure.

(4) "Contract Specific Goals" means the subcontracting goals for MBE and WBE participation established for a particular contract based upon the availability of MBEs and WBEs to perform and anticipated scope of work of the contract and the Commission's progress towards meeting the aspirational goals.

(5) "Consultant" means any person or business entity that seeks to enter into a Construction Contract with the Commission and includes all partners, affiliates and joint ventures of such person or entity.

(6) "Executive Director" means the Executive Director of the Commission or his duly designated representative as appointed in writing.

(7) "Good faith efforts" means actions undertaken by a Consultant to achieve a Contract Specific Goal that by their scope, intensity and appropriateness to the objective can reasonably be expected to fulfill the Program's requirements.

(8) "Joint venture" means an association of two or more persons or entities or any combination of two or more business enterprises and persons numbering two or more, proposing to perform a single for-profit business enterprise, in which each joint venture partner contributes property, capital, efforts, skill and knowledge, and in which the MBE or WBE is responsible for a distinct, clearly-defined portion of the work of the contract and whose share in the capital contribution, control, management, risks and profits of the joint venture is equal to its ownership interest. Joint ventures must have an agreement in writing specifying the terms and conditions of the relationships between the parties and their relationship and responsibilities to the contract.

(9) "Program" means the minority- and women-owned business enterprise construction procurement program established in this special condition.

### 4. Determining MBE/WBE Utilization

The methodology for determining MBE and WBE utilization will be determined for purposes of analysis with respect to this contract as follows:

- a. The total dollar value of the contract awarded to the certified MBE or WBE firm will be credited to such participation. Only minority business participation may be counted toward MBE participation and only women business participation may be counted toward WBE participation.
- b. The total dollar value of a contract with a firm owned and controlled by minority women is counted toward either the MBE or WBE goal, but not both. The Contractor employing the firm may choose the goal to which the contract value is applied. Various work done by one and the same subconsultant will be considered, for the purpose of this principle, as work effectively done under one subcontract only, which subconsultant may be counted toward only one of the goals, not toward both.
- c. A Consultant may count toward its MBE or WBE goal the portion of the total dollar value of a contract with an eligible joint venture equal to the percentage of the ownership and control of the MBE or WBE partner in the joint venture. A joint venture seeking to be credited for MBE participation may be formed among certified MBE and WBE firms, or between certified MBE and WBE firms and a non-MBE/WBE firm. A joint venture satisfies the eligibility standards of this Program if the certified MBE or WBE participant of the joint venture:
  - (1) Shares in the ownership, control, management responsibilities, risks and profits of the joint venture; and
  - (2) Is responsible for a clearly defined portion of work to be performed in proportion to the MBE or WBE ownership percentage.
- d. A Consultant may count toward its MBE and WBE goals only expenditures to firms that perform a commercially useful function in the work of a contract. A firm is considered to perform a commercially-useful function when it is responsible for execution of a distinct element of the work of a contract and carries out its responsibilities by actually performing, managing, and supervising the work involved. To determine whether a firm is performing a commercially useful function, the Commission will evaluate the amount of work subcontracted, industry practices and other relevant factors.
- e. Consistent with normal industry practices, a MBE or WBE firm may enter into subcontracts. If a MBE or WBE Consultant subcontracts a significantly greater portion of the work of a contract than would be expected on the basis of normal industry practices, the MBE or WBE will be rebuttably presumed not to be performing a commercially-useful function.
- f. A Consultant may count toward its goals expenditures to MBE or WBE manufacturers (i.e., suppliers that produce goods from raw materials or substantially alters them before resale).
- g. A Consultant may count toward its goals expenditures to MBE or WBE suppliers provided that the supplier performs a commercially useful function in the supply process. Expenditures to suppliers will only be counted if the supplies are sold to the Consultant or subconsultant that installs those supplies in the Work.

5. Submission of Bid Proposals

- a. The following schedules and documents constitute the Bidder's MBE/WBE compliance proposal and must be submitted at the time of the bid or proposal or within such extended period as provided by the Commission.

(1) Evidence of Certification: Affidavit of MBE/WBE. A copy of each proposed MBE and WBE firm's Letter of Certification from the City of Chicago, Department of Procurement Services or any other entity accepted by the Public Building Commission of Chicago.

(2) Schedule B: Affidavit of MBE/Non-MBE or WBE/Non-WBE Joint Ventures. Where the Bidder's MBE/WBE compliance proposal includes participation of any MBE or WBE as a joint venture participant, the Bidder must submit a Schedule B: Affidavit of MBE/Non-MBE or WBE/Non-WBE Joint Venture" with an attached copy of the joint venture agreement proposed among the parties. The Schedule B and the joint venture agreement must clearly evidence that the MBE or WBE participant will be responsible for a clearly defined portion of the work to be performed and that the MBE or WBE firm's responsibilities are in proportion with its ownership percentage.

(3) Schedule C: Letter of Intent to Perform as a, Subcontractor, Subconsultant, or Material Supplier, Schedule C, executed by the MBE/WBE firm (or Joint Venture Subconsultant) must be submitted by the Bidder for each MBE/WBE included on the Schedule D. Schedule C must accurately detail the work to be performed by the MBE or WBE firm and the agreed rates and prices to be paid.

(4) Schedule D: Affidavit of Prime Consultant Regarding MBE or WBE Utilization. A completed Schedule D committing to the utilization of each listed MBE or WBE firm. Unless the Bidder has submitted a completed request for a waiver of participation by MBE/WBE firms (See Request for Waiver procedures in Section 7), the Bidder must include the specific dollar amount of participation of each MBE/WBE firm listed on its Schedule D. The total dollar commitment to proposed MBE firms must at least equal the MBE goal, and the total dollar commitment to proposed WBE firms must at least equal the WBE goal. Bidders are responsible for calculating the dollar equivalent of MBE or WBE utilization as percentages of their total base bid.

- b. The submittals must have all blank spaces on the Schedule pages applicable to the contract correctly filled in. Agreements between a Bidder/Proposer and a MBE/WBE in which the MBE/WBE promises not to provide subcontracting quotations to other Bidders are prohibited.

6. Evaluation of Compliance Proposals

- a. During the period between bid opening and contract award, the Bidder's MBE/WBE compliance proposal will be evaluated by the Commission. The Bidder agrees to provide, upon request, earnest and prompt cooperation to the Executive Director or his designee in submitting to interviews that may be necessary, in allowing entry to places of business, in providing further documentation, or in soliciting the cooperation of a proposed MBE or WBE firm in providing such assistance. A bid may be treated as non-responsive by reason of the determination that the Bidder's proposal did not contain a sufficient level of Certified MBE or WBE participation, that the

Bidder was unresponsive or uncooperative when asked for further information relative to the proposal, or that false statements were made in the Schedules.

- b. If the Commission's review of a Respondent's proposal concludes that the MBE or WBE proposal was deficient, the Commission will promptly notify the Respondent of the apparent deficiency and instruct the Respondent to submit (within 3 business days of such notice given by the Commission) a modification of the MBE or WBE Proposal, in proper format, which remedies the deficiencies cited. Failure to correct all deficiencies cited by the Commission will be cause for rejection of the Bidder's proposal as non-responsive.
- c. Respondents will not be permitted to modify their MBE/WBE compliance proposal except insofar as directed to do so by the Commission. Therefore, all terms and conditions stipulated for prospective MBE and WBE subconsultants or suppliers should be satisfactorily negotiated prior to the submission to the Commission of the Bidder's MBE/WBE compliance proposal with the bid. If circumstances should arise, however, where a proposed MBE/WBE is no longer available, the process described in Section 12 should be followed.
- d. If the Compliance Proposal includes participation by material suppliers, the PBC will request copies of the offers from such suppliers. The offers must be furnished to the PBC within three (3) business days of the bidder's receipt of the request for such offers from the PBC. The PBC may make such request by electronic mail. The offers must specify: (i) the particular materials, equipment and/or supplies that will be furnished; (ii) the supplier's price for each of the items; (iii) the total price of the items to be furnished by the supplier, (iv) the supplier's source for the items (e.g., manufacturer, wholesaler) and (v) the subconsultant that the supplies will be purchased by.

#### 7. Request for Waiver

- a. If a Bidder is unable to identify qualified MBE and WBE firms to perform sufficient work to fulfill the MBE or WBE percentage goals for this Contract, the bid or proposal must include a written request for waiver. A request for waiver must be sent to the Executive Director and must set forth the Bidder's inability to obtain sufficient MBE and WBE firms notwithstanding good faith attempts to achieve such participation.
- b. Good Faith efforts to achieve participation include but are not limited to:
  - (1) Attendance at the Pre-bid conference;
  - (2) The Bidder's general affirmative action policies regarding the utilization of MBE and WBE firms, plus a description of the methods used to carry out those policies;
  - (3) Advertisement in trade association newsletters and minority and woman-oriented and general circulation media for specific sub-bids;
  - (4) Timely notification of specific sub-bids to minority and woman Consultant assistance agencies and associations;

- (5) Description of direct negotiations with MBE and WBE firms for specific sub-bids, including:
  - i. The name, address and telephone number of MBE and WBE firms contacted;
  - ii. A description of the information provided to MBE and WBE firms regarding the portions of the work to be performed; and
  - iii. The reasons why additional MBE and WBE firms were not obtained in spite of negotiations.
- (6) A statement of the efforts made to select portions of the work proposed to be performed by MBE and WBE firms (such as sub-supplier, transport, engineering, distribution, or any other roles contributing to production and delivery as specified in the contract) in order to increase the likelihood of achieving sub participation.
- (7) As to each MBE and WBE contacted which the Bidder considers to be not qualified, a detailed statement of the reasons for the Bidder's conclusion.
- (8) Efforts made by the Bidder to expand its search for MBE and/or WBE firms beyond usual geographic boundaries.
- (9) General efforts made to assist MBE and WBE firms to overcome participation barriers.
- c. The Executive Director, after review and evaluation of the request provided by the Bidder, may grant a waiver request upon the determination that:
  - (1) Sufficient qualified MBE and/or WBE firms capable of providing the goods or services required by the contract are unavailable despite the good faith efforts of the Bidder;
  - (2) The price(s) quoted by potential MBE and/or WBE firms for goods or services is above competitive levels to an extent unwarranted by any increased cost of doing business attributable to the present effects of disadvantage or discrimination.

8. Failure To Achieve Goals

- a. If the Consultant cannot achieve the contract specific goals, as the Project proceeds, it must have documented its good faith efforts to do so. In determining whether the Consultant has made such good faith efforts, the performance of other Consultants in meeting the goals may be considered. The Executive Director or his designee shall consider, at a minimum, the Consultant's efforts to do the following:
  - (1) Soliciting through reasonable and available means the interest of MBEs or WBEs that Provide interested MBEs or WBEs with adequate information about the plans, specifications and requirements of the contract, including addenda, in a timely manner to assist them in responding to the solicitation.
  - (2) Provide interested MBEs or WBEs with adequate information about the plans,

specifications and requirements of the contract, including addenda, in a timely manner to assist them in responding to the solicitation.

(3) Negotiating in good faith with interested MBEs or WBEs that have submitted bids. Documentation of negotiation must include the names, addresses and telephone numbers of MBEs or WBEs that were solicited; the date of each such solicitation; a description of the information provided regarding the plans and specifications for the work selected for subcontracting; and evidence as to why agreements could not be reached with MBEs or WBEs to perform the work. That there may be some additional costs involved in solicitation and using MBEs and WBEs is not a sufficient reason for a Consultant's failure to meet the goals, as long as such costs are reasonable.

(4) Not rejecting MBEs or WBEs as being unqualified without sound reasons based on the thorough investigation of their capabilities. The MBEs' or WBEs' standing within its industry, membership in specific groups, organizations, or associations and political or social affiliations are not legitimate cases for rejecting or not soliciting bids to meet the goals.

(5) Making a portion of the work available to MBE or WBE subconsultants and suppliers and to select those portions of the work or material consistent with the available MBE or WBE subconsultants and suppliers, so as to facilitate meeting the goals.

(6) Making good faith efforts despite the ability or desire of a Consultant to perform the work of a contract with its own organization. A Consultant that desires to self-perform the work of a contract must demonstrate good faith efforts unless the goals have been met.

(7) Selecting portions of the work to be performed by MBEs or WBEs in order to increase the likelihood that the goals will be met. This includes, where appropriate, breaking out contract work items into economically feasible units to facilitate MBE or WBE participation even when the Contract might otherwise prefer to perform these items with its own forces.

(8) Making efforts to assist interested MBEs or WBEs in obtaining bonding lines of credit or insurance as required by the Commission or Consultant.

(9) Making efforts to assist interested MBEs or WBEs in obtaining necessary equipment, supplies, materials or related assistance or services, including participation in a mentor-protégée program; and

(10) Effectively using the services of the Commission; minority or women community organizations; minority or women Consultants' groups; local, state and federal minority or women business assistance offices; and other organizations to provide assistance in the recruitment and placement of MBEs or WBEs.

## 9. Reporting and Record-Keeping Requirements

- a. The Consultant, within 5 working days of contract award, must execute a formal subcontract or purchase order in compliance with the terms of the Consultant's bid proposal and MBE/WBE assurances, and submit to the Commission a copy of the MBE and WBE subcontracts or



purchase orders, each showing acceptance of the subcontract or purchase order by the MBE and WBE firms. During the performance of the contract, the Consultant will submit partial and final waivers of lien from MBE and WBE subconsultants and suppliers indicating the current payment amount and the cumulative dollar amount of payments made to date. The Consultant will file regular MBE and WBE utilization reports on the form entitled "Status Report of MBE and WBE (Sub) Contract Payments" at the time of submitting each monthly Payment Estimate, which reflects the current status of cumulative and projected payments to MBE and WBE firms.

- b. The Consultant must maintain records of all relevant data with respect to the utilization of MBE and WBE firms, including without limitation payroll records, tax returns and records, and books of account in such detail as the Commission requires, and retain such records for a period of at least 3 years after final acceptance of the work. Full access to such records will be granted to the Commission and/or its designees, on 5 business days' notice in order for the Commission to determine the Consultant's compliance with its MBE and WBE commitments and the status of any MBE or WBE firm performing any portion of the contract.

#### 10. Disqualification of MBE or WBE

- a. The Contract may be terminated by the Executive Director upon the disqualification of the Consultant as an MBE or WBE if the Consultant's status as an MBE or WBE was a factor in the award and such status was misrepresented by the Consultant.
- b. The Contract may be terminated by the Executive Director upon the disqualification of any MBE or WBE if the Subconsultant's or supplier's status as an MBE or WBE was a factor in the award of the contract and the status of the subconsultant or supplier was misrepresented by the Consultant. If the Consultant is determined not to have been involved in any misrepresentation of the status of the disqualified subconsultant or supplier, the Consultant shall make good faith efforts to engage a qualified MBE or WBE replacement.

#### 11. Prohibition On Changes To MBE/WBE Commitments

The Consultant must not make changes to its contractual MBE and WBE commitments or substitute such MBE or WBE subconsultants without the prior written approval of the Executive Director. Unauthorized changes or substitutions, including performing the work designated for a subconsultant with the Consultant's own forces, is a violation of this section and a breach of the contract with the Commission, and may cause termination of the contract for breach, and/or subject the Consultant to contract remedies or other sanctions. The facts supporting the request must not have been known nor reasonably should have been known by the parties prior to entering into the subcontract.

#### 12. MBE/WBE Substitution Requirements and Procedures

- a. Arbitrary changes by the Consultant of the commitments earlier certified in the Schedule **D** are prohibited. Further, after once entering into each approved MBE and WBE sub-contract agreement, the Consultant shall thereafter neither terminate the subcontract, nor reduce the scope of the work to be performed by the MBE or WBE, nor decrease the price to the MBE or WBE, without in each instance receiving the prior written approval of the Executive Director. In some cases, however, it may become necessary to substitute a new MBE or WBE in order to

actually fulfill the MBE or WBE requirements. In such cases, the Executive Director must be given reasons justifying the release by the Consultant of prior specific MBE or WBE commitments established in the contract, and will need to review the eligibility of the MBE or WBE presented as a substitute. The substitution procedure will be as follows:

(1) The Consultant must notify the Executive Director immediately in writing of an apparent necessity to reduce or terminate a MBE or WBE subcontract and to propose a substitute firm for some phase of work, if needed in order to sustain the fulfillment of the MBE/WBE contract requirements.

(2) The Consultant's notification should include the specific reasons for the proposed substitution. Stated reasons which would be acceptable include any of the following reasons: a) Unavailability after receipt of reasonable notice to proceed; b) failure of performance; c) financial incapacity; d) refusal by the subconsultant to honor the bid or proposal price or scope; e) mistake of fact or law about the elements of the scope of work of a solicitation where a reasonable price cannot be agreed; f) failure of the subconsultant to meet insurance, licensing or bonding requirements; g) the subconsultant's withdrawal of its bid or proposal; or h) decertification of the subconsultant as MBE or WBE.

(3) The Consultant's position must be fully explained and supported with adequate documentation. Stated reasons which will not be acceptable include: replacement firm has been recruited to perform the same work under terms more advantageous to the Consultant; issues about performance by the committed MBE or WBE were disputed (unless every reasonable effort has already been taken to have the issues resolved or mediated satisfactorily); an MBE or WBE has requested reasonable price escalation which may be justified due to unforeseen circumstances.

The Consultant's notification should include the names, address and principal official of any proposed substitute MBE or WBE and the dollar value and scope of work of the proposed subcontract. Attached should be all the same MBE/WBE affidavits, documents and Letters of Intent which are required of the proposed MBE or WBE firms, as enumerated above in Section 5. Submission of Bid Proposals.

(4) The Executive Director will evaluate the submitted documentation, and respond within fifteen (15) working days to the request for approval of a substitution. The response may be in the form of requesting more information, or requesting an interview to clarify or mediate the problem. In the case of an expressed emergency need to receive the necessary decision for the sake of job progress, the Executive Director will instead respond as soon as practicable.

(5) Actual substitution of a replacement MBE or WBE to fulfill contract requirements must not be made before the Executive Director's approval is given of the acceptability of the substitute MBE or WBE. This subcontract must be executed within five (5) working days, and a copy of the MBE WBE subcontract with signatures of both parties to the agreement should be submitted immediately to the Executive Director.

- b. The Executive Director will not approve extra payment for escalated costs incurred by the Consultant when a substitution of subconsultants becomes necessary for the Consultant in order to comply with MBE/WBE contract requirements.
- c. No relief of the MBE/WBE requirements will be granted by the Executive Director except in exceptional circumstances. Requests for complete or partial waiver of the MBE/WBE requirements of this contract must be made in writing, stating all details of the request, the circumstances, and any additional relevant information. The request must be accompanied by a record of all efforts taken by the Consultant to locate specific firms, solicit MBE and WBE bids, seek assistance from technical assistance agencies, and other good faith efforts undertaken to achieve compliance with the MBE/WBE goals.

### 13. Non-Compliance

- a. The Executive Director has the authority to apply suitable sanctions to the Consultant if the Consultant is found to be in non-compliance with the MBE and WBE requirements. Failure to comply with the MBE or WBE terms of this contract or failure to use MBE or WBE firms as stated in the Consultant's assurances constitutes a material breach of the contract, and may lead to the suspension or termination of the contract in part or in whole. In some cases, monthly progress payments may be withheld until corrective action is taken.
- b. When the contract is completed, if the Executive Director has determined that the Consultant did not comply in the fulfillment of the required MBE and/or WBE goals, and a grant of relief of the requirements was not obtained, the Commission will be damaged in the failure to provide the benefit of participation to minority or women business to the degree set forth in this Special Condition. In that case, the Commission may disqualify the Consultant from entering into future contracts with the Commission.

### 14. Severability

- a. If any section, subsection, paragraph, clause, provision or application of these Special Conditions is held invalid by any court, the invalidity of such section, paragraph, clause or provision will not affect any of the remaining provisions hereof.



A PLAYCORE Company

SECTION 7

MBE/WBE PARTICIPATION PLAN  
AND COMMITMENT

REQUEST FOR PROPOSALS  
FOR  
PLAYGROUND EQUIPMENT  
FOR  
PUBLIC BUILDING COMMISSION OF CHICAGO  
PS1921



A PLAYCORE Company

**MWBE PARTICIPATION PLAN AND COMMITMENT  
PUBLIC BUILDING COMMISSION OF CHICAGO RFP PS1921**

RFP PS1921 Section 2.03.5 calls for the play equipment manufacturer to include as part of its warranty coverage "material, labor, collateral expenses and replacement parts" with the "warranty repairs and collateral work performed by Proposer". GameTime is partnering with Chicago Xteriors to provide post-sale warranty work for this RFP. With our mentoring, guidance and support, we believe they will fulfill all contract requirements and provide responsive service and quality work. Chicago Xteriors, Inc. is a Cook County Certified Minority and Woman Business Enterprise

Chicago Xteriors, Inc. has provided play equipment installation and maintenance services to Chicago Public Schools and Uno Charter Schools. They collaborated with The Salvation Army and KaBOOM! to install a new playground at Gomper's Park for the Chicago Park District. They hold a service contract with Sears Holdings Corporation.

Chicago Xteriors, Inc. has built its business dedicated to paying close attention to quality, safety, efficiency and craftsmanship. They are an outdoor facility and landscaping contractor providing landscape and hardscape services to Chicago and its suburbs since 2005 and are a licensed, bonded, insured, and family owned business.



A PLAYCORE Company

SECTION 14

COPY OF CURRENT MBE/WBE  
CERTIFICATION LETTER

REQUEST FOR PROPOSALS  
FOR  
PLAYGROUND EQUIPMENT  
FOR  
PUBLIC BUILDING COMMISSION OF CHICAGO  
PS1921



CITY OF CHICAGO  
**OFFICE OF COMPLIANCE**

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June 7, 2011

Xochitl Medina  
Chicago Xteriors  
3610 North Cicero Avenue  
Chicago, IL 60641

**Annual Certificate Expires: June 30, 2012**

Dear Xochitl Medina:

Congratulations on your continued eligibility for certification as a **Minority Business Enterprise (MBE)** by the City of Chicago. This certification is valid until **June 30, 2014**.

As you know, your firm must also be re-validated annually. As such, your firm's next No Change Affidavit is due by **June 30, 2012**. Please remember, you have an affirmative duty to file your No-Change Affidavit **60 days prior to the date of expiration**.

It is important to note that you also have an ongoing affirmative duty to notify the City of Chicago of any changes in ownership or control of your firm, or any other fact affecting your firm's eligibility for certification within 10 days of such change. These changes may include but are not limited to a change of address, change of business structure, change in ownership or ownership structure, change of business operations, and/or gross receipts that exceed the program threshold.

Please note -- you shall be deemed to have had your certification lapse and will be ineligible to participate as a MBE/WBE/BEPD if you fail to:

- o file your No Change Affidavit within the required time period;
- o provide financial or other records requested pursuant to an audit within the required time period; or
- o notify the City of any changes affecting your firm's certification within 10 days of such change.

*Further, if you or your firm is found to be involved in certification, bidding and/or contractual fraud or abuse, the City will pursue decertification and debarment. And in addition to any other penalty imposed by law, any person who knowingly obtains, or knowingly assists another in obtaining, a contract with the city by falsely representing that the individual or entity, or the individual or entity assisted, is a minority-owned business or a woman-owned business, is guilty of a misdemeanor, punishable by incarceration in the county jail for a period not to exceed six months or a fine of not less than \$5,000.00 and not more than \$10,000, or both.*

Your firm is listed in the City's Directory of Minority Business Enterprises and Women Business Enterprises in the specialty area(s) of:

**LANDSCAPE INSTALLATION AND MAINTENANCE SERVICES; CONCRETE  
PATHS WALKWAY SERVICES; ASPHALT RESURFACING AND PATCHWORK**

Your firm's participation on City contracts will be credited only toward Minority Business Enterprise (MBE) goals in your area(s) of specialty. While your participation on City contracts is not limited to your specialty, credit toward Minority Business Enterprise (MBE) goal will be given only for work done in a specialty category.

Thank you for your continued participation in the City's Supplier Diversity Program.

Sincerely,



Karen Patterson  
Deputy Director



# Cook County Government

## Office of Contract Compliance

certifies that the criteria for certification as a

**Minority & Woman Business Enterprise**

has been met by

**Chicago Xteriors, Inc.**

Construction: Landscape and Hardscape Design & Installation; Snow Removal; Wrought Iron Fence repair & Installation; Concrete Paths Walkway Services; Asphalt Resurfacing & Patchwork.

Issued Date: February 16, 2012

No Change Affidavit Due: February 16, 2013

NIGP Code(s): 91382, 96872, 98802, 98815, 98852, 98832

County: Cook

*Laverne Hall*

LaVerne Hall

Ethnicity Code: 9

Contract Compliance Director

**Exhibit B**  
**Joint Venture Affidavit**

**(Not Applicable)**

**Exhibit C**

**Letter of Intent from MBE/WBE To Perform As  
Subcontractor, Subconsultant, and/or Material Supplier**

**(Exhibit C Follows This Page)**

**Exhibit C - Letter of Intent from MBE/WBE  
To Perform As  
Subcontractor, Subconsultant, and/or Material Supplier (1 of 2)**

Name of Project: Playground Equipment and Services

Project Number: Contract PS1921A

FROM:

Chicago Xteriors, Inc. MBE X WBE X  
(Name of MBE or WBE)

TO:

PlayCore Wisconsin, Inc. d/b/a GameTime and Public Building Commission of Chicago  
(Name of Professional Service Provider)

The undersigned intends to perform work in connection with the above-referenced project as (check one):

\_\_\_\_\_ a Sole Proprietor                      X a Corporation  
\_\_\_\_\_ a Partnership                              \_\_\_\_\_ a Joint Venture

The MBE/WBE status of the undersigned is confirmed by the attached Letter of Certification, dated \_\_\_\_\_ . In addition, in the case where the undersigned is a Joint Venture with a non-MBE/WBE firm, a Schedule B, Joint Venture Affidavit, is provided.

The undersigned is prepared to provide the following described services or supply the following described goods in connection with the above-named project.

Post-warranty installation work  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

The above-described services or goods are offered for the following price, with terms of payment as stipulated in the Contract Documents.

Cost of post-warranty work to be determined based upon Scope of Work  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Exhibit C - Letter of Intent from MBE/WBE  
To Perform As  
Subcontractor, Subconsultant, and/or Material Supplier (2 of 2)**

**PARTIAL PAY ITEMS**

For any of the above items that are partial pay items, specifically describe the work and subcontract dollar amount:

Not applicable

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If more space is needed to fully describe the MBE/WBE firm's proposed scope of work and/or payment schedule, attach additional sheet(s).

**SUB-SUBCONTRACTING LEVELS**

TBD % of the dollar value of the MBE/WBE subcontract will be sublet to non-MBE/WBE contractors.

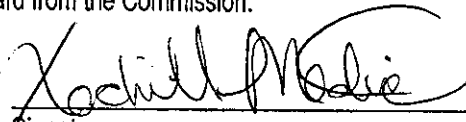
TBD % of the dollar value of the MBE/WBE subcontract will be sublet to MBE/WBE contractors.

If MBE/WBE subcontractor will not be sub-subcontracting any of the work described in this Exhibit, a zero (0) must be filled in each blank above. If more than 10% percent of the value of the MBE/WBE subcontractor's scope of work will be sublet, a brief explanation and description of the work to be sublet must be provided.

The undersigned will enter into a formal agreement for the above work with the General Bidder, conditioned upon its execution of a contract with the Public Building Commission of Chicago, and will do so within five (5) working days of receipt of a notice of Contract award from the Commission.

By:

Chicago Xteriors, Inc.  
Name of MBE/WBE Firm (Print)  
9/12/2012  
Date  
773/777-9837  
Phone

  
Signature  
Xochitl Medina  
Name (Print)

IF APPLICABLE:

By:

\_\_\_\_\_  
Joint Venture Partner (Print)  
\_\_\_\_\_  
Date  
\_\_\_\_\_  
Phone

\_\_\_\_\_  
Signature  
\_\_\_\_\_  
Name (Print)  
MBE \_\_\_ WBE \_\_\_ Non-MBE/WBE \_\_\_

**Exhibit D**  
**Affidavit of Professional Service Provider Regarding MBE/WBE Participation**

**(Exhibit D Follows This Page)**

**Exhibit D - Affidavit of Professional Service Provider Regarding MBE/WBE Participation  
(1 of 2)**

Name of Project: Playground Equipment and Services Contract Numbr PS1921A

STATE OF ILLINOIS     }  
  } SS  
COUNTY OF COOK     }

In connection with the above-captioned contract, I HEREBY DECLARE AND AFFIRM that I am the

Director of Sales Administration

Title

and duly authorized representative of

PlayCore Wisconsin, Inc. d/b/a GameTime Division

Name of Professional Service Provider

whose address is

150 PlayCore Drive, SE

in the City of Fort Payne, State of Alabama

and that I have personally reviewed the material and facts submitted with the attached Exhibits of MBE/WBE participation in the above-referenced Contract, including Exhibit C and Exhibit B (if applicable), and the following is a statement of the extent to which MBE/WBE firms will participate in this Contract if awarded to this firm as the Contractor for the Project.

Name of MBE/WBE Contractor	Type of Work to be Done in Accordance with Exhibit C	Dollar Credit Toward MBE/WBE Goals	
		MBE	WBE
Chicago Xteriors	Warranty installation	\$ TBD	\$
		\$	\$
		\$	\$
		\$	\$
		\$	\$
		\$	\$
		\$	\$
<b>Total Net MBE/WBE Credit</b>		\$ TBD	\$
<b>Percent of Total Base Bid</b>		TBD	%

The Professional Service Provider may count toward its MBE/WBE goal a portion of the total dollar value of a contract with a joint venture equal to the percentage of the ownership and control of the MBE/WBE partner.

TBD = to be determined

Exhibit D - Affidavit of Professional Service Provider Regarding MBE/WBE Participation  
(2 of 2)

**SUB-SUBCONTRACTING LEVELS**

TBD % of the dollar value of the MBE/WBE subcontract will be sublet to non-MBE/WBE contractors.

TBD % of the dollar value of the MBE/WBE subcontract will be sublet to MBE/WBE contractors.

If MBE/WBE subcontractor will not be sub-subcontracting any of the work described in this Exhibit, a zero (0) must be filled in each blank above.

If more than 10% of the value of the MBE/WBE subcontractor's scope of work will be sublet, a brief explanation and description of the work to be sublet must be provided.

The undersigned will enter into a formal agreement for the above work with the above-referenced MBE/WBE firms, conditioned upon performance as Professional Service Provider of a Contract with the Commission, and will do so within five (5) business days of receipt of a notice of Contract award from the Commission.

By:

Playcore Wisconsin, Inc.

d/b/a GameTime Division

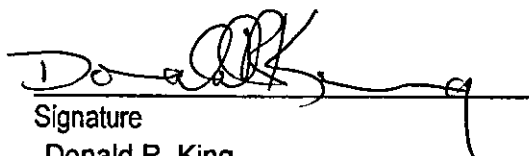
Name of Professional Service Provider (Print)

December 17, 2012

Date

423/648-5891

Phone

  
Signature  
Donald R. King  
Name (Print)

IF APPLICABLE:

By:

\_\_\_\_\_  
Joint Venture Partner (Print)

\_\_\_\_\_  
Date

\_\_\_\_\_  
Phone/FAX

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Name (Print)

MBE \_\_\_\_ WBE \_\_\_\_ Non-MBE/WBE \_\_\_\_





# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)  
08/21/2012

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

**IMPORTANT:** If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

<b>PRODUCER</b> Marsh USA, Inc. Two Alliance Center 3560 Lenox Road, Suite 2400 Atlanta, GA 30326 Attn: Atlanta.CertRequest@marsh.com / Fax: 212-948-4321 457102-Cas-GAUWX-12-13	<b>CONTACT NAME:</b>	
	<b>PHONE (A/C, No, Ext):</b>	<b>FAX (A/C, No):</b>
<b>E-MAIL ADDRESS:</b>		
<b>INSURER(S) AFFORDING COVERAGE</b>		<b>NAIC #</b>
<b>INSURER A :</b> Columbia Casualty Company		31127
<b>INSURER B :</b> Transportation Insurance Co		20494
<b>INSURER C :</b> Axis Surplus Insurance Company		26620
<b>INSURER D :</b> American Casualty Company Of Reading, Pa		20427
<b>INSURER E :</b> National Union Fire Ins Co Pittsburgh PA		19445
<b>INSURER F :</b>		

**COVERAGES**                      **CERTIFICATE NUMBER:** ATL-003102262-10                      **REVISION NUMBER:** 12

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<b>GENERAL LIABILITY</b> <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> SIR \$250,000 Per Occ. GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PROJECT <input type="checkbox"/> LOC			5086688042	08/01/2012	08/01/2013	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 250,000 MED EXP (Any one person) \$ EXCLUDED PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 3,000,000 PRODUCTS - COMP/OP AGG \$ 3,000,000 \$
B	<b>AUTOMOBILE LIABILITY</b> <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> NON-OWNED AUTOS			BUA 2098343798	08/01/2012	08/01/2013	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ Comp./Coll. Ded.: \$1,000 \$
C	<b>UMBRELLA LIAB</b> <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED      RETENTION \$			EAU768818012012	08/01/2012	08/01/2013	EACH OCCURRENCE \$ 1,000,000 AGGREGATE \$ 1,000,000 \$
D	<b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b> ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below		Y/N N	WC298343753 (AOS) WC 2 98343834 (CA) WC 2 98343879 (WI)	08/01/2012	08/01/2013	<input checked="" type="checkbox"/> WC STATUTORY LIMITS <input type="checkbox"/> OTHER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000
E	Umbrella			017066285 SIR: \$10,000	08/01/2012	08/01/2013	Each Occurrence: \$25,000,000 Aggregate: \$25,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)

RE: RFP PS1921  
 \*The Public Building Commission of Chicago, City of Chicago, and the User Agency are listed as additional insured in regards to services performed under the Agreement for Contract Number PS1921 and resulting Task Orders. Coverage is primary and others is non-contributory. A Waiver of Subrogation applies in favor of the additional insured's on the General Liability and Workers Compensation policies\*.

**CERTIFICATE HOLDER**                      **CANCELLATION**

Public Building Commission Procurement Department Richard J. Daley Center Room 200 Chicago, IL 60602	<b>SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.</b>  <b>AUTHORIZED REPRESENTATIVE</b> of Marsh USA Inc.  Manashi Mukherjee <i>Manashi Mukherjee</i>
--	--

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AGENCY CUSTOMER ID: 457102

LOC #: Atlanta



### ADDITIONAL REMARKS SCHEDULE

Page 2 of 2

AGENCY Marsh USA, Inc.		NAMED INSURED Playcore Wisconsin, Inc. dba GameTime 150 PlayCore Drive SE Fort Payne, AL 35967	
POLICY NUMBER		EFFECTIVE DATE:	
CARRIER	NAIC CODE		

#### ADDITIONAL REMARKS

**THIS ADDITIONAL REMARKS FORM IS A SCHEDULE TO ACORD FORM,**  
FORM NUMBER: 25 FORM TITLE: Certificate of Liability Insurance

Excess Layer Liability:

Carrier: Liberty Insurance Underwriters Inc.

Policy Number: EXCAT176452-2

Policy Term: 08/01/2012 - 08/01/2013

Limits: \$25,000,000 Excess \$25,000,000

POLICY NUMBER: 5086688042  
EFF. DATES: 08/01/12 - 08/01/13

COMMERCIAL GENERAL LIABILITY  
CG 20 10 07 04

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

## **ADDITIONAL INSURED – OWNERS, LESSEES OR CONTRACTORS – SCHEDULED PERSON OR ORGANIZATION**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

### **SCHEDULE**

<b>Name Of Additional Insured Person(s) Or Organization(s):</b>	<b>Location(s) Of Covered Operations</b>
Blanket as Required by Written Contract	
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.	

**A. Section II – Who Is An Insured** is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by:

1. Your acts or omissions; or
2. The acts or omissions of those acting on your behalf;

in the performance of your ongoing operations for the additional insured(s) at the location(s) designated above.

**B.** With respect to the insurance afforded to these additional insureds, the following additional exclusions apply:

This insurance does not apply to "bodily injury" or "property damage" occurring after:

1. All work, including materials, parts or equipment furnished in connection with such work, on the project (other than service, maintenance or repairs) to be performed by or on behalf of the additional insured(s) at the location of the covered operations has been completed; or
2. That portion of "your work" out of which the injury or damage arises has been put to its intended use by any person or organization other than another contractor or subcontractor engaged in performing operations for a principal as a part of the same project.





# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)  
08/21/2012

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<b>CERTIFICATE HOLDER</b> Public Building Commission Procurement Department Richard J. Daley Center Room 200 Chicago, IL 60602  ok eryl 1/7/13	<b>CANCELLATION</b> SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.  AUTHORIZED REPRESENTATIVE of Marsh USA Inc. Manashi Mukherjee <i>Manashi Mukherjee</i>
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AGENCY CUSTOMER ID: 457102

LOC #: Atlanta



### ADDITIONAL REMARKS SCHEDULE

Page 2 of 2

AGENCY Marsh USA, Inc.		NAMED INSURED Playcore Wisconsin, Inc. dba GameTime 150 PlayCore Drive SE Fort Payne, AL 35967	
POLICY NUMBER		EFFECTIVE DATE:	
CARRIER	NAIC CODE		

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Limits: \$25,000,000 Excess \$25,000,000

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COMMERCIAL GENERAL LIABILITY  
CG 20 10 07 04

**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

**ADDITIONAL INSURED – OWNERS, LESSEES OR  
CONTRACTORS – SCHEDULED PERSON OR  
ORGANIZATION**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

**SCHEDULE**

Name Of Additional Insured Person(s) Or Organization(s):	Location(s) Of Covered Operations
Blanket as Required by Written Contract	

Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

**A. Section II – Who Is An Insured** is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by:

1. Your acts or omissions; or
2. The acts or omissions of those acting on your behalf;

in the performance of your ongoing operations for the additional insured(s) at the location(s) designated above.

**B. With respect to the insurance afforded to these additional insureds, the following additional exclusions apply:**

This insurance does not apply to "bodily injury" or "property damage" occurring after:

1. All work, including materials, parts or equipment furnished in connection with such work, on the project (other than service, maintenance or repairs) to be performed by or on behalf of the additional insured(s) at the location of the covered operations has been completed; or
2. That portion of "your work" out of which the injury or damage arises has been put to its intended use by any person or organization other than another contractor or subcontractor engaged in performing operations for a principal as a part of the same project.



# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)  
12/19/2012

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

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<b>PRODUCER</b> MARSH USA, INC. TWO ALLIANCE CENTER 3560 LENOX ROAD, SUITE 2400 ATLANTA, GA 30326  457102-E&O-12-13	<b>CONTACT NAME:</b> PHONE (A/C, No, Ext): _____ FAX (A/C, No): _____ E-MAIL ADDRESS: _____	
	<b>INSURER(S) AFFORDING COVERAGE</b>	
<b>INSURED</b> PCH Holdings, Inc. 150 Playcare Drive SE Fort Payne, AL 35967	<b>INSURER A:</b> Hudson Specialty Insurance Company NAIC # 37079	
	<b>INSURER B:</b>	
	<b>INSURER C:</b>	
	<b>INSURER D:</b>	
	<b>INSURER E:</b>	
	<b>INSURER F:</b>	

**COVERAGES**      **CERTIFICATE NUMBER:** ATL-003139386-02      **REVISION NUMBER:** 7

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
	<b>GENERAL LIABILITY</b> <input type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> OCCUR  GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC						EACH OCCURRENCE \$ DAMAGE TO RENTED PREMISES (Ea occurrence) \$ MED EXP (Any one person) \$ PERSONAL & ADV INJURY \$ GENERAL AGGREGATE \$ PRODUCTS - COMP/OP AGG \$ \$
	<b>AUTOMOBILE LIABILITY</b> <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> NON-OWNED AUTOS						COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
	<b>UMBRELLA LIAB</b> <input type="checkbox"/> OCCUR <b>EXCESS LIAB</b> <input type="checkbox"/> CLAIMS-MADE DED    RETENTION \$						EACH OCCURRENCE \$ AGGREGATE \$ \$
	<b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b> ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N	N/A				<input type="checkbox"/> WC STATU-TORY LIMITS <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$
A	Errors & Omissions Liability			EMP112242	12/18/2012	12/18/2013	Limit 2,000,000 Deductible 10,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)  
Evidence of Coverage

**CERTIFICATE HOLDER**

Public Building Commission  
 Procurement Department  
 Richard J. Daley Center  
 Room 200  
 Chicago, IL 60602

**CANCELLATION**

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE  
 of Marsh USA Inc.

Manashi Mukherjee

*Manashi Mukherjee*



## Request for Taxpayer Identification Number and Certification

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

Print or type  
See Specific Instructions on page 2.

Name (as shown on your income tax return) <b>Playcore Wisconsin, Inc</b>	
Business name/disregarded entity name, if different from above <b>dba Gametime</b>	
Check appropriate box for federal tax classification: <input type="checkbox"/> Individual/sole proprietor <input checked="" type="checkbox"/> C Corporation <input type="checkbox"/> S Corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Trust/estate <input type="checkbox"/> Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=partnership) ▶ _____ <input type="checkbox"/> Exempt payee <input type="checkbox"/> Other (see instructions) ▶ _____	
Address (number, street, and apt. or suite no.) <b>150 Playcore Drive SE</b>	Requester's name and address (optional)
City, state, and ZIP code <b>Fort Payne, AL 35967</b>	
List account number(s) here (optional)	

### Part I Taxpayer Identification Number (TIN)

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

Social security number									
				-					
Employer identification number									
3	9	-	1	7	2	0	4	8	0

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

### Part II Certification

Under penalties of perjury, I certify that:

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

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

<b>Sign Here</b>	Signature of U.S. person ▶ <i>Jasper A. Ciotti</i>	Date ▶ July 1, 2012
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### General Instructions

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

#### Purpose of Form

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

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

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

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

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

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

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