

RESOLUTION NO. _____

A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO SPECIAL EVENTS; EXPRESSING SUPPORT FOR THE 2012 RELAY FOR LIFE EVENT HELD IN PALMETTO BAY THROUGH DONATION OF TWO LIGHT TOWERS; PROVIDING AN EFFECTIVE DATE. (Sponsored by Mayor Shelley Stanczyk)

WHEREAS, the 2012 Relay for Life event was held on May 5, 2012, to benefit the American Cancer Society; and

WHEREAS, Mayor Stanczyk requested the Village consider donation of two light towers for this event; the Council provided consensus at the Committee of the Whole Workshop held on April 16, 2012; and

WHEREAS, the Village Manager contacted Miami-Dade Parks to rent the light towers for the event. The Village of Palmetto Bay believes that supporting this event was a worthwhile endeavor.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, AS FOLLOWS:

Section 1. The Village of Palmetto Bay, Florida, expresses its support of the 2012 Relay for Life event through its donation of the two light towers.

Section 2. This Resolution shall become effective immediately.

PASSED AND ADOPTED this _____ day of May, 2012.

Attest: _____
Meighan J. Alexander
Village Clerk

Shelley Stanczyk
Mayor

APPROVED AS TO FORM:

Eve A. Boutsis,
FIGUEREDO & BOUTSIS, P.A., as Office
of the Village Attorney

FINAL VOTE AT ADOPTION:

Council Member Patrick Fiore _____

Council Member Howard J. Tendrich _____

Council Member Joan Lindsay _____

Vice-Mayor Brian W. Pariser _____

Mayor Shelley Stanczyk. _____

RESOLUTION NO. _____

A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO ATTORNEYS' FEES; APPROVING ATTORNEYS' FEES AND COSTS FOR FIGUEREDO & BOUTSIS, P.A. IN THE AMOUNT OF \$22,183.39; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Village Council of the Village of Palmetto Bay approved resolution no. 02-05, authorizing payment of Village Attorney non-retainer attorneys' fees and costs; and,

WHEREAS, FIGUEREDO & BOUTSIS, P.A., submitted its statements to the village for legal services rendered, and costs advanced, for the period ending April 23, 2012, in the amount of \$22,183.39; and,

WHEREAS, the amounts are reasonable and were necessarily incurred.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, AS FOLLOWS:

Section 1. The statements for attorneys' fees and costs received from FIGUEREDO & BOUTSIS, P.A., in the total amount of \$22,183.39, copies of which are attached, are approved for payment.

Section 2. This resolution shall take effect immediately upon approval.

PASSED and ADOPTED this _____ day of May, 2012.

Attest: _____
Meighan Alexander
Village Clerk

Shelley Stanczyk
Mayor

APPROVED AS TO FORM:

Eve A. Boutsis,
FIGUEREDO & BOUTSIS, P.A., as Office
of the Village Attorney

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FINAL VOTE AT ADOPTION:

Council Member Patrick Fiore _____

Council Member Howard J. Tendrich _____

Council Member Joan Lindsay _____

Vice-Mayor Brian W. Pariser _____

Mayor Shelley Stanczyk _____

FIGUEREDO & BOUTSIS, P.A.

Attorneys & Counselors

18001 Old Cutler Road - Fifth Floor

Telephone: (305) 235-9344

Miami, Florida 33157-6417

Facsimile: (305) 235-9372

April 23, 2012

Ron Williams, Village Manager
Village of Palmetto Bay
8950 SW 152nd Street
Palmetto Bay, FL 33157

Re: STATEMENTS FOR PROFESSIONAL SERVICES
The Village of Palmetto Bay

Dear Mr. Williams:

Enclosed are our invoices for professional services rendered and for costs advanced for the period ending April 23, 2012 in the amount of \$22,183.39. I have tabulated the amounts *currently due* on each individual file as follows:

Please deduct from Village Attorney Account No. 5143110, General Legal.			
0293-001	Non-Retainer Legal Services <i>Invoice No. 20378 dated 4/23/12</i>	Prof'l Services Disbursements Total Due	\$ 18,463.00 701.19 19,164.19
	Total		\$ 19,164.19
Please deduct from Village Attorney Account No. 5143140, Code Enforcement.			
0293-002	<i>Zoning Application</i> <i>Invoice No. 20379 dated 4/23/12</i>	Prof'l Services Disbursements Total Due	\$ 814.00 16.28 830.28
	Total		\$ 830.28
0293-004	<i>Code Enforcement</i> <i>Invoice No. 20380 dated 4/23/12</i>	Prof'l Services Disbursements Total Due	\$ 462.50 9.25 471.75
	Total		\$ 471.75

0293-027	<i>Palmer Trinity Private School Invoice No. 20381 dated 4/23/12</i>	Prof'l Services Disbursements Total Due	\$ 188.70	185.00 3.70 188.70
0293-029	<i>Palmer Trinity vs. Village of Palmetto Bay (Appeal) Invoice No. 20382 dated 4/23/12</i>	Prof'l Services Disbursements Total Due	\$ 773.67	758.50 15.70 773.67
0293-060	<i>Shores at Palmetto Bay vs. Village of Palmetto Bay Invoice No. 20383 dated 4/23/12</i>	Prof'l Services Disbursements Total Due	\$ 754.80	740.00 14.80 754.80
	Grand Total		\$	22,183.39

Do not hesitate to call me if you have any questions regarding these statements.

Very truly yours,

Eve A. Boutsis
Office of the Village Attorney

EAB/lcm
Enclosures
cc: Mayor and Village Council

**FIGUEREDO & BOUTSIS, P.A.
ATTORNEYS & COUNSELORS**

18001 Old Cutler Road, Suite 533, Miami, Florida 33157

Telephone No.: (305) 235-9344

Facsimile: (305) 235-9372

Shelley Stanczyk
Village of Palmetto Bay
9705 E. Hibiscus Street
Palmetto Bay, Florida 33157

April 23, 2012
Matter ID: 0293-001
General Municipal-VPB
Invoice Number 20378

			Hours	Amount
3/21/2012	EAB	Drafted memorandum to Charter Revision Commission; conducted legal research; drafted Thalatta Memorandum; telephone conference with Mr. Ed Silva; telephone conference with Mrs. Meighan Alexander; and completed agenda review.	6.00	1,110.00
3/21/2012	EAB	Attended COW meeting.	2.00	370.00
3/22/2012	EAB	Attended meeting with MDCCEPT, Mr. Joe Centorino, Ms. Miriam Ramos, Mr. Mike Murowski regarding updates and application of new ethics amendments to MDC.	3.50	647.50
3/22/2012	EAB	Attention to budget review; and attention to federal audit standards and procurement.	1.00	185.00
3/23/2012	EAB	Attention to Stormwater Model Ordinance; and communications with Ms. Olga Cadaval and Mr. Silva.	0.40	74.00
3/23/2012	EAB	Revised charter commission memorandum.	1.00	185.00
3/24/2012	EAB	Telephone conference with Mayor Shelley Stanczyk.	0.30	55.50
3/26/2012	EAB	Attention to Quality Paving matter; communications with Ms. Corrice Patterson and Mr. Ron Williams.	0.60	111.00
3/26/2012	EAB	Telephone conference with Mr. Darby Delsalle.	0.30	55.50
3/26/2012	EAB	Telephone conference with Mrs. Fanny Carmona Gonzalez.	0.30	55.50
3/26/2012	EAB	Telephone conference with Ms. Patterson.	0.40	74.00
3/27/2012	EAB	Prepared for Charter Revision Commission meeting; telephone conference with Mr. Williams; issued letter to Tenez; communications with Ms. Patterson; and attention to meeting with Quality Paving.	2.50	462.50
3/27/2012	EAB	Attended Charter Revision Commission meeting.	4.00	740.00
3/28/2012	EAB	Telephone conference with Mr. Tucker Gibbs; communications with Ms. Leann Tellam; and communications regarding meeting on 4th.	0.70	129.50

Payment is due upon receipt. Please notify us within 10 days of any questions you have regarding this invoice. Interest at a rate of 1.5% per month will be charged if payment is not received within 30 days.

CONFIDENTIAL - ATTORNEY/CLIENT PRIVILEGE

3/28/2012	EAB	Revised ballot question and charter; and telephone conferences with Mr. Gibbs, Mr. Simon Ferro, Mr. Jerry Proctor, and Ms. Tellam.	2.00	370.00
3/28/2012	EAB	Telephone conference with Mr. Ben Kuehne; and attention to FCE matter.	0.60	111.00
3/29/2012	EAB	Communications with staff and council regarding Thalatta and parking garage.	1.00	185.00
4/2/2012	EAB	Communications with Mr. Proctor; telephone conference with Mr. Gibbs; telephone conference with Mr. Peter England; attention to agenda items; telephone conference with Mrs. Alexander; telephone conference with CP Joan Lindsay; revised agenda items; and prepared for council meeting.	3.50	647.50
4/2/2012	EAB	Telephone conference with Mr. Gibbs; telephone conference with Mr. John Shubin; continued legal research; revised ballot question language; and conducted legal research and provided update to CRC and VM Brian Pariser.	2.70	499.50
4/2/2012	EAB	Attended Council meeting.	4.00	740.00
4/3/2012	EAB	Telephone conference with Ms. Leanne Tellum; email communications with Ms. Beverly Gerald.	1.00	185.00
4/3/2012	EAB	Meeting with Ms. Patterson and Quality Paving.	1.50	277.50
4/4/2012	EAB	Finalized two RFPs as to landscaping and security for Parks Department.	1.50	277.50
4/4/2012	EAB	Attention to Contracts - Quality Paving, et al.	1.50	277.50
4/4/2012	EAB	Began drafting edits to ordinances for second reading.	1.00	185.00
4/4/2012	EAB	Drafted follow-up letter to Quality Paving.	1.00	185.00
4/4/2012	EAB	Telephone conferences with Mr. Williams; CP Lindsay; communications with the League of Cities; attention to revised resolutions from council meeting; telephone conference with Mayor Shelley Stanczyk; telephone conference with P&Z; communications with Ms. Patterson; and communications with Mr. Silva.	2.00	370.00
4/5/2012	EAB	Finalized three RFPs for Parks Department; and attention to Melendi Act application.	2.00	370.00
4/5/2012	EAB	Meeting with Mr. Tellum and Mr. Gibbs; communications with Mr. Ferro; and attention to charter language.	4.00	740.00
4/6/2012	EAB	Attention to charter revision matters and revisions.	3.50	647.50
4/6/2012	EAB	Revised ordinance and cover memorandum relating to Historic Preservation; and attention to Quality Paving.	1.50	277.50
4/6/2012	EAB	Telephone conference with Mr. Williams on pending items.	0.40	74.00
4/9/2012	EAB	Drafted Hold Harmless and indemnification agreement with final	1.70	314.50

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CONFIDENTIAL - ATTORNEY/CLIENT PRIVILEGE

release as to PW bid payments.

4/9/2012	EAB	Communications and telephone conference with Mr. Gibbs and Mrs. Tellam; attention to language; research on RELUIPA; provided email communications to CRC relating to SA provision and last provision of charter; telephone conference with Mr. Proctor; telephone conference with Mr. Ferro; and telephone conference with Mrs. Alexander and Mr. Williams.	5.00	925.00
4/9/2012	EAB	Attended CRC meeting.	2.50	462.50
4/10/2012	EAB	Attention to after action and research relating to questions.	2.50	462.50
4/10/2012	EAB	Attention to Tenex matter; telephone conference with Counsel for Quality Paving; and communications with Ms. Patterson and attention to spread sheet analysis.	1.40	259.00
4/11/2012	EAB	Telephone conference with CP Lindsay regarding COW; and attention to pending matters.	0.40	74.00
4/12/2012	EAB	Telephone conference with Ms. Patterson; attention to pending matters; telephone conference with Mr. Williams; and attention to CRC.	1.50	277.50
4/13/2012	EAB	Attended meeting with Ms. Patterson, Mr. Danny Casal and C3TS; drafted letter to Quality Paving; reviewed and finalized letter to Tenex; and attention to Shannon Melendi and state law relating to background investigation of volunteers.	2.00	370.00
4/13/2012	EAB	Research on Charter Revision matter.	2.00	370.00
4/13/2012	EAB	Attention to pending items.	0.40	74.00
4/16/2012	EAB	Drafted resolution approving Permitting Committee Report; drafted resolution regarding Feller Community Room; communications with Mayor Stanczyk; telephone conference with CP Patrick Fiore; attention to red light camera matter; and attention to AIPP program.	2.70	499.50
4/16/2012	EAB	Attention to Flood Plain ordinance.	0.40	74.00
4/16/2012	EAB	Attended COW meeting.	2.30	425.50
4/16/2012	EAB	Conducted research and analyzed RLUIPA and FRLUIPA caselaw.	3.50	647.50
4/17/2012	EAB	Telephone conference with Mr. Ferro; telephone conference with Mayor Stanczyk; communications with CP Lindsay; telephone conference with Mr. Williams; follow up with P&Z; and attention to pending items; attention to zoning in progress; and telephone conference with Mr. Delsalle.	2.50	462.50
4/18/2012	EAB	Telephone conference with Mr. Bill Kress; and telephone conference with Mr. Delsalle; follow up on AIPP; communications with Mr. David Wolpin as to RLUIPA; continued research as to RLUIPA; telephone conference with CP Lindsay; communications with Mr. Chad Friedman regarding Elections; and communications with Ms. Cadaval.	5.00	925.00
4/19/2012	EAB	Telephone conference with Mr. Ben Keuhne.	0.40	74.00

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CONFIDENTIAL - ATTORNEY/CLIENT PRIVILEGE

4/19/2012	EAB	Legal research as to notary and perjury and provided language for form to Ms. Cadaval.	0.60	111.00
4/19/2012	EAB	Attention to CRC meetings; communications with Ms. Tellum and Mr. Gibbs; and attention to Elections meeting.	0.40	74.00
4/20/2012	EAB	Attended meeting with-County relating to the Status of Planning in South Florida and proposed revisions to county zoning code and impacts to municipalities.	3.50	647.50
4/20/2012	EAB	Discussion with Mr. Gibbs regarding charter language.	0.40	74.00
4/20/2012	EAB	Revised AIPP artist contract - first amendment.	0.40	74.00
4/20/2012	EAB	Telephone conference with Mayor Stanczyk; and telephone conference with Mrs. Alexander and Mr. Williams.	0.60	111.00
			<hr/>	
			Total Professional Services	18,463.00

Rate Summary

Eve A. Boutsis	99.80 hours at \$185.00/hr	18,463.00
		<hr/>
Total hours:	99.80	18,463.00

Disbursements

3/22/2012	Mileage	15.84
3/22/2012	Parking Charge	5.00
3/31/2012	Database Legal research	275.25
4/20/2012	Parking Charge	20.00
4/20/2012	Mileage	15.84
4/23/2012	Disbursements incurred - 2.0%	369.26

Payments and Credits

3/22/2012	Check No.: 14597	16,457.60
4/16/2012	Check No.: 14728	14,997.96
		<hr/>
Sub-total Payments:		31,455.56

Payment is due upon receipt. Please notify us within 10 days of any questions you have regarding this invoice. Interest at a rate of 1.5% per month will be charged if payment is not received within 30 days.

CONFIDENTIAL - ATTORNEY/CLIENT PRIVILEGE

For Professional Services	18,463.00
For Disbursements Incurred	701.19
Current Balance:	<u>19,164.19</u>
Previous Balance:	31,455.56
Payments - Thank you	31,455.56
Total Due	<u>19,164.19</u>

To be properly credited, please indicate Invoice Number on your remittance check.

Payment is due upon receipt. Please notify us within 10 days of any questions you have regarding this invoice. Interest at a rate of 1.5% per month will be charged if payment is not received within 30 days.

FIGUEREDO & BOUTSIS, P.A.
ATTORNEYS & COUNSELORS

18001 Old Cutler Road, Suite 533, Miami, Florida 33157

Telephone No.: (305) 235-9344

Facsimile: (305) 235-9372

Shelley Stanczyk
 Village of Palmetto Bay
 9705 E. Hibiscus Street
 Palmetto Bay, Florida 33157

April 23, 2012
 Matter ID: 0293-002
 Zoning Applications
 Invoice Number 20379

			Hours	Amount
3/21/2012	EAB	Communications with Mr. Efren Nunez and Mr. Darby Delsalle.	0.30	55.50
3/22/2012	EAB	Telephone conference with Mr. Delsalle on pending items.	0.50	92.50
3/23/2012	EAB	Finalized variance resolution.	0.30	55.50
3/27/2012	EAB	Attention to, analyzed and revised substantial compliance in Westminster matter.	0.70	129.50
3/28/2012	EAB	Attention to Westminster; and Mr. Chow public record regarding PT; and telephone conference with Mr. Delsalle.	0.40	74.00
4/2/2012	EAB	Telephone conference with Mr. John Shubin and Mr. Delsalle.	0.60	111.00
4/10/2012	EAB	Attention to P&Z zoning notice; telephone conference with Mayor Shelley Stanczyk on pending items; and revised RFQ for AIPP artists.	1.30	240.50
4/13/2012	EAB	Attention to pending matters with Mr. Delsalle.	0.30	55.50
				814.00
			Total Professional Services	814.00

Rate Summary

Eve A. Boutsis 4.40 hours at \$185.00/hr 814.00

Total hours: 4.40 814.00

4/23/2012 Disbursements incurred - 2.0% 16.28

Payments and Credits

3/22/2012 Check No.: 14597 603.84

Payment is due upon receipt. Please notify us within 10 days of any questions you have regarding this invoice. Interest at a rate of 1.5% per month will be charged if payment is not received within 30 days.

CONFIDENTIAL - ATTORNEY/CLIENT PRIVILEGE

4/16/2012 Check No.: 14728 1,207.68

Sub-total Payments: 1,811.52

For Professional Services 814.00

For Disbursements Incurred 16.28

Current Balance: 830.28

Previous Balance: 1,811.52

Payments - Thank you 1,811.52

Total Due **830.28**

To be properly credited, please indicate Invoice Number on your remittance check.

Payment is due upon receipt. Please notify us within 10 days of any questions you have regarding this invoice. Interest at a rate of 1.5% per month will be charged if payment is not received within 30 days.

**FIGUEREDO & BOUTSIS, P.A.
ATTORNEYS & COUNSELORS**

18001 Old Cutler Road, Suite 533, Miami, Florida 33157

Telephone No.: (305) 235-9344

Facsimile: (305) 235-9372

Shelley Stanczyk
Village of Palmetto Bay
9705 E. Hibiscus Street
Palmetto Bay, Florida 33157

April 23, 2012
Matter ID: 0293-004
Code Enforcement
Invoice Number 20380

			Hours	Amount
3/22/2012	EAB	Communications with Mr. Jerry Proctor on code compliance matter.	0.30	55.50
3/26/2012	EAB	Communication with Mr. Proctor.	0.20	37.00
4/13/2012	EAB	Telephone conference with Mr. Darby Delsalle regarding pending matters.	0.30	55.50
4/16/2012	EAB	Attended meeting with Mr. Delsalle and "Mow and Go" vendor.	1.30	240.50
4/18/2012	EAB	Attention to code compliance matter.	0.40	74.00
Total Professional Services				462.50

Rate Summary

Eve A. Boutsis 2.50 hours at \$185.00/hr 462.50

Total hours: 2.50 462.50

4/23/2012 Disbursements incurred - 2.0% 9.25

Payments and Credits

3/22/2012 Check No.: 14597 94.35

Sub-total Payments: 94.35

Payment is due upon receipt. Please notify us within 10 days of any questions you have regarding this invoice. Interest at a rate of 1.5% per month will be charged if payment is not received within 30 days.

CONFIDENTIAL - ATTORNEY/CLIENT PRIVILEGE

For Professional Services	462.50
For Disbursements Incurred	9.25
Current Balance:	<u>471.75</u>
Previous Balance:	94.35
Payments - Thank you	94.35
Total Due	<u>471.75</u>

To be properly credited, please indicate Invoice Number on your remittance check.

Payment is due upon receipt. Please notify us within 10 days of any questions you have regarding this invoice. Interest at a rate of 1.5% per month will be charged if payment is not received within 30 days.

FIGUEREDO & BOUTSIS, P.A.
ATTORNEYS & COUNSELORS

18001 Old Cutler Road, Suite 533, Miami, Florida 33157

Telephone No.: (305) 235-9344

Facsimile: (305) 235-9372

Shelley Stanczyk
 Village of Palmetto Bay
 9705 E. Hibiscus Street
 Palmetto Bay, Florida 33157

April 23, 2012
 Matter ID: 0293-027
 Palmer Trinity Private School,
 Invoice Number 20381

			Hours	Amount
4/19/2012	EAB	Attention to PT motion; coordinated hearing regarding same; and communications with counsel.	1.00	185.00
			Total Professional Services	185.00

Rate Summary

Eve A. Boutsis	1.00 hours at \$185.00/hr	185.00
	Total hours:	1.00
		185.00

4/23/2012 Disbursements incurred - 2.0% 3.70

Payments and Credits

3/22/2012	Check No.: 14597	2,085.78
4/16/2012	Check No.: 14728	245.31
Sub-total Payments:		2,331.09

Payment is due upon receipt. Please notify us within 10 days of any questions you have regarding this invoice. Interest at a rate of 1.5% per month will be charged if payment is not received within 30 days.

CONFIDENTIAL - ATTORNEY/CLIENT PRIVILEGE

For Professional Services	185.00
For Disbursements Incurred	3.70
Current Balance:	<u>188.70</u>
Previous Balance:	2,331.09
Payments - Thank you	2,331.09
Total Due	<u>188.70</u>

To be properly credited, please indicate Invoice Number on your remittance check.

Payment is due upon receipt. Please notify us within 10 days of any questions you have regarding this invoice. Interest at a rate of 1.5% per month will be charged if payment is not received within 30 days.

**FIGUEREDO & BOUTSIS, P.A.
ATTORNEYS & COUNSELORS**

18001 Old Cutler Road, Suite 533, Miami, Florida 33157

Telephone No.: (305) 235-9344

Facsimile: (305) 235-9372

Shelley Stanczyk
Village of Palmetto Bay
9705 E. Hibiscus Street
Palmetto Bay, Florida 33157

April 23, 2012
Matter ID: 0293-029
Palmer Trinity v. VPB - Appeal
Invoice Number 20382

			Hours	Amount
4/5/2012	EAB	Communications with Justice Raoul Cantero; and attention to PT appeal brief.	1.00	185.00
4/11/2012	EAB	Attention to response to motion for fees and reply brief.	2.50	462.50
4/17/2012	EAB	Attention to appellate briefs and response to motion for fees; and communications with Justice Cantero.	0.60	111.00
				758.50
			Total Professional Services	758.50

Rate Summary

Eve A. Boutsis	4.10 hours at \$185.00/hr	758.50
	Total hours: 4.10	758.50

4/23/2012 Disbursements incurred - 2.0% 15.17

Payments and Credits

3/22/2012	Check No.: 14597	188.70
4/16/2012	Check No.: 14728	56.61
		Sub-total Payments: 245.31

Payment is due upon receipt. Please notify us within 10 days of any questions you have regarding this invoice. Interest at a rate of 1.5% per month will be charged if payment is not received within 30 days.

CONFIDENTIAL - ATTORNEY/CLIENT PRIVILEGE

For Professional Services	758.50
For Disbursements Incurred	15.17
Current Balance:	<u>773.67</u>
Previous Balance:	245.31
Payments - Thank you	245.31
Total Due	<u>773.67</u>

To be properly credited, please indicate Invoice Number on your remittance check.

Payment is due upon receipt. Please notify us within 10 days of any questions you have regarding this invoice. Interest at a rate of 1.5% per month will be charged if payment is not received within 30 days.

**FIGUEREDO & BOUTSIS, P.A.
ATTORNEYS & COUNSELORS**

18001 Old Cutler Road, Suite 533, Miami, Florida 33157

Telephone No.: (305) 235-9344

Facsimile: (305) 235-9372

Shelley Stanczyk
Village of Palmetto Bay
9705 E. Hibiscus Street
Palmetto Bay, Florida 33157

April 23, 2012
Matter ID: 0293-060
Shores at Palmetto Bay vs. VPB
Invoice Number 20383

			Hours	Amount
3/22/2012	EAB	Analyzed reply brief and citations to authority and prepared oral argument book.	4.00	740.00
				740.00
Total Professional Services				740.00

Rate Summary

Eve A. Boutsis	4.00 hours at \$185.00/hr	740.00
Total hours:	4.00	740.00

4/23/2012 Disbursements incurred - 2.0% 14.80

Payments and Credits

3/22/2012	Check No.: 14597	13,749.23
4/16/2012	Check No.: 14728	381.26
Sub-total Payments:		14,130.49

Payment is due upon receipt. Please notify us within 10 days of any questions you have regarding this invoice. Interest at a rate of 1.5% per month will be charged if payment is not received within 30 days.

CONFIDENTIAL - ATTORNEY/CLIENT PRIVILEGE

For Professional Services	740.00
For Disbursements Incurred	14.80
Current Balance:	<u>754.80</u>
Previous Balance:	14,130.49
Payments - Thank you	14,130.49
Total Due	<u>754.80</u>

To be properly credited, please indicate Invoice Number on your remittance check.

Payment is due upon receipt. Please notify us within 10 days of any questions you have regarding this invoice. Interest at a rate of 1.5% per month will be charged if payment is not received within 30 days.

RESOLUTION NO. _____

A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO ATTORNEYS' FEES; APPROVING ATTORNEYS' FEES AND COSTS FOR WHITE & CASE IN THE AMOUNT OF \$14,888.56; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Village Council of the Village of Palmetto Bay authorizes the use of the services of White & Case in the appellate litigation before the Third District Court of Appeal in the matter entitled Palmer Trinity Private School v. the Village of Palmetto Bay; and,

WHEREAS, WHITE & CASE, submitted its statements to the Village for legal services rendered, and costs advanced, for the period ending April 23, 2012, in the amount of \$14,888.56; and,

WHEREAS, the amounts are reasonable and were necessarily incurred.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, AS FOLLOWS:

Section 1. The statements for attorneys' fees and costs received from WHITE & CASE, in the total amount of \$14,888.56, copies of which are attached, are approved for payment.

Section 2. This resolution shall take effect immediately upon approval.

PASSED and ADOPTED this ____ day of May, 2012.

Attest: _____
Meighan Alexander
Village Clerk

Shelley Stanczyk
Mayor

APPROVED AS TO FORM:

Eve A. Boutsis,
Village Attorney

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FINAL VOTE AT ADOPTION:

Council Member Patrick Fiore _____

Council Member Howard J. Tendrich _____

Council Member Joan Lindsay _____

Vice-Mayor Brian W. Pariser _____

Mayor Shelley Stanczyk. _____

Village of Palmetto Bay
Attn: Ron E. Williams, Village Manager
Village Hall
9705 E. Hibiscus Street
Palmetto Bay, FL 33157

White & Case LLP
Wachovia Financial Center, Suite 4900
200 South Biscayne Boulevard
Miami, Florida 33131-2352

Federal Identification Number 13 5605970

April 23, 2012
Invoice No. 1002576

REMITTANCE COPY

re: PALMER TRINITY SCHOOL
Ref. No. 1580701-0002

FOR PROFESSIONAL SERVICES RENDERED in connection with the above-referenced matter for the period ending April 23, 2012	\$	14,051.00
COSTS AND DISBURSEMENTS		837.56
TOTAL DUE	\$	<u>14,888.56</u>

PAYMENT INSTRUCTIONS

This invoice is due upon receipt. Wire or ACH payment should be made to the account of White & Case LLP, Account No. 301177137265 at JPMorgan Chase, 270 Park Avenue, New York, NY 10017 (ABA No. 021-000021/Swift Code: CHASUS33). For proper crediting the wire/ACH must reference 1580701-0002 VILLAGE OF PALMETTO BAY.

Alternatively, payment can be made by check to "White & Case LLP" as payee, referencing 1580701-0002 VILLAGE OF PALMETTO BAY on the face of the check, and mailing the check to our Remittance Address: WHITE & CASE LLP, 23802 Network Place, Chicago, IL 60673-1238.

Village of Palmetto Bay
 Attn: Ron E. Williams, Village Manager
 Village Hall
 9705 E. Hibiscus Street
 Palmetto Bay, FL 33157

re: PALMER TRINITY SCHOOL
 Ref. No. 1580701-0002

FOR PROFESSIONAL SERVICES RENDERED in connection with the
 above-referenced matter for the period ending April 23, 2012 as follows:

02/02/12	Scanned key documents to Case Management Database. Updated pleading and correspondence indexes and organized files.	K GONZALEZ	.30	18.00
02/02/12	Scan key documents to Case Management Database.	D ESTRABAO	.10	6.00
02/09/12	E-mail correspondence with R. Cantero and E. Coppolecchia re: recoverability of costs of transcripts; research re: same.	E GOLDENBERG	.80	348.00
02/09/12	Research re: taxable costs.	E K COPPOLECCHIA	1.70	408.00
02/10/12	Coded and Scanned key documents to Case Management Database. Updated pleading and correspondence indexes and organized files.	K GONZALEZ	.40	24.00
02/28/12	Receive and review order requiring response to petition; email to E. Boutsis re: same; calendar due dates.	R CANTERO	.20	130.00
02/28/12	E-mail correspondence with R. Cantero and E. Boutsis re: order requiring Palmer Trinity to respond to cert. petition.	E GOLDENBERG	.30	130.50
03/01/12	Scanned key documents to Case Management Database. Updated pleading and correspondence indexes and organized files.	K GONZALEZ	.40	24.00
03/13/12	Receive and review order deferring motion to tax costs.	R CANTERO	.10	65.00
03/14/12	Scanned key documents to Case Management Database. Updated pleading and correspondence indexes and organized files.	K GONZALEZ	.40	24.00

03/27/12	Discussions with E. Mehta re: extensions of time for answer and reply briefs.	R CANTERO	.20	130.00
03/30/12	Scanned key documents to Case Management Database. Updated pleading and correspondence indexes and organized files.	K GONZALEZ	.40	24.00
04/05/12	Reviewed Palmer Trinity's response brief and motion for attorney's fees; began work on response; office conference with E. Coppolecchia re: same.	E GOLDENBERG	2.60	1,131.00
04/05/12	Review Palmer Trinity's motion for attorney's fees; review Palmer Trinity's response to petition for cert.	E K COPPOLECCHIA	1.00	240.00
04/05/12	Scanned key documents to Case Management Database. Updated pleading and correspondence indexes and organized files.	K GONZALEZ	.40	24.00
04/06/12	Drafted reply brief: research for same.	E GOLDENBERG	6.00	2,610.00
04/06/12	Scanned key documents to Case Management Database. Updated pleading and correspondence indexes and organized files.	K GONZALEZ	.40	24.00
04/06/12	Review, Code and Scan key documents to Case Management Database.	D ESTRABAO	.50	30.00
04/09/12	Drafted and edited reply brief and response to motion for attorney's fees; research for same.	E GOLDENBERG	4.10	1,783.50
04/10/12	Continued work on reply brief and response to motion for attorney's fees; office conference with E. Coppolecchia re: same.	E GOLDENBERG	3.30	1,435.50
04/10/12	Review reply memorandum in support of petition for writ of certiorari.	E K COPPOLECCHIA	.30	72.00
04/11/12	Edited reply brief and response to motion for attorney's fees; office conference with E. Coppolecchia re: same; e-mail correspondence with R. Cantero and E. Boutsis.	E GOLDENBERG	3.70	1,609.50

04/11/12	Review reply memorandum in support of petition for writ of certiorari; input revisions; prepare request for oral argument.	E K COPPOLECCHIA	.80	192.00
04/14/12	Review and revise reply memo in support of petition for certiorari; review and revise response to motion for attorneys' fees.	R CANTERO	1.00	650.00
04/16/12	Review and revise reply memo in support of petition for certiorari; review and revise response to motion for attorneys' fees.	R CANTERO	.30	195.00
04/16/12	Edited reply brief and response to motion for fees; e-mail correspondence with R. Cantero; telephone conference with T. Gibbs; e-mail correspondence with T. Gibbs.	E GOLDENBERG	2.70	1,174.50
04/16/12	Research re: entitlement to attorneys' fees on appeal for response to motion for attorneys' fees and costs.	E K COPPOLECCHIA	2.30	552.00
04/17/12	Review and revise reply memo in support of petition for certiorari and finalize for filing; review and revise response to motion for attorneys' fees and finalize for filing.	R CANTERO	.10	65.00
04/17/12	Finalization of reply brief, response to motion for attorney's fees and request for oral argument; edited same: e-mail correspondence with R. Cantero, E. Coppolecchia and E. Boutsis re: same; telephone conference with T. Gibbs.	E GOLDENBERG	1.70	739.50
04/17/12	Cite check reply brief.	E K COPPOLECCHIA	.80	192.00
TOTAL PROFESSIONAL FEES			S	14,051.00

COSTS AND DISBURSEMENTS

Courier Service	126.18
Computer Legal Research	367.45
Photocopying	244.93
Facsimile	71.25
Word Processing	27.75

TOTAL COSTS AND DISBURSEMENTS	\$	837.56
		<hr/>
TOTAL	\$	14,888.56
		<hr/> <hr/>

TIME SUMMARY

TIMEKEEPER	TITLE	RATE	HOURS	FEEES
R CANTERO	Partner	650.00	1.90	1,235.00
E GOLDENBERG	Counsel	435.00	25.20	10,962.00
E K COPPOLECCHIA	Level 2	240.00	6.90	1,656.00
K GONZALEZ	Legal Assistant	60.00	2.70	162.00
D ESTRABAO	Legal Assistant	60.00	0.60	36.00
	TOTALS		37.30	14,051.00



To: Honorable Mayor and Village Council

Date: April 30, 2012

From: Ron E. Williams, Village Manager

Re: Amending Budget Workshop
date

**A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF
THE VILLAGE OF PALMETTO BAY, FLORIDA; AMENDING
RESOLUTION 2011-79; RE-SCHEDULING THE BUDGET
WORKSHOP TO JUNE 6, 2012 (PREVIOUSLY SCHEDULED FOR
MAY 14, 2012); PROVIDING AN EFFECTIVE DATE.**

BACKGROUND AND ANALYSIS:

Following our normal annual practice, the Village Clerk's office prepared the Resolution that established all dates for Council meetings, the Budget Workshop, and Land Development Hearings. Resolution 2011-79 was adopted that established the Budget Workshop for May 14, 2012. However, in consideration of the fact that Miami-Dade County will not be providing its tax revenue estimate until June 1st, staff has asked the Council to re-schedule the Budget Workshop until June 6, 2012. All Council members had verbally indicated their availability.

FISCAL/BUDGETARY IMPACT: None.

RECOMMENDATION: Approval.

RESOLUTION NO. _____

A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA; AMENDING RESOLUTION 2011-79; RE-SCHEDULING THE BUDGET WORKSHOP TO JUNE 6, 2012 (PREVIOUSLY SCHEDULED FOR MAY 14, 2012); PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Mayor and the Village Council approved Resolution No. 2011-79 that announced the meeting schedule for both the Village of Palmetto Bay Council Meetings, including a Budget Workshop, and the Land Development Permit hearings; and

WHEREAS, the Budget Workshop scheduled for May 14, 2012, has been re-scheduled to June 6, 2012; and

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, AS FOLLOWS:

Section 1. The previously scheduled Budget Workshop of May 14, 2012 has been re-scheduled to June 6, 2012. Said workshop shall be held at Village Hall, 9705 E. Hibiscus Street, Palmetto Bay, at 7:00 p.m.

Section 2. This resolution shall take effect immediately upon approval.

PASSED and ADOPTED this ____ day of May, 2012.

Attest: _____
Meighan Alexander
Village Clerk

Shelley Stanczyk
Mayor

READ AND APPROVED AS TO FORM:

Eve Boutsis
Village Attorney

FINAL VOTE AT ADOPTION:

Council Member Patrick Fiore _____

Council Member Howard J. Tendrich _____

Council Member Joan Lindsay _____

Vice-Mayor Brian W. Pariser _____

Mayor Shelley Stanczyk. _____



To: Honorable Mayor, Vice Mayor, and
Village Council

Date: April 30, 2012

From: Ron E. Williams, Village Manager

Re: Procurement of Outdoor
Fitness Equipment for
Palmetto Bay Park

A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO PARKS AND RECREATION; AUTHORIZING THE VILLAGE MANAGER TO ENTER INTO CONTRACT WITH GAMETIME C/O DOMINICA RECREATION PRODUCTS, INC. FOR THE PURCHASE, DELIVERY AND INSTALLATION OF OUTDOOR FITNESS EQUIPMENT AND SURFACING AT PALMETTO BAY PARK; PIGGYBACKING WITH U.S. COMMUNITIES CONTRACT NO. 110179; AND AUTHORIZING THE VILLAGE MANAGER TO APPROVE EXPENDITURE OF FUNDS IN AN AMOUNT NOT TO EXCEED \$38,299.47; AND PROVIDING AN EFFECTIVE DATE

BACKGROUND AND ANALYSIS:

For the past two years, Village residents have enjoyed the availability of physical fitness stations located along the walking trail at Coral Reef Park. In an effort to afford the residents in the Palmetto Bay Park area the same opportunity, the Village Council appropriated \$40,000 in the Palmetto Bay Park FY 2011-12 Capital Improvement Fund for the purchase of such equipment. The Parks and Recreation Department solicited quotes from three (3) outdoor fitness equipment providers, and determined the quote from GameTime C/O Dominica Recreational Products, Inc. as the most feasible in terms of pricing; as well as the long-term availability of parts and services should repairs be required. Specifically, the GameTime products are manufactured in Fort Payne, Alabama; as opposed to the two other product lines manufactured outside the United States. As may be noted regarding existing equipment manufactured outside the U.S., the procurement of needed repair parts is quite an ordeal; usually taking several months to acquire. We have been assured by GameTime that needed replacement parts and/or service can be made available in a matter of days, not months.

It is therefore recommended that the specified outdoor fitness equipment, as quoted by GameTime C/O Dominica Recreational Products, Inc. in the amount of \$38,299.47, be

approved and authorized by the Village Council. Please note that the quote is all encompassing; including purchase of equipment, site preparation, installation and concrete station surfacing; and represents piggybacking pricing from U.S. Communities contract No. 110179.

FISCAL/BUDGETARY IMPACT: Funds have been identified and approved in the FY2011-12 Budget under the “Palmetto Bay Park – Improvements (Capital Expenditures)”

RECOMMENDATION: Approval.

1 RESOLUTION NO. _____
2

3 A RESOLUTION OF THE MAYOR AND VILLAGE COUNCIL OF THE
4 VILLAGE OF PALMETTO BAY, FLORIDA, RELATING TO PARKS AND
5 RECREATION; AUTHORIZING THE VILLAGE MANAGER TO
6 ENTER INTO CONTRACT WITH GAMETIME C/O DOMINICA
7 RECREATION PRODUCTS, INC. FOR THE PURCHASE, DELIVERY
8 AND INSTALLATION OF OUTDOOR FITNESS EQUIPMENT AND
9 SURFACING AT PALMETTO BAY PARK; PIGGYBACKING WITH U.S.
10 COMMUNITIES CONTRACT NO. #110179; AND AUTHORIZING THE
11 VILLAGE MANAGER TO APPROVE EXPENDITURE OF FUNDS IN
12 AN AMOUNT NOT TO EXCEED \$38,299.47; AND PROVIDING AN
13 EFFECTIVE DATE
14

15 WHEREAS, outdoor fitness equipment previously installed at Coral Reef Park has since
16 been met with tremendous adulation and appreciation from the many physical fitness enthusiasts
17 within the Village of Palmetto Bay; and,
18

19 WHEREAS, in an effort to afford the residents frequenting Palmetto Bay Park the same
20 opportunity regarding availability of outdoor fitness equipment, the Village Council appropriated
21 \$40,000 in the Palmetto Bay Park Capital Improvement Fund for the purchase of such equipment ;
22 and,
23

24 WHEREAS, the Village Council, via Resolution No. 2012-31, revised the Palmetto Bay
25 Park master plan to incorporate outdoor fitness equipment stations; and,
26

27 WHEREAS, in accordance with our procurement process, the Village wishes to piggyback
28 on the price agreement contracts with the U. S. Communities (Contract No. 110179); and,
29

30 WHEREAS, the Mayor and Council may authorize the Village Manager to enter into
31 agreement with GameTime c/o Dominica Recreation Products, Inc. for the purchase, delivery and
32 installation of the Outdoor Fitness Equipment at Palmetto Bay Park.
33

34 NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND VILLAGE
35 COUNCIL OF THE VILLAGE OF PALMETTO BAY, FLORIDA, AS FOLLOWS:
36

37 **Section 1.** The Village Manager is hereby authorized to enter into agreement with
38 GameTime c/o Dominica Recreation Products, Inc. for the purchase, delivery and installation of
39 Outdoor Fitness Equipment at Palmetto Bay Park; consistent with the terms and conditions
40 proposed within quotation # 60376.
41

42 **Section 2.** The Village Manager is hereby authorized to accept piggybacking prices with
43 the U.S. Communities Contract No. 110179.
44

1 **Section 3.** The Village Manager is hereby authorized to issue a purchase order not to
2 exceed \$38,299.47;
3

4 **Section 4.** This resolution shall take effect immediately upon adoption
5

6 PASSED and ADOPTED this _____ day of May, 2012.
7
8
9

10 Attest: _____

11 Meighan Alexander
12 Village Clerk

_____ Shelley Stanczyk
Mayor

13
14
15 APPROVED AS TO FORM:
16
17
18

19 _____
20 Eve A. Boutsis,
21 FIGUEREDO & BOUTSIS, P.A., as Office
22 of the Village Attorney
23
24

25 FINAL VOTE AT ADOPTION:
26

27 Council Member Patrick Fiore _____

28
29 Council Member Howard J. Tendrich _____

30
31 Council Member Joan Lindsay _____

32
33 Vice-Mayor Brian W. Pariser _____

34
35 Mayor Shelley Stanczyk _____

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37
38



GameTime Division
PlayCore Wisconsin, Inc.
150 PlayCore Drive, S.E.
Fort Payne, Alabama 35967
Telephone: 256/845-5610
Facsimile: 256/845-9361

REQUEST FOR PROPOSAL #269-2010-183

PRICING SCHEDULES

Accompanying Pricing Schedules:

1. *GameTime Year One U.S. Communities Contract Net Price List*
2. *Snug Year One U.S. Communities Contract Net Price List*
3. *GTImpax Year One U.S. Communities Contract Net Price List*
4. *Ultra Play Year One U.S. Communities Contract Net Price List*
5. *GT Grandstands Year One U.S. Communities Contract Net Price List*
6. *RCP Shelters Price List RCP402524015*
7. *GTH20 Year One U.S. Communities Contract Net Price List*
8. *Everlast Year One U.S. Communities Contract Net Price List*
9. *Spohn Ranch U.S. Communities Year One Budget Pricing*
10. *Recreation Equipment Manufacturing Year One U.S. Communities Contract Net Price List*
11. *GameTime Year One U.S. Communities Discounts and Installation charges*

GameTime Discounts:

- | | |
|--------------------------------------|------------------------------------|
| a. Equipment (including components): | 24% (see Quantity Discounts below) |
| Freestanding Events: | 16% |
| Snug Early Childhood Play Equipment: | 6% |
| PlayWorx GFRC ThemeScapes: | 6% |
| b. Surfacing: | 18% |
| c. Site Furnishing: | 6% |
| d. Related Products : | 6% |
| Fitness and Sports: | 9% |
| GTShade Structures and Shelters: | 4% |
| GTH20 Water Slides: | 3% |
| GTH20 Spray Grounds: | 3% |
| GTNets Climbing Nets: | 3% |
| Everlast Indoor Climbing Walls: | 10% |
| NatureROCKS Climbing Boulders: | 5% |
| Shelters: | 4% |

PRICING SCHEDULES

Dog Parks:	6%
Skate Parks:	6%
Drinking Fountains:	5%
e. Services:	All Services Net Pricing
Playground Equipment Installation	
Safety Surfacing Installation	
Sitework Services	
Community Build Supervision	
Design Services	
Maintenance and Repairs	
CPSI Initial Playground Safety Audit	
CPSI Low-Frequency Playground Safety Inspection	
CPSI Maintenance and Inspection Training (Quotations on a case-by-case basis)	

Volume Discounts:

Volume single purchases of composite play systems at U.S. Communities net pricing shall be eligible for an additional discount of 5% for orders totaling from \$50,000 to \$75,000; 10% from \$75,000 to \$100,000 and 15% for orders exceeding \$100,000.

Cash With Order Discount

Orders for playground equipment paid for at the time of placement are entitled to a 3% cash-with-order discount.

Product, Design and Price Comparison for Sample Playground Designs:

See Proposed Solutions, Tab 15

Installation Fees

See accompanying *GameTime Year One U.S. Communities Discounts and Installation charges*

Shipping and Delivery – Shipping Program

Shipments shall be f.o.b. destination with freight charges prepaid and listed separately. Actual freight charges shall be added at time of invoicing as determined and supported by the carrier's Freight Bill. Estimated freight charges shall be provided at time of quotation utilizing the accompanying freight rate schedules.

Price Adjustments

Pricing shall remain in effect until December 31, 2011. Thereafter, GameTime pricing shall be adjusted the first of each year with the printing and distribution of the company's annual product catalogs.



GameTime

Division of PlayCore-Wisconsin, Inc.
150 PlayCore Drive, SE
Fort Payne, AL 35967
Telephone: (256) 997-5255
Facsimile: (256) 997-5455
Contact: Don King
E-mail: dking@gametime.com

Date: March 5, 2010

GAMETIME PROPOSAL

Charlotte Mecklenburg Procurement Services
Government Center, 9th Floor
600 East Fourth Street
Charlotte, NC 28202

Project: RFP 269-2010-183
Attention: Karen Ruppe
Telephone: 704/336-2992
E-mail: kruppe@charlotte.gov

We are pleased to submit our proposal to furnish GameTime products and services in accordance with the provisions and terms of RFP 269-2010-183 and as described herein. Enclosed are our design proposals, bid forms, price lists, discount schedule, product descriptions, material specifications, company qualifications and other data called for under this solicitation.

This proposal is subject to policies published in the 2010 GameTime Playground Design Guide and the following terms and conditions.

Pricing: shall be net, f.o.b. destination with freight charges prepaid, added and listed separately. Actual freight charges shall be added at time of invoicing as determined and supported by the carrier's Freight Bill. Estimated freight charges shall be provided at time of quotation utilizing the accompanying freight rate schedules.

GameTime offers most favored pricing and special discounts to those local public agencies participating in the U.S. Communities contract. Pricing shall remain in effect until December 31, 2011 and is subject to the applicable discounts stated herein.

GameTime pricing shall be adjusted the first of each year with the printing and distribution of the company's annual product catalogs.

Volume Discounts: volume single purchases of composite play systems at U.S. Communities net pricing shall be eligible for an additional discount of 5% for orders totaling from \$50,000 to \$75,000; 10% from \$75,000 to \$100,000 and 15% for orders exceeding \$100,000.

Orders: All orders shall be in writing on the buying entity's purchase order form or similar documentation. Open buying on the internet (OBI) is not currently available.

Shipment: shall be f.o.b. destination and commence within 3 - 4 weeks after our receipt and acceptance of the customer purchase order, color selections and approval of submittals, if required.

Terms of Sale: payment is due within 30 days from date of invoice for governmental agencies. Payments may be made by VISA, MasterCard or American Express. Orders for playground equipment paid for at the time of placement are entitled to a 3% cash-with-order discount.

Minimum Order: RFP 269-2010-183 purchases, other than replacement parts, require a minimum order of \$500.00.

Packaging: all goods shall be packaged in accordance with acceptable commercial practices and marked to preclude confusion during unloading and handling.

Receipt of goods: customer shall receive, unload and inspect goods upon arrival, reporting any discrepancies on the Delivery Receipt prior to written acceptance of the shipment.

Installation: if included with purchase, shall be by a Certified GameTime Installer. Customer shall be responsible for scheduling coordination and site preparation. Site should be level and permit installation equipment access. Purchaser shall be responsible for unknown conditions such as buried utilities, tree stumps, bedrock or any concealed materials or conditions that may result in additional labor or material costs.

Exclusions: this proposal excludes all site work and landscaping; removal of existing equipment; storage of goods prior to installation; drainage provisions; and safety surfacing borders unless purchased separately. Customer shall be responsible for providing a clear, level site for installation and for scheduling deliveries and coordinating installation.

Submittals: If required, GameTime shall submit for review and approval by the owner's representative detailed drawings depicting the equipment to be furnished accompanied by specifications describing materials. Once approved, these drawings and specifications shall constitute the final documents for the project and shall take precedence over all other requirements.

GameTime shall provide for each playground two sets of installation, assembly and maintenance instructions in accordance with our standard practices.

All composite playground designs and equipment shall comply with the current version of ASTM F 1487, Standard Consumer Safety Performance Specification for Playground Equipment for Public Use; Handbook for Public Playground Safety Publication 325 by the U.S. Consumer Product Safety Commission; and the Guide to ADA Accessibility Guidelines for Play Areas published by the U.S. Access Board.

GAMETIME

Donald R. King
Director of Sales Administration

**GAMETIME YEAR ONE U.S. COMMUNITIES DISCOUNTS
AND INSTALLATION CHARGES**

Product Category	USC Discounts off Commercial Price	Installation Cost as % of Equipment Commercial Price			
		Total Commercial Price of Equipment per Site			
		<\$5,000	<\$10,000	<\$15,000	>\$15,000
Play Equipment	24%	42%	38%	35%	32%
GameTime Freestanding Events	16%	48%	43%	38%	36%
Snug Early Childhood Play Equipment	6%	Installation is not required			
PlayWorx GFRC ThemeScapes	6%	42%	38%	35%	32%
Site Furnishings	6%	45%	45%	40%	38%
Related Products					
Grandstands	6%	42%	38%	35%	32%
Shade Structures	4%	66%	60%	52%	46%
Shelters	4%	\$70.00 per man hour plus materials & equipment			
GTH20 Spray Grounds	3%	N/A	N/A	N/A	164%
GTH20 Water Sides	3%	N/A	56%	52%	48%
Fitness & Sports	9%	64%	53%	43%	38%
Indoor Climbing Walls	10%	60%	38%	35%	32%
NatureROCKS Climbing Boulders	5%	\$70.00 per man hour plus materials & equipment			
Independent Climbing Nets	3%	N/A	50%	43%	38%
Dog Parks	6%	48%	43%	38%	36%
Drinking Fountains	5%	60%; see Note 9 below			
Skate Parks	6%	Design & Installation estimate upon request			

Safety Surfacing	USC Discount	Installation Cost per Square Feet of Safety Surfacing Area			
		<2,000 sf	<4,000 sf	<6,000 sf	>6,000 sf
Engineered Wood Fiber	18%	\$0.56 sf	\$0.54 sf	\$0.52 sf	\$0.50 sf
Shredded Rubber Loose Fill		\$0.66 sf	\$0.64 sf	\$0.62 sf	\$0.60 sf
Recycled Rubber Tile		\$2.70 sf	\$2.40 sf	\$2.15 sf	\$2.05 sf
Synthetic Turf		Installation included in material price			
Poured-In-Place & Bonded Rubber		Installation included in material price			

Services	U.S. Communities Net Pricing
Play Area Design Services	No Charge
Sitework Services	\$70.00 per man hour plus materials & equipment
Community Build Layout & Supervision	\$725.00 per man day plus materials & equipment
Maintenance & Repairs	\$68.00 per man hour plus materials & equipment
CPSI Playground Initial Safety Audit	\$1,580.00 per playground; see Note 8 below
CPSI Low-Frequency Safety Inspection	\$790.00 per playground; see Note 8 below.

GAMETIME YEAR ONE U.S. COMMUNITIES DISCOUNTS AND INSTALLATION CHARGES

Notes:

- 1) All equipment to be installed in accordance with specifications by GameTime factory-certified professional installers.
- 2) Equipment shall be installed within four (4) weeks of product delivery, unless requested by agency to be delayed.
- 3) Customer shall receive, unload and inspect goods upon arrival, noting any discrepancies on the Delivery Receipt prior to written acceptance of the shipment unless other arrangements have been made.
- 4) Customer shall be responsible for providing a clear, level site and for coordinating the scheduling of all deliveries and installation.
- 5) Site should permit installation equipment access. Purchaser shall be responsible for unknown conditions such as buried utilities, tree stumps, bedrock or any concealed materials or conditions that may result in additional costs.
- 6) Equipment installation pricing excludes all site work and landscaping; removal of existing equipment; storage of goods prior to installation; and drainage provisions. Call for an estimate for site services.
- 7) No additional charges for prevailing wages.
- 8) CPSI safety inspections and audits performed by an independent third-party. For multiple inspections, call for volume pricing.



GAMETIME POLICIES

Orders: All orders shall be in writing on the buying entity's purchase order form or similar documentation. Open buying on the internet (OBI) is not currently available.

Shipment: shipping shall commence within 3 - 4 weeks after our receipt and acceptance of the customer purchase order, color selections and approval of submittals, if required.

Terms of sale: To governmental agencies and tax supported institutions, and those with approved credit, payment is due 30 days from the date of invoice. A 1.5% per month finance charge will be imposed on all past due accounts. We also accept payment by VISA, MasterCard or American Express. All other orders will require a 50% deposit at time of order entry. The balance will be due with a certified check upon receipt of shipment (C.O.D.).

Prices: Prices are net, f.o.b. destination, with freight charges as determined by the carrier prepaid and added to the customer's invoice. For the convenience of the customer, we shall provide an estimate of the freight charges at time of quotation. All prices are quoted in U.S. Funds. GameTime offers most favored pricing and special discounts to those local public agencies participating in the U.S. Communities contract. Pricing shall remain in effect until December 31, 2011.

Quantity Discounts: volume single purchases of composite play systems at U.S. Communities net pricing shall be eligible for an additional discount of 5% for orders totaling from \$50,000 to \$75,000; 10% from \$75,000 to \$100,000 and 15% for orders exceeding \$100,000.

Taxes: If applicable, taxes will be added to the invoice except when a tax exempt certificate is provided with the purchase order at the time of order entry.

Minimum Order: Our minimum order is US \$50.00.

Order cancellation: Once accepted, orders can be canceled only with the consent of GameTime, and on terms which will indemnify GameTime against loss. Canceled orders will be subject to a restocking fee. Equipment "built-to-order" is non-cancelable.

Shipment: shipping shall commence within 3 - 4 weeks after our receipt and acceptance of the customer purchase order, color selections and approval of submittals, if required.

Domestic shipments: Unless specifically given routing instructions on the purchase order, shipment will be made via the carrier we consider to be the most economical and practical in reaching the final destination.

Delays in transit: GameTime is not responsible for delays in transit and such delays shall not alter our invoicing terms.

Loss or damage in transit: Carefully check all materials received; any shortage, discrepancy or damage must be noted on the delivery receipt and signed by the carriers representative.

Weights: All published weights are estimated and include appropriate packing materials. Actual weights may vary slightly.

Submittals: If required, GameTime shall submit for review and approval by the owner's representative detailed drawings depicting the equipment to be furnished accompanied by specifications describing materials. Once approved, these drawings and specifications shall constitute the final documents for the project and shall take precedence over all other requirements.



**STATE OF NORTH CAROLINA
COUNTY OF MECKLENBURG**

CONTRACT # 110179.02

SECOND AMENDMENT TO MASTER PURCHASE AGREEMENT

THIS SECOND AMENDMENT To The Agreement to provide Park And Playground Equipment, Surfacing, Site Furnishings And Related Commodities and Services (the "Amendment") is made and entered into this 1st day of February 2012 by and between Mecklenburg County, a North Carolina municipal corporation (the "County") and GameTime Division of Playcore, Inc., a corporation doing business in the State of North Carolina (the "Company").

STATEMENT OF BACKGROUND AND INTENT

- A. The County and the Company entered into a written Agreement dated September 17, 2010 (the "Agreement") pursuant to which the Company agreed to provide Park and Playground Equipment, Surfacing, Site Furnishings and Related Products and Services to the County and other Participating Public Agencies.
- B. The County and the Company agreed to amend the contract on April 7, 2011 to incorporate a four percent (4%) price increase.
- C. The parties now desire to amend the Agreement by making certain changes to the product and pricing provisions of the Agreement.

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein, the parties hereby amend the Agreement as follows:

AGREEMENT

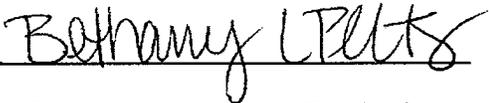
- I. Defined terms used in this Amendment shall have the same meaning as are assigned to such terms in the Agreement.
- II. Changes to Original Agreement. In order to effectuate the intent of the parties, the Original Master Agreement is hereby amended as follows:
 - a) Incorporate the new products offered by the GameTime 2012 Playground Design Guide, Everlast Climbing Industries, Inc., and Ultra Play Systems, Inc.
 - b) Incorporate an average price increase of 1.8 percent for all playground and surfacing products as specified in Exhibit A.
 - c) Incorporate revised GameTime freight rates as specified in Exhibit E.
- III. Except to the extent specifically provided in the amendment contained herein, this Amendment shall not be interpreted or construed as waiving any rights, obligations, remedies or claims the parties may otherwise have under this Agreement.
- IV. In all other respects and expect as modified herein, the terms of the Agreement shall remain in force and effect.

IN WITNESS WHEREOF, an in acknowledgement that the parties hereto have read and understood each and every provision hereof, the parties have each caused this Amendment to be executed by its duly authorized representative, all as of the date first set forth above.

GAMETIME DIVISION

By: 
Title: Director of Sales Administration

Attested:

By: 
Title: Executive Administrative Assistant

MECKLENBURG COUNTY:

By: _____
Park and Recreation Director

Attested:

By: _____
County/General Manager

By: _____
Clerk to the Board

Approved As To Form:

By: _____
County Attorney

This instrument has been pre-audited in the manner required by the Local Government Budget and Fiscal Control Act.

By: _____
Finance Director

Approved As To Insurance Requirements:

By: _____
Risk Management



A PLAYCORE Company

c/o Dominica Recreation Products, Inc.
P.O. Box 520700
Longwood, FL 32752-0700
800-432-0162 * 407-331-0101
Fax: 407-331-4720
www.drpin.com

QUOTE
#60376

04/24/2012

Fitness Trail ~ Revised

Village of Palmetto Bay
Attn: Fanny Carmona
9705 E. Hibiscus Street
Palmetto Bay, FL 33157
Phone: 305-259-1234
Fax: 305-259-1290
fcarmona@palmettobay-fl.gov

Ship To Zip: 33157

Quantity	Part #	Description	Unit Price	Amount
1	13172	Game Time - iTRACK Warm Up Sign & Frame	\$935.00	\$935.00
1	13174	Game Time - Joint Use Chin-Up Bar Station	\$1,070.00	\$1,070.00
1	13171	Game Time - iTRACK Exercise Guide Frame	\$426.00	\$426.00
1	13180	Game Time - Bench Dip Station	\$1,334.00	\$1,334.00
1	13171	Game Time - iTRACK Exercise Guide Frame	\$426.00	\$426.00
1	13181	Game Time - Sit-Up Station	\$1,256.00	\$1,256.00
1	13171	Game Time - iTRACK Exercise Guide Frame	\$426.00	\$426.00
1	13183	Game Time - T-Bar Station	\$928.00	\$928.00
1	13171	Game Time - iTRACK Exercise Guide Frame	\$426.00	\$426.00
1	13184	Game Time - Knee Lift Station	\$808.00	\$808.00
1	13171	Game Time - iTRACK Exercise Guide Frame	\$426.00	\$426.00
1	13188	Game Time - Body Curl Station	\$1,313.00	\$1,313.00
1	13171	Game Time - iTRACK Exercise Guide Frame	\$426.00	\$426.00
1	13164	Game Time - Seated Chest Press	\$2,718.00	\$2,718.00
1	13167	Game Time - Cardio Walker	\$858.00	\$858.00
1	13163	Game Time - Rowing Machine	\$948.00	\$948.00
1	13165	Game Time - Seated Leg Press	\$1,161.00	\$1,161.00
1	13173	Game Time - iTRACK Cool Down Sign & Frame	\$935.00	\$935.00
1	INSTALL	Game Time - Installation of quoted fitness stations	\$3,865.00	\$3,865.00
2075	Concrete	GT-Impax - Concrete Sub-Base (sq. ft.)	\$7.84	\$16,268.00
1	INSTALL	GT-Impax - Concrete Pump Truck Service	\$995.00	\$995.00
1	INSTALL	GT-Impax - Site prep / digout of 10 fitness stations	\$1,665.00	\$1,665.00
1	permits	Misc - Obtaining and Acquiring Local Permits for installation	\$1,000.00	\$1,000.00
1	3680	Misc - Sealed Drawing for GameTime Equipment	\$750.00	\$750.00



Fitness Trail ~ Revised

QUOTE #60376

04/24/2012

Contract: USC

SubTotal:	\$41,363.00
Discount:	(\$4,439.55)
Freight:	\$1,376.02
Total Amount:	\$38,299.47

This quote was prepared by Gina Wilson, Senior Project Manager. For questions or to order please call - 800-432-0162 ext. 101 ginaw@gametime.com

All pricing in accordance with U.S. Communities Contract #110179. All terms in the U.S. Communities Contract take precedence over terms shown below.

For more information on the U.S. Communities contract please visit www.uscommunities.org/gametime

This Quotation is subject to policies in the current GameTime Park and Playground Catalog and the following terms and conditions. Our quotation is based on shipment of all items at one time to a single destination, unless noted, and changes are subject to price adjustment. Purchases in excess of \$1,000.00 to be supported by your written purchase order made out to GameTime.

Pricing: F.O.B. factory, firm for 30 days from date of quotation.

Shipment: order shall ship within 30-45 days after GameTime's receipt and acceptance of your purchase order, color selections, approved submittals, and receipt of deposit, if required.

Payment terms: Net 30 days for tax supported governmental agencies. A 1.5% per month finance charge will be imposed on all past due accounts. Equipment shall be invoiced separately from other services and shall be payable in advance of those services and project completion. Retainage not accepted.

Taxes: State and local taxes will be added at time of invoicing, if not already included, unless a tax exempt certificate is provided at the time of order entry.

Exclusions: Unless specifically discussed, this quotation excludes all sitework and landscaping; removal of existing equipment; acceptance of equipment and off-loading; storage of goods prior to installation; security of equipment; security of poured rubber at night; equipment assembly and installation; safety surfacing; borders; drainage; signed/sealed drawings; or permits.

Installation: Shall be by a GameTime & NPSI Certified Installer. Customer shall be responsible for scheduling and coordination with the installer. Site should be level and allow for unrestricted access of trucks and machinery. Customer shall be responsible for unknown conditions such as buried utilities, tree stumps, rock, or any concealed materials or conditions that may result in additional labor or material costs. Customer will be billed hourly or per job directly by the installer for any additional costs.

Permits are not included in cost. Any costs for municipal permits, paid by installer, will be charged back to the owner.

Acceptance of quotation:

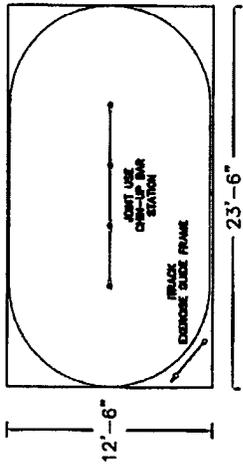
Accepted By (printed): _____ P.O. No: _____
 Signature: _____ Date: _____
 Title: _____ Phone: _____
 Facsimilie: _____ Purchase Amount: **\$38,299.47**



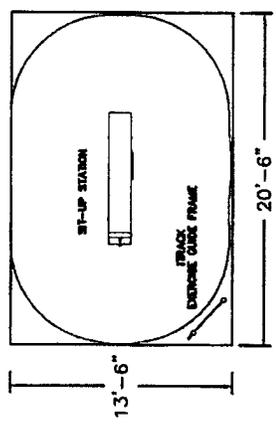
ITRACK
COOL DOWN BAY
←

ITRACK
WARM UP BAY
→

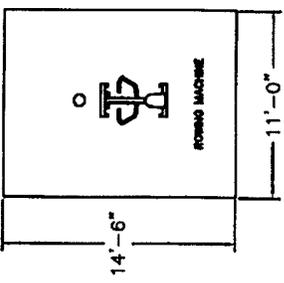
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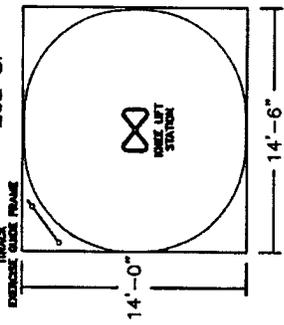
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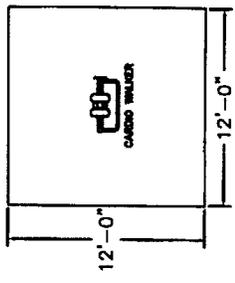
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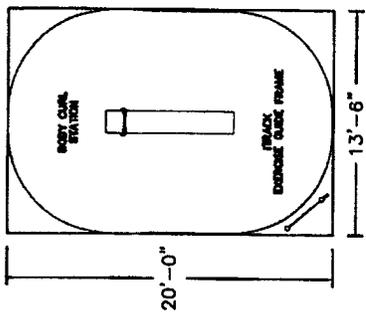
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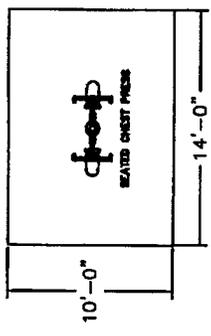
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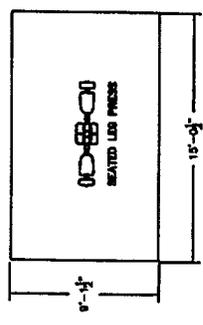
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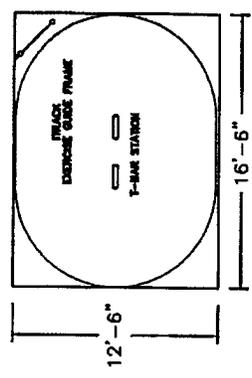
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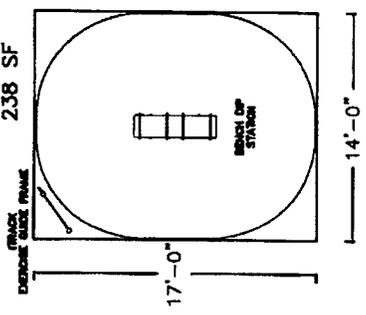
135 SF



208 SF



238 SF



10 Fitness Stations with Concrete Pads



GameTime
A PLANOCONCRETE Company
188 Piny-Concrete Drive SE
Fort Payne, AL 35967
ENTRY-00000000000000000000

ISO 9001 REGISTERED

Village of Palmetto Bay
Fitness Trail
Representative
DRP

This play equipment is recommended for children ages

Minimum Area Required:
Site Drawing
Scale: NTS
This drawing can be scaled only when in an 11" x 17" format

IMPORTANT: Soil resistant surfacing should be placed in the use zones of all equipment, as specified for each type of equipment, and at depths to meet the critical fall heights as specified by the U.S. Consumer Product Safety Commission, ASTM standard F 1487 and Canadian Standard CAN/CSA-Z-614

Drawn By:
RW
Date:
04/24/2012
Drawing Name:
FITNESSSTATION_REV



STATE OF NORTH CAROLINA
COUNTY OF MECKLENBURG

CONTRACT NO. 110179

**AGREEMENT TO PROVIDE PLAYGROUND EQUIPMENT,
SURFACING, SITE FURNISHINGS AND RELATED
PRODUCTS AND SERVICES**

This Agreement (the "Agreement") is entered into as of this 17th Day of September, 2010 (the "Effective Date"), by and between PlayCore Wisconsin, Inc. dba GameTime (the "Company") a corporation doing business in North Carolina (the "Company"), and Mecklenburg County, a political subdivision of the State of North Carolina (the "County").

Statement of Background and Intent

- A. The County issued a Request for Proposals (RFP Number 269-2010-183) dated March 19, 2010 requesting proposals from qualified firms to provide the County and other Participating Public Agencies with Playground Equipment, Surfacing, Site Furnishings, and Related Products and Services hereafter referred to as ("Products"). This Request for Proposals, together with all attachments and any amendments, is referred to herein as the "RFP".
- B. The Company submitted a proposal in response to RFP Number 269-2010-183 on May 5, 2010. This bid, together with all attachments and separately sealed confidential trade secrets, is referred to herein as the "Proposal."
- C. The County awarded this contract on July 6, 2010, to Company to provide Playground Equipment, Surfacing, Site Furnishings, and Related Products and Services to the County all in accordance with the terms and conditions set forth herein.
- D. Charlotte-Mecklenburg (herein "Lead Public Agency"), in cooperation with the U.S. Communities Government Purchasing Alliance (herein "U.S. Communities"), and on behalf of other public agencies that elect to access the Master Agreement (herein "Participating Public Agencies"), competitively solicited and awarded the Master Agreement to the Company. Lead Public Agency has designated U.S. Communities as the administrative and marketing conduit for the distribution of the Master Agreement to Participating Public Agencies.

Lead Public Agency is acting as the "Contracting Agent" for the Participating Public Agencies, and shall not be liable or responsible for any costs, damages, liability or other obligations incurred by the Participating Public Agencies. The Company shall deal directly with each Participating Public Agency concerning the placement of orders, issuance of purchase orders, contractual disputes, invoicing, payment and all other matters relating or referring to such Participating Public Agency's access to the Master Agreement.

The Master Agreement shall be construed to be in accordance with and governed by the laws of the State in which the Participating Public Agency exists. Participating Public Agencies are required to register on-line with U.S. Communities at www.uscommunities.org. The registration allows the Participating Public Agency to enter into a Master Intergovernmental Cooperative Purchasing Agreement ("MICIPA"), which is intended to allow the Participating Public Agencies to meet applicable legal requirements and facilitate access to the Master Agreement and the Company.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and in further consideration of the covenants and conditions contained in this Agreement, the parties agree as follows:

A G R E E M E N T

1. **INCORPORATION OF EXHIBITS.** The following Exhibits are attached to this Agreement and incorporated into and made a part of this Agreement by reference:

Exhibit A:	Contract Pricing, Discount Structures and Pricing Incentives
Exhibit B:	Installation Fees
Exhibit C:	National Network of Distributors and Certified Installers
Exhibit D:	U.S. Communities Administrative Agreement
Exhibit E:	Freight Rate Schedules
Exhibit F:	Product Warranties
Exhibit G:	Company's Proposal (not attached, but incorporated herein by reference)
Exhibit H:	RFP #269-2010-183 (not attached, but incorporated herein by reference)

Each reference to the Agreement shall be deemed to include all Exhibits. Any conflict between language in an Exhibit to this Agreement and the main body of this Agreement shall be resolved in favor of the main body of this Agreement. Each reference to GameTime in the Exhibits and Appendices shall be deemed to mean the Company.

2. **DEFINITIONS.** The following terms shall have the following meanings for purposes of this Agreement (including all Exhibits):

- 2.1. **AGREEMENT.** The term "Agreement" shall mean this Agreement including the Company's Proposal, the RFP and all attachments, exhibits, and addenda (all as defined in the Statement of Background and Intent).
- 2.2. **DOCUMENTATION.** The term "Documentation" shall mean all written, electronic, or recorded works, and all enhancements and updates thereto, that describe the use, functions, features, or purpose of the Products and Services, including without limitation all functional and technical specifications, end user manuals, guides and other materials which relate to the Products and Services, or which are necessary to fully utilize the Products and Services.
- 2.3. **DELIVERABLES.** The term "Deliverables" shall mean all equipment, materials, drawings, data, wiring, cable, installation services, incidentals and all other items that the Company is required to complete and deliver to the County in connection with this Agreement.
- 2.4. **DEFECT.** The term "Defect" shall mean any failure of the Products, or any component thereof, to conform fully to the Specifications and Requirements. Non-conformity is not a Defect if it results from the County's misuse, improper use, alteration, or damage of the Products.
- 2.5. **EFFECTIVE DATE.** The term "Effective Date" refers to the date this Agreement is fully executed by all parties to the Agreement.
- 2.6. **PARTICIPATING PUBLIC AGENCY.** The term shall mean any and all states, local governments, school districts, and higher education institutions and other public agencies and nonprofit organizations that have authority to purchase from another public agency's competitively solicited contract.

- 2.7. **PRODUCTS.** The term "Products" shall mean Playground Equipment, Surfacing, Site Furnishings, and Related Products that the Company agreed to provide in the Company's Proposal.
- 2.8. **SERVICES.** The term "Services" shall include all services that the Company agreed to provide in the Company's Proposal, including all design, assembly, installation, reporting, and optional work.
- 2.9. **SPECIFICATIONS AND REQUIREMENTS.** The term "Specifications and Requirements" shall mean all definitions, descriptions, requirements, criteria, warranties and performance standards relating to the Products and Services which are set forth or referenced in: (a) this Agreement, including all Exhibits; (b) the Company's proposal; (c) the RFP; (d) the Documentation; and (e) any functional and/or technical specifications which are published or provided by the Company or its licensors or suppliers from time to time with respect to all or any part of the Products. Notwithstanding the forgoing, if the Company improves the Products or Services over time to incorporate new technology or improved features or functionality, and provided the improved Products or Services under this Agreement, the descriptions, specifications and requirements for such improvements shall be deemed part of the Specifications and Requirements. Also notwithstanding the forgoing, the Company's Bid shall only take precedence over the ITB to the extent the Company properly took exception to the terms of the ITB in the manner required by the ITB.
3. **TERM.**
The initial term of this Agreement will be for five (5) years from the Effective Date with an option to renew for two (2) additional one-year terms. This Agreement may be extended only by a written amendment to the contract signed by both parties.
4. **GENERAL DESCRIPTION OF PRODUCTS AND SERVICES.**
The Company shall provide the Products and Services in accordance with the terms of the Company's proposal, and in compliance with all other conditions, covenants, stipulations, terms and provisions contained in this Agreement.
5. **SHIPPING AND DELIVERY.**
All shipments shall be F.O.B. destination with freight charges prepaid and listed separately. Actual freight charges shall be added at time of invoicing as determined and supported by the carrier's freight bill. Estimated freight charges shall be provided at the time of quotation utilizing the freight rate schedules incorporated into this Agreement as Exhibit E.
6. **INSTALLATION, MAINTENANCE AND SAFETY INSPECTIONS.**
The County and Participating Public Agencies shall be responsible for contracting installation services on a project-by project basis as needed. If included with purchase, all equipment shall be installed by a GameTime Installer in accordance with the standards established by the terms, specifications, drawings, and construction notes for each project and meet manufacturer's specifications and industry standards. County and Participating Public Agencies shall be responsible for scheduling coordination and site preparation. Site should be level and permit installation equipment access. Participating Public Agency shall be responsible for unknown conditions such as buried utilities, tree stumps, bedrock or any concealed materials or conditions that may result in additional labor or material costs.
7. **COMPENSATION.**
- 7.1. The County shall pay the Company for Products and Services compliant with the Specifications and requirements of this Agreement based on the fixed percentage discounts from the current manufacturer's price index as identified and incorporated into this Agreement as Exhibit A.
- 7.2. The Company agrees the fixed percentage discounts will remain firm for the entire contract term.
- 7.3. Pricing shall remain in effect until December 31, 2011. Thereafter, the Company shall advise the Charlotte-Mecklenburg Procurement Services Department in writing of any proposed price increases no later than sixty (6) days prior to the effective date of the requested increase.

- 7.4. The Company shall be responsible for furnishing and delivering approved price lists and the most current catalogs to the County and other participating public entities, upon request.
- 7.5. The Company agrees that if a public agency is otherwise eligible for lower pricing through a federal, state, regional, or local contract, the Company will match the pricing.

8. **OPTIONAL WORK.**

The County and Participating Public Agencies may elect to request quotations for additional services not specifically listed in the Company's proposal or this Agreement. The Company shall provide quotations for optional products and services as requested, to provide a full turnkey solution.

9. **BILLING.**

Each invoice sent by the Company shall detail all items delivered which are necessary to entitle the Company to the requested payment under the terms of this Agreement. The Company shall mail all invoices to:

Mecklenburg County
Finance - Accounts Payable
600 East 4th St.
Charlotte, NC 28202

The County will pay all accurate, properly submitted, uncontested invoices within thirty (30) days of receipt. Proposals may include an incentive discount for early payment. Invoices must include state and local sales tax.

10. **GENERAL WARRANTIES.**

Company represents and warrants that:

- 10.1 It is a corporation duly incorporated, validly existing and in good standing under the laws of the state of North Carolina, and is qualified to do business in North Carolina;
- 10.2 It has all the requisite corporate power and authority to execute, deliver and perform its obligations under this Agreement;
- 10.3 The execution, delivery, and performance of this Agreement have been duly authorized by Company;
- 10.4 No approval, authorization or consent of any governmental or regulatory authority is required to be obtained or made by it in order for it to enter into and perform its obligations under this Agreement;
- 10.5 In connection with its obligations under this Agreement, it shall comply with all applicable federal, state and local laws and regulations and shall obtain all applicable permits and licenses; and
- 10.6 The Company shall not violate any agreement with any third party by entering into or performing this Agreement.

11. **ADDITIONAL REPRESENTATIONS AND WARRANTIES.**

Company represents warrants and covenants that:

- 11.1 The Services shall satisfy all requirements set forth in this Agreement, including but not limited to the attached Exhibits;

- 11.2 All work performed by the Company and/or its subcontractors pursuant to this Agreement shall meet industry accepted standards, and shall be performed in a professional and workmanlike manner by staff with the necessary skills, experience and knowledge;
- 11.3 Neither the Services, nor any Deliverables provided by the Company under this Agreement will infringe or misappropriate any patent, copyright, trademark or trade secret rights of any third party; and
- 11.4 The Company has taken and will continue to take precautions sufficient to ensure that it will not be prevented from performing all or part of its obligations under this Agreement by virtue of interruptions in the computer systems used by the Company.

12. TERMINATION.

12.1. *TERMINATION WITHOUT CAUSE.* The County may terminate this Agreement at any time without cause by giving thirty (30) days written notice to the Company.

12.2. *TERMINATION FOR DEFAULT BY EITHER PARTY.* By giving written notice to the other party, either party may terminate this Agreement upon the occurrence of one or more of the following events:

- (a) The other party violates or fails to perform any covenant, provision, obligation, term or condition contained in this Agreement, provided that, unless otherwise stated in this Agreement, such failure or violation shall not be cause for termination if both of the following conditions are satisfied: (i) such default is reasonably susceptible to cure; and (ii) the other party cures such default within thirty (30) days of receipt of written notice of default from the non-defaulting party; or
- (b) The other party attempts to assign, terminate or cancel this Agreement contrary to the terms hereof; or
- (c) The other party ceases to do business as a going concern, makes an assignment for the benefit of creditors, admits in writing its inability to pay debts as they become due, files a petition in bankruptcy or has an involuntary bankruptcy petition filed against it (except in connection with a reorganization under which the business of such party is continued and performance of all its obligations under this Agreement shall continue), or if a receiver, trustee or liquidator is appointed for it or any substantial part of other party's assets or properties.

Any notice of default pursuant to this Section shall identify and state the party's intent to terminate this Agreement if the default is not cured within the specified period.

12.3. *ADDITIONAL GROUNDS FOR DEFAULT TERMINATION BY THE COUNTY.* By giving written notice to the Company, the County may also terminate this Agreement upon the occurrence of one or more of the following events (which shall each constitute grounds for termination without a cure period and without the occurrence of any of the other events of default previously listed):

- (a) The Company makes or allows to be made any material written misrepresentation or provides any materially misleading written information in connection with this Agreement, Company's Proposal, or any covenant, agreement, obligation, term or condition contained in this Agreement; or
- (b) The Company takes or fails to take any action which constitutes grounds for immediate termination under the terms of this Agreement, including but not limited to failure to obtain or maintain the insurance policies and endorsements as required by this Agreement, or failure to provide the proof of insurance as required by this Agreement.

- 12.4. **CANCELLATION OF ORDERS AND SUBCONTRACTS.** In the event this Agreement is terminated by the County for any reason prior to the end of the term, the Company shall upon termination immediately discontinue all service in connection with this Agreement and promptly cancel all existing orders and subcontracts, which are chargeable to this Agreement. As soon as practicable after receipt of notice of termination, the Company shall submit a statement to the County showing in detail the services performed under this Agreement to the date of termination.
- 12.5. **NO EFFECT ON TAXES, FEES, CHARGES, OR REPORTS.** Any termination of the Agreement shall not relieve the Company of the obligation to pay any fees, taxes or other charges then due to the County, nor relieve the Company of the obligation to file any daily, monthly, quarterly or annual reports covering the period to termination nor relieve the Company from any claim for damages previously accrued or then accruing against the Company.
- 12.6. **OBLIGATIONS UPON EXPIRATION OR TERMINATION.** Upon expiration or termination of this Agreement, the Company shall promptly (a) return to the County all computer programs, files, documentation, data, media, related material and any other recording devices, information, or compact discs that are owned by the County; (b) deliver to the County all Work Product; (c) allow the County or a new service provider access to the systems, software, infrastructure, or processes of the Company that are necessary to migrate the Services to a new service provider; and (d) refund to the County all pre-paid Warranty Fees (other than pre-paid Warranty Fees for the then current year).
- 12.7. **NO SUSPENSION.** In the event that the County disputes in good faith an allegation of default by the Company, notwithstanding anything to the contrary in this Agreement, the Company agrees that it will not terminate this Agreement or suspend or limit the delivery of Products or Services or any warranties or repossess, disable or render unusable any Software supplied by the Company, unless (i) the parties agree in writing, or (ii) an order of a court of competent jurisdiction determines otherwise.
- 12.8. **AUTHORITY TO TERMINATE.** The County Manager or their designee is authorized to terminate this Agreement on behalf of the County.
- 12.9. **AUDIT.** During the term of the Agreement and for a period of one (1) year after termination or expiration of this Agreement for any reason, the County shall have the right to audit, either itself or through a third party, all books and records (including but not limited to the technical records) and facilities of the Company necessary to evaluate Company's compliance with the terms and conditions of the Agreement or the County's payment obligations. The County shall pay its own expenses, relating to such audits, but shall not have to pay any expenses or additional costs of the Company. However, if non-compliance is found that would have cost the County in excess of \$5,000 but for the audit, then the Company shall be required to reimburse the County for the cost of the audit.
13. **TRANSITION SERVICES UPON TERMINATION.** Upon termination or expiration of this Agreement, the Company shall cooperate with the County to assist with the orderly transfer of the Services, functions and operations provided by the Company hereunder to another provider or to the County as determined by the County in its sole discretion. The transition services that the Company shall perform if requested by the County include but are not limited to:
- a. Working with the County to jointly develop a mutually agreed upon transition services plan to facilitate the termination of the Services; and

- b. Notifying all affected service providers and subcontractors of the Company of transition activities;
- c. Performing the transition service plan activities;
- d. Answering questions regarding the products and services on an as-needed basis; and
- e. Providing such other reasonable services needed to effectuate an orderly transition to a new system.

14. **AMENDMENTS.** In the event changes to the Agreement become necessary or desirable to the parties, the parties shall follow the procedures set forth in this Section. A Change shall be effective only when documented by a written, dated agreement executed by both parties which expressly references and is attached to this Agreement (an "Amendment"). The Amendment shall set forth in detail: (i) the Change requested, including all modifications of the duties of the parties; (ii) the reason for the proposed Change; and (iii) a detailed analysis of the impact of the Change on the results of the Services and time for completion of the Services, including the impact on any associated price.

In the event either party desires an Amendment, the party shall submit to the other party a proposed change. If the receiving party does not accept the Contract Amendment in writing within ten (10) days, the receiving party shall be deemed to have rejected the proposed change. If the parties cannot reach agreement on a proposed change, the Company shall nevertheless continue to render performance under this Agreement in accordance with its (unchanged) terms and conditions.

15. **INDEMNIFICATION.** The Company shall indemnify, defend and hold harmless the County and the County's officers, employees and agents from and against any and all losses, damages, costs, expenses (including reasonable attorneys' fees), obligations and other liabilities (including settlement amounts) paid or incurred any of them as a result of any claims, demands, lawsuits, actions, or proceedings: (i) copyright, trademark or patent infringement or other infringement of proprietary rights with respect to any of the Products or Services delivered to the County pursuant to this Agreement ("Infringement Claims"); (ii) seeking payment for labor or materials purchased or supplied by the Company or its subcontractors in connection with this Agreement; or (iii) arising from the Company's failure to perform its obligations under this Agreement, or from any act of negligence or willful misconduct by the Company or any of its agents, employees or subcontractors relating to this Agreement, including but not limited to any liability caused by an accident or other occurrence resulting in bodily injury, death, sickness or disease to any person(s) or damage or destruction to any property, real or personal, tangible or intangible; or (iv) arising from any claim that a Company employee or subcontractor is an employee of the County, including claims relating to worker's compensation, failure to withhold taxes and the like.

If an Infringement Claim occurs, the Company shall either: (i) procure for the County the right to continue using the affected Product or Service; or (ii) repair or replace the infringing Product or Service so that it becomes non-infringing, provided that the performance of the System or any component thereof shall not be adversely affected by such replacement or modification. If the Company is unable to comply with the preceding sentence within thirty days after the County is directed to cease use of a Product or Service, the Company shall promptly refund to the County all amounts paid under this Agreement, other than Extended Maintenance Fees.

The indemnification requirement is not intended to cover, and the Company is not responsible for, any damages that result from lack of maintenance; inadequate supervision; negligence; intentional acts of anyone other than the Company or their affiliates; inadequate surfacing; or vandalism.

It is the intent of any insurance provided by the Company to indemnify for product liability claims arising solely from the negligent design or manufacture of the Playground Equipment when such goods and services are provided by Company or Company's subcontractors. This clarifies and supersedes any other section of the contract concerning indemnification that could be interpreted otherwise.

16. **INSURANCE.** Throughout the term of this Agreement, the Company shall comply with the insurance requirements described in this Section. In the event the Company fails to procure and maintain each type of insurance required by this Agreement, or in the event the Company fails to provide the County with the required certificates of insurance, the County shall be entitled to terminate this Agreement immediately upon written notice to the Company.

16.1. **General Requirements.**

- (a) The Company shall not commence any work in connection with this Agreement until it has obtained all of the types of insurance set forth in this Section and such insurance has been approved by the County. The Company shall not allow any subcontractor to commence work on its subcontract until all similar insurance required of the subcontractor has been obtained and approved.
- (b) All insurance policies shall be with insurers qualified and doing business in North Carolina recognized by the Secretary of State and the Insurance Commissioner's Office. The Company shall furnish the County with proof of insurance coverage by certificates of insurance accompanying this Agreement and shall name the County as an additional named insured under the commercial general liability.
- (c) The County shall be exempt from, and in no way liable for any sums of money which may represent a deductible in any insurance policy. The payment of such deductible shall be the sole responsibility of the Company and/or subcontractor providing such insurance.

16.2. **Types of Insurance.** The Company agrees to purchase and maintain during the life of this Agreement with an insurance company, acceptable to the County, authorized to do business in the State of North Carolina the following insurance:

- (a) **Automobile Liability.** Bodily injury and property damage liability covering all owned, non-owned and hired automobiles for limits of not less than \$1,000,000 bodily injury each person, each accident and \$1,000,000 property damage, or \$1,000,000 combined single limit - bodily injury and property damage.
- (b) **Commercial General Liability.** Bodily injury and property damage liability as shall protect the Company and any subcontractor performing work under this Agreement, from claims of bodily injury or property damage which arise from operation of this Agreement, whether such operations are performed by the Company, any subcontractor, or anyone directly or indirectly employed by either. The amounts of such insurance shall not be less than \$1,000,000 bodily injury each occurrence/aggregate and \$1,000,000 property damage each occurrence/aggregate, or \$1,000,000 bodily injury and property damage combined single limits each occurrence/aggregate. This insurance shall include coverage for products, operations, personal injury liability and contractual liability, assumed under the indemnity provision of this Agreement.
- (c) **Workers' Compensation Insurance.** The Company shall meet the statutory requirements of the State of North Carolina, \$100,000 per accident limit, \$500,000 disease per policy limit, \$100,000 disease each employee limit.

The County shall be named as additional insured under the commercial general liability insurance for operations or services rendered under this Agreement. Certificates of all required insurance shall be furnished to the County and shall contain the provision that the County will be given thirty (30) day written notice of any intent to amend or terminate by either the insured or the insuring company.

It is understood that Playground Equipment will be in the care, custody, and control of the County or Participating Public Agency following installation. It is further understood that the Company cannot additionally insure the eventual owners of the equipment for Participating Public Agencies nationwide for any damages that result from lack of maintenance, inadequate supervision, negligence, or intentional acts

by anyone other than the Company or their affiliates; inadequate surfacing, or vandalism. The responsibility for maintenance and supervision belongs to the County or Participating Public Agency and the public user respectively.

17. **RELATIONSHIP OF THE PARTIES.** The relationship of the parties established by this Agreement is solely that of independent contractors, and nothing contained in this Agreement shall be construed to (i) give any party the power to direct or control the day-to-day activities of the other; (ii) constitute such parties as partners, joint ventures, co-owners or otherwise as participants in a joint or common undertaking; (iii) make either party an agent of the other for any purpose whatsoever, or (iv) give either party the authority to act for, bind, or otherwise create or assume any obligation on behalf of the other. Nothing herein shall be deemed to eliminate any fiduciary duty on the part of the Company to the County that may arise under law or under the terms of this Agreement.
18. **SUBCONTRACTING.** The Company shall not subcontract any of its obligations under this Agreement without the County's prior written consent. In the event the County does consent in writing to a subcontracting arrangement, Company shall be the prime contractor and shall remain fully responsible for performance of all obligations which it is required to perform under this Agreement. Any subcontract entered into by Company shall name the County as a third party beneficiary.
11. **NON-DISCRIMINATION.** The Company agrees that it has adopted and will maintain and enforce a policy of nondiscrimination on the basis of race, color, religion, sex, age, national origin, or disability.

The Company agrees that it will inform the County of any alleged violation(s) of employment practices involving any employees who work on the Project which are asserted in any claims filed with the Equal Employment Opportunity Commission, Labor Department or any other federal or state compliance agency. The Company will also inform the County of the final disposition of such cases.
19. **AUDIT.** During the term of this Agreement and for a period of one (1) year after termination or expiration of this Agreement for any reason, the County shall have the right to audit, either itself or through a third party, the books and records (including but not limited to the technical records) of the Company in connection with this Agreement, to ensure the Company's compliance with all the terms and conditions of this Agreement or the County's payment obligations.
20. **COMPANY WILL NOT SELL OR DISCLOSE DATA.** The Company will treat as confidential information all data provided by the County in connection with this agreement. County data processed by the Company shall remain the exclusive property of the County. The Company will not reproduce, copy, duplicate, disclose, or in any way treat the data supplied by the County in any manner except that contemplated by this agreement.
21. **WORK ON COUNTY'S PREMISES.** The Company will ensure that its employees and agents shall, whenever on the County's premises, obey all instructions and directions issued by the County's project manager with respect to work on the County's premises. The Company agrees that its personnel and the personnel of its subcontractors will comply with all rules, regulations and security procedures of the County when on the County's premises.
22. **DRUG-FREE WORKPLACE.** The County is a drug-free workplace employer. The Company hereby certifies that it has or it will within thirty (30) days after execution of this Agreement:
 - 22.1. Notify employees that the unlawful manufacture, distribution, dispensation, possession, or use of controlled substance is prohibited in the workplace and specifying actions that will be taken for violations of such prohibition;
 - 22.2. Establish a drug-free awareness program to inform employees about (i) the dangers of drug abuse in the workplace, (ii) the Company's policy of maintaining a drug-free workplace, (iii) any

available drug counseling, rehabilitation, and employee assistance programs, and (iv) the penalties that may be imposed upon employees for drug abuse violations;

- 22.3. Notify each employee that as a condition of employment, the employee will (i) abide by the terms of the prohibition outlines in (a) above, and (ii) notify the Company of any criminal drug statute conviction for a violation occurring in the workplace not later than five days after such conviction;
- 22.4. Impose a sanction on, or requiring the satisfactory participation in a drug counseling, rehabilitation or abuse program by an employee convicted of a drug crime;
- 22.5. Make a good faith effort to continue to maintain a drug-free workplace for employees; and
- 22.6. Require any party to which it subcontracts any portion of the work under the contract to comply with the provisions of this Section.

A false certification or the failure to comply with the above drug-free workplace requirements during the performance of this Agreement shall be ground for suspension, termination or debarment.

23. **NOTICES.** Any notice, consent or other communication required or contemplated by this Agreement shall be in writing, and shall be delivered in person, by U.S. mail, by overnight courier, by electronic mail or by telefax to the intended recipient at the address set forth below. Notice shall be effective upon the date of receipt by the intended recipient; provided that any notice which is sent by telefax or electronic mail shall also be simultaneously sent by mail deposited with the U.S. Postal Service or by overnight courier. Each party may change its address for notification purposes by giving the other party written notice of the new address and the date upon which it shall become effective.

23.1. Communications that relate to any breach, default, termination, delay in performance, prevention of performance, modification, extension, amendment, or waiver of any provision of this Agreement shall be sent to:

For The Company:	For The County:
Don King	Karen Ruppe
PlayCore Wisconsin, Inc. dba GameTime	Charlotte-Mecklenburg Procurement Services
150 Playcore Drive	600 East 4 th Street
Fort Payne, AL 35967	Charlotte, NC 28202
Phone: 256.997.5255	Phone: 704.336.2992
Fax: 256.997.5455	Fax: 704.632.8254
E-mail: dking@playcore.com	E-mail: kruppe@ci.charlotte.nc.us
With Copy To:	With Copy To:
	Tyrone Wade
	Deputy County Attorney
	600 East Fourth Street
	Charlotte, NC 28202
	Phone: 704.336.4135
	Fax:
	E-mail: TyroneC.Wade@mecklenburgcountync

All other notices shall be sent to the other party's Project Manager at the most recent address provided in writing by the other party.

24. **MISCELLANEOUS**

24.1. **ENTIRE AGREEMENT.** This Agreement, (including all Exhibits) and the Confidentiality Agreement constitute the entire agreement between the parties with respect to the subject matter

herein. There are no other representations, understandings, or agreements between the parties with respect to such subject matter. This Agreement supersedes all prior agreements, negotiations, representations and proposals, written or oral.

- 24.2. **AMENDMENT.** No amendment or change to this Agreement shall be valid unless in writing and signed by the party against whom enforcement is sought.
- 24.3. **GOVERNING LAW AND JURISDICTION.** North Carolina law shall govern the interpretation and enforcement of this Agreement, and any other matters relating to this Agreement (all without regard to North Carolina conflicts of law principles). All legal actions or other proceedings relating to this Agreement shall be brought in a state or federal court sitting in Mecklenburg County, North Carolina. By execution of this Agreement, the parties submit to the jurisdiction of said courts and hereby irrevocably waive any and all objections which they may have with respect to venue in any court sitting in Mecklenburg County, North Carolina.
- 24.4. **BINDING NATURE AND ASSIGNMENT.** This Agreement shall bind the parties and their successors and permitted assigns. Neither party may assign this Agreement without the prior written consent of the other. Any assignment attempted without the written consent of the other party shall be void. For purposes of this Section, a Change in Control, as defined in Section 25.10 constitute an assignment.
- 24.5. **FORCE MAJEURE.** Neither party shall be liable for any failure or delay in the performance of its obligations pursuant to this Contract, and such failure or delay shall not be deemed a default of this Contract or grounds for termination hereunder if all of the following conditions are satisfied:
- (a) if such failure or delay:
 - i. could not have been prevented by reasonable precaution;
 - ii. cannot reasonably be circumvented by the non-performing party through the use of alternate sources, work-around plans, or other means; and
 - iii. if, and to the extent, such failure or delay is caused, directly or indirectly, by fire, flood, earthquake, hurricane, elements of nature or acts of God, acts of war, terrorism, riots, civil disorders, rebellions or revolutions or court order.
 - (b) An event which satisfies all of the conditions set forth above shall be referred to as a "Force Majeure Event." Upon the occurrence of a Force Majeure Event, the Service Provider shall be excused from any further performance of those of its obligations which are affected by the Force Majeure Event for as long as (a) such Force Majeure Event continues and (b) the Service Provider continues to use commercially reasonable efforts to recommence performance whenever and to whatever extent possible without delay.
 - (c) Upon the occurrence of a Force Majeure Event, the Service Provider shall immediately notify the County by telephone (to be confirmed by written notice within two (2) days of the inception of the failure or delay) of the occurrence of a Force Majeure Event and shall describe in reasonable detail the nature of the Force Majeure Event. If any Force Majeure Event prevents Service Provider from performing its obligations for more than five (5) days, the County shall have the right to terminate this Agreement by written notice to the Service Provider.

Strikes, slowdowns, lockouts, walkouts, industrial disturbances and other labor disputes shall not constitute Force Majeure Events and shall not excuse the Service Provider from the performance of its obligations under this Agreement.

An event which satisfies all of the conditions set forth above shall be referred to as a "Force Majeure Event." Upon the occurrence of a Force Majeure Event, the affected party shall be excused from any further performance of those of its obligations which are affected by the Force

Majeure Event for as long as (a) such Force Majeure Event continues and (b) the affected party continues to use reasonable efforts to recommence performance whenever and to whatever extent possible without delay.

Upon the occurrence of a Force Majeure Event, the affected party shall promptly notify the other by telephone (to be confirmed by written notice within five (5) days of the inception of the failure or delay) of the occurrence of a Force Majeure Event and shall describe in reasonable detail the nature of the Force Majeure Event. If any Force Majeure Event prevents the Company from performing its obligations for more than fifteen (15) days, the County shall have the right to terminate this Agreement by written notice to the Company.

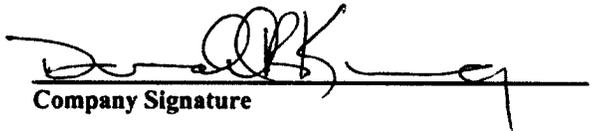
- 24.6. **SEVERABILITY.** The invalidity of one or more of the phrases, sentences, clauses or sections contained in this Agreement shall not affect the validity of the remaining portion of this Agreement so long as the material purposes of this Agreement can be determined and effectuated. If any provision of this Agreement is held to be unenforceable, then both parties shall be relieved of all obligations arising under such provision, but only to the extent that such provision is unenforceable, and this Agreement shall be deemed amended by modifying such provision to the extent necessary to make it enforceable while preserving its intent.
- 24.7. **NO PUBLICITY.** No advertising, sales promotion or other materials of the Company or its agents or representations may identify or reference this Agreement or the County in any manner without the prior written consent of the County. Notwithstanding the forgoing, the parties agree that the Company may list the County as a reference in responses to requests for proposals, and may identify the County as a customer in presentations to potential customers.
- 24.8. **WAIVER.** No delay or omission by either party to exercise any right or power it has under this Agreement shall impair or be construed as a waiver of such right or power. A waiver by either party of any covenant or breach of this Agreement shall not constitute or operate as a waiver of any succeeding breach of that covenant or of any other covenant. No waiver of any provision of this Agreement shall be effective unless in writing and signed by the party waiving the rights.
- 24.9. **CHANGE IN CONTROL.** In the event of a change in "Control" of the Company (as defined below), the County shall have the option of terminating this Agreement by written notice to the Company. The Company shall notify the County within ten days of the occurrence of a change in control. As used in this Agreement, the term "Control" shall mean the possession, direct or indirect, of either (i) the ownership of or ability to direct the voting of, as the case may be fifty-one percent (51%) or more of the equity interests, value or voting power in the Company or (ii) the power to direct or cause the direction of the management and policies of the Company whether through the ownership of voting securities, by contract or otherwise.
- 24.10. **NO BRIBERY.** The Company certifies that neither it, any of its affiliates or subcontractors, nor any employees of any of the forgoing has bribed or attempted to bribe an officer or employee of the County in connection with this Agreement.
- 24.11. **FAMILIARITY AND COMPLIANCE WITH LAWS AND ORDINANCES.** The Company agrees to make itself aware of and comply with all local, state and federal ordinances, statutes, laws, rules and regulations applicable to the Services. The Company further agrees that it will at all times during the term of this Agreement be in compliance with all applicable federal, state and/or local laws regarding employment practices. Such laws will include, but shall not be limited to workers' compensation, the Fair Labor Standards Act (FLSA), the Americans with Disabilities Act (ADA), the Family and Medical Leave Act (FMLA) and all OSHA regulations applicable to the work.
- 24.12. **TAXES.** The Company shall pay all applicable federal, state and local taxes which may be chargeable against the performance of the Services.

22.13 WAIVER OF RIGHT TO JURY TRIAL. The County and Company waive and will waive all rights to have a trial by jury in any action, proceeding, claim or counterclaim brought by either of them against the other on any matter whatsoever arising out of or in any way related to or connected with this Agreement.

25. Non-Appropriation of Funds. If the Board of County Commissioners does not appropriate the funding needed by the County to make payments under this Agreement for a given fiscal year, the County will not be obligated to pay amounts due beyond the end of the last fiscal year for which funds were appropriated. In such event, the County will promptly notify the Company of the non-appropriation and this Agreement will be terminated at the end of the last fiscal year for which funds were appropriated. No act or omission by the County, which is attributable to non-appropriation of funds shall constitute a breach of or default under this Agreement.

IN WITNESS WHEREOF, and in acknowledgment that the parties hereto have read and understood each and every provision hereof, the parties have caused this Agreement to be executed on the date first written above.

PLAYCORE WISCONSIN, INC.
dba GAMETIME:



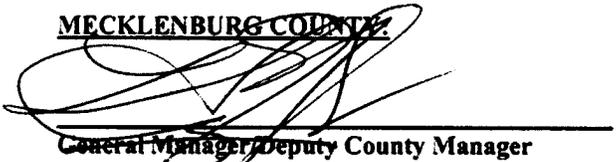
Company Signature
Donald R. King
Director of Sales Administration
Title

ATTEST:



Mary Cole
Sales Administration Manager
Title

MECKLENBURG COUNTY:



General Manager/Deputy County Manager

ATTEST:



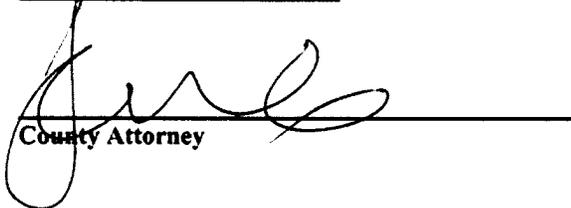
Clerk to the Board of County Commissioners



Park and Recreation Director

This instrument has been pre-audited in the manner required by the Local Government Budget and Fiscal Control Act.

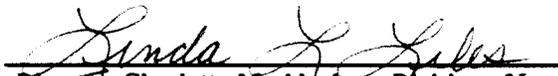
APPROVED AS TO FORM:



County Attorney

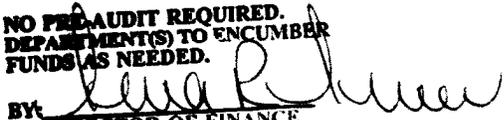
Finance Director

APPROVED AS TO INSURANCE REQUIREMENTS:



Director, Charlotte-Mecklenburg Division of Insurance
Risk Management

**NO PRE-AUDIT REQUIRED.
DEPARTMENTS(S) TO ENCUMBER
FUNDS AS NEEDED.**

BY: 

DIRECTOR OF FINANCE

EXHIBIT A
Contract Pricing and Discount Structures

The attached Pricing Sheets is incorporated into and made a part of the Agreement to provide Playground Equipment, Surfacing, Site Furnishings, and Related Products and Services (the "Agreement") between Mecklenburg County, (the "County") and PlayCore-Wisconsin, Inc. dba GameTime (the "Company"). Unless otherwise defined herein, capitalized terms in this Exhibit shall have the same meanings as are assigned to such terms in the RFP.