


# Master Purchase Order

<b>DO NOT INVOICE TO THIS ADDRESS</b>	 <b>DENVER</b> <small>THE MILE HIGH CITY</small>	Master Purchase Order No.		0379A0712	
City & County of Denver		Date:	September 4 <sup>th</sup> , 2014	Revision No.	1
Purchasing Division		Payment Terms	Net 30		
201 West Colfax Avenue, Dept. 304		Freight Terms	DESTINATION		
Denver, CO 80202		Ship Via	Vendor's Choice		
United States		Buyer:	Chris Vanderbilt		
Phone: 720-913-8100 Fax: 720-913-8101		Phone:	720-913-8156		

Vendor ID Number: 0000000393 Phone: 303-278-1455 Fax: 303-278-1606

Recreation Plus Ship To: Various City Agencies as requested  
 15209 West Ellsworth Drive  
 Golden, CO 80401 Bill To: Accounts Payable  
 201 West Colfax Department 908  
 Denver, Colorado  
 80202  
 or  
 As Specified By Agency

Attn: Cathy Weissberg, Cathy@recreationplus.com

**1. Goods/Services:**

Recreation Plus, a Corporation in the State of Colorado, (“Vendor”) shall provide the goods, and any services related thereto, identified and described on attached **Exhibit A**, to the City and County of Denver, a Colorado municipal corporation (the “City”), all in accordance with the terms and conditions of this Master Purchase Order.

**2. Ordering:**

The City shall purchase one or more of the goods/services by issuing a written purchase order(s) or similar appropriate written document (“Order”), each of which will be deemed incorporated into this Agreement for purposes of such Order only.

**3. Pricing:**

The pricing/rates for the goods/services is contained on **Exhibit A** and shall be held firm for the term of this Master Purchase Order.

**4. Extension or Renewal:**

The effective period of this Master Purchase Order shall be one year from date of City signature. It is also a specific provision of this Master Purchase Order that the City and the vendor may mutually agree to renew and continue the contract or agreement consummated under this Master Purchase Order for additional periods of one year at the same prices, terms and conditions. However, no more than one (1) yearly extensions shall be made to the original Master Purchase Order.

**5. Non-Exclusive:**

This Master Purchase Order is non-exclusive. City does not guarantee any minimum purchase other than as provided herein.

**6. Inspection and Acceptance:**

City may inspect all goods/services prior to acceptance. Payment does not constitute acceptance. Vendor shall bear the cost of any inspection/testing that reveal goods/services that are defective or do not meet specifications. City’s failure to accept or reject goods/services shall not relieve Vendor from its responsibility for such goods/services that are defective or do not meet specifications nor impose liability on City for such goods/services. If any part of the goods/services are not acceptable to City, City may, in addition to any other rights it may have at law or in equity: (1) make a warranty claim; (2) repair and/or replace the goods or substitute other services at Vendor’s expense; or (3) reject and return the goods at Vendor’s cost and/or reject the services at Vendor’s expense for full credit. Any rejected goods/services are not to be replaced without written authorization from City, and any such replacement shall be on the same terms and conditions contained in this Master Purchase Order. Vendor shall perform all services in accordance with the standard of care exercised by highly competent vendors who perform like or similar services.

**7. Shipping, Taxes and Other Credits and Charges:**

All pricing is F.O.B. destination unless otherwise specified. Shipments must be marked with Vendor’s name, the Master Purchase Order number, and contain a delivery or packing slip. Vendor shall not impose any charges for boxing, crating, parcel post, insurance, handling, freight, express or other similar charges or fees. Vendor shall notify City in writing of any price decreases immediately, and City shall receive the benefit thereof on all unshipped items. Vendor shall comply with any additional delivery terms specified herein. Vendor shall be responsible for the cleanup and reporting of any contamination (environmental or otherwise) or spillage resulting from the delivery and/or unloading of goods within twenty-four (24) hours of the contamination or spillage or sooner if required by law. Vendor shall procure all permits and licenses; pay all charges, taxes and fees; and give all notices necessary and incidental to the fulfillment of this Master Purchase Order and all cost thereof have been included in the prices contained herein. City shall not be liable for the payment of taxes, late charges or penalties of any nature, except as required by D.R.M.C. § 20-107, et seq. The price of all goods/services shall reflect all applicable tax exemptions. City’s Federal Registration No. is 84-6000580 and its State Registration No. is 98-02890. Vendor shall pay all sales and use taxes levied by City on any tangible personal property built into the goods/services. Vendor shall obtain a Certificate of Exemption from the State of Colorado Department of Revenue prior to the purchase of any materials to be built into the goods/services and provide a copy of the Certificate to City prior to final payment.

**8. Risk of Loss:**

Vendor shall bear the risk of loss, injury or destruction of goods prior to delivery to City. Loss, injury or destruction shall not release Vendor from any obligation hereunder.

**9. Invoice:**

Each invoice shall include: (i) the Master Purchase Order number; (ii) individual itemization of the goods/services; (iii) per unit price, extended and totaled; (iv) quantity ordered, back ordered and shipped; (v) an invoice number and date; (vi) ordering department's name and "ship to" address; and (vii) agreed upon payment terms set forth herein.

**10. Payment:**

Payment shall be subject to City's Prompt Payment Ordinance D.R.M.C. § 20-107, et-seq. after City accepts the goods/services. Any other provision of this Agreement notwithstanding, in no event shall the City be liable for aggregate payments under this Master Purchase Order in excess of One Million Dollars (1,000,000.00). The Vendor acknowledges that any goods/services provided beyond those specifically described in **Exhibit A** are performed at Contractor's risk and without authorization from the City. City's payment obligations hereunder, whether direct or contingent, shall extend only to funds appropriated by the Denver City Council for the purpose of this Master Purchase Order, encumbered by the City after receipt of Vendor's invoice and paid into the Treasury of City. Vendor acknowledges that: (i) City does not by this Master Purchase Order, irrevocably pledge present cash reserves for payments in future fiscal years; and (ii) this Master Purchase Order is not intended to create a multiple-fiscal year direct or indirect debt or financial obligation of City. City may offset against any payments due to Vendor any claims and/or credits it may have against Vendor under this Master Purchase Order.

**11. Amendments/Changes:**

Only the Manager of General Services or his delegate is authorized to change or amend this Master Purchase Order by a formal written change order. Any change or amendment that would cause the aggregate payable under this Master Purchase Order to exceed the amount appropriated and encumbered for this Master Purchase Order is expressly prohibited and of no effect. Vendor shall verify that the amount appropriated and encumbered is sufficient to cover any increase in cost due to changes or amendments. Goods/services provided without such verification are provided at Vendor's risk. The Vendor has no authority to bind City on any contractual matters.

**12. Warranty:**

Vendor warrants and guarantees to City that all goods furnished under this Master Purchase Order are free from defects in workmanship and materials, are merchantable, and fit for the purposes for which they are to be used. For any goods furnished under this Master Purchase Order which become defective within twelve (12) months (unless otherwise specified) after date of receipt by City, Vendor shall either, at City's election and to City's satisfaction, remedy any and all defects or replace the defective goods at no expense to City within seven (7) days of receipt of the defective goods or accept the defective goods for full credit and payment of any return shipping charges. Vendor shall be fully responsible for any and all warranty work, regardless of third party warranty coverage. Vendor shall furnish additional or replacement parts at the same prices, conditions and specifications delineated herein.

**13. Indemnification/Limitation of Liability:**

Vendor shall indemnify and hold harmless City (including but not limited to its employees, elected and appointed officials, agents and representatives) against any and all losses (including without limitation, loss of use and costs of cover), liability, damage, claims, demands, actions and/or proceedings and all costs and expenses connected therewith (including without limitation attorneys' fees) that arise out of or relate to any claim of infringement of patent, trademark, copyright, trade secret or other intellectual property right related to this Master Purchase Order or that are caused by or the result of any act or omission of Vendor, its agents, suppliers, employees, or representatives. Vendor's obligation shall not apply to any liability or damages which result solely from the negligence of City. City shall not be liable for any consequential, incidental, indirect, special, reliance, or punitive damages or for any lost profits or revenues, regardless of the legal theory under which such liability is asserted. In no event shall City's aggregate liability exceed the agreed upon cost for those goods/services that have been accepted by City under this Master Purchase Order. Notwithstanding anything contained in this Master Purchase Order to the contrary, City in no way limits or waives the rights, immunities and protections provided by C.R.S. § 24-10-101, et seq.

**14. Termination:**

City may terminate this Master Purchase Order, in whole or in part, at any time and for any reason immediately upon written notice to Vendor. In the event of such a termination, City's sole liability shall be limited to payment of the amount due for the goods/services accepted by City. Vendor acknowledges the risks inherent in this termination for convenience and expressly accepts them. Termination by City shall not constitute a waiver of any claims City may have against Vendor.

**15. Interference:**

Vendor shall notify the Director of Purchasing immediately of any condition that may interfere with the performance of Vendor's obligations under this Master Purchase Order and confirm such notification in writing within twenty-four (24) hours. City's failure to respond to any such notice shall in no way act as a waiver of any rights or remedies City may possess.

**16. Venue, Choice of Law and Disputes:**

Venue for all legal actions shall lie in the District Court in and for City and County of Denver, State of Colorado, and shall be governed by the laws of the State of Colorado as well as the Charter and Revised Municipal Code, rules, regulations, Executive Orders, and fiscal rules of City. All disputes shall be resolved by administrative hearing, pursuant to the procedure established by D.R.M.C. § 56-106. Director of Purchasing shall render the final determination.

**17. Assignment/No Third Party Beneficiary:**

Vendor shall not assign or subcontract any of its rights or obligations under this Master Purchase Order without the written consent of City. In the event City permits an assignment or subcontract, Vendor shall continue to be liable under this Master

Purchase Order and any permitted assignee or subcontractor shall be bound by the terms and conditions contained herein. This Master Purchase Order is intended solely for the benefit of City and Vendor with no third party beneficiaries

**18. Notice:**

Notices shall be made by Vendor to the Director of Purchasing and by City to Vendor at the addresses provided herein, in writing sent registered, return receipt requested.

**19. Compliance With Laws:**

Vendor shall observe and comply with all federal, state, county, city and other laws, codes, ordinances, rules, regulations and executive orders related to its performance under this Master Purchase Order. City may immediately terminate this Master Purchase Order, in whole or in part, if Vendor or an employee is convicted, plead nolo contendere, or admits culpability to a criminal offense of bribery, kickbacks, collusive bidding, bid-rigging, antitrust, fraud, undue influence, theft, racketeering, extortion or any offense of a similar nature.

**20. Insurance:**

Vendor shall secure, before delivery of any goods/services, the following insurance covering all operations, goods and services provided to City. Vendor shall keep the required insurance coverage in force at all times during the term of the Purchase Order, or any extension thereof, during any warranty period, and for three (3) years after termination of this Purchase Order. The required insurance shall be underwritten by an insurer licensed to do business in Colorado and rated by A.M. Best Company as "A-"VIII or better. Each policy shall contain a valid provision stating "Should any of the above-described policies be canceled or non-renewed before the expiration date thereof, the issuing company shall send written notice to the Denver Risk Management, 201 West Colfax Avenue, Dept. 1105, Denver, Colorado 80202. Such written notice shall be sent thirty (30) days prior to such cancellation or non-renewal unless due to non-payment of premiums for which notice shall be sent ten (10) days prior." Additionally, Vendor shall provide written notice of cancellation, non-renewal and any reduction in coverage to the address above by certified mail, return receipt requested. If any policy is in excess of a deductible or self-insured retention, City must be notified by Vendor. Vendor shall be responsible for the payment of any deductible or self-insured retention. The insurance coverages specified in this Purchase Order are the minimum requirements, and these requirements do not lessen or limit the liability of Vendor. Vendor shall provide a copy of this Purchase Order to its insurance agent or broker. Vendor may not commence services or work relating to the Purchase Order prior to placement of coverage. Contractor certifies that the attached certificate of insurance attached to the Purchase Order documents, preferably an ACORD certificate, complies with all insurance requirements of this Purchase Order. The City's acceptance of a certificate of insurance or other proof of insurance that does not comply with all insurance requirements set forth in this Purchase Order shall not act as a waiver of Vendor's breach of this Purchase Order or any of the City's rights or remedies under this Agreement. The City's Risk Management Office may require additional proof of insurance, including but not limited to policies and endorsements. Vendor's insurer shall name as Additional Insured to its Commercial General Liability and Business Auto Liability policies the City and County of Denver, its elected and appointed officials, employees and volunteers. Vendor's insurer shall waive subrogation rights against the City. All sub-contractors and sub-consultants (including independent contractors, suppliers or other entities providing goods/services required by this Purchase Order) shall be subject to all of the requirements herein and shall procure and maintain the same coverages required of Vendor. Vendor shall include all such entities as insureds under its policies or shall ensure that they all maintain the required coverages. Vendor shall provide proof of insurance for all such entities upon request by City. For Worker's Compensation Insurance, Vendor shall maintain the coverage as required by statute for each work location and shall maintain Employer's Liability insurance with limits of \$100,000 for each bodily injury occurrence claim, \$100,000 for each bodily injury caused by disease claim, and \$500,000 aggregate for all bodily injuries caused by disease claims. Vendor expressly represents to City, as a material representation upon which City is relying, that none of the Vendor's officers or employees who may be eligible under any statute or law to reject Workers' Compensation Insurance shall effect such rejection during any part of the term of this Purchase Order, and that any such rejections previously effected, have been revoked. Vendor shall maintain Commercial General Liability coverage with limits of \$1,000,000 for each occurrence, \$1,000,000 for each personal and advertising injury claim, \$2,000,000 products and completed operations aggregate, and \$2,000,000 policy aggregate. Vendor shall maintain Business Auto Liability coverage with limits of \$1,000,000 combined single limit applicable to all owned, hired and non-hired vehicles used in performing services under this Purchase Order. For Commercial General Liability coverage, the policy must provide the following: (i) That this Purchase Order is an Insured Contract under the policy; (ii) Defense costs in excess of policy limits; (iii) A severability of interests, separation of insureds or cross liability provision; and (iv) A provision that coverage is non-contributory with other coverage or self-insurance provided by City. For claims-made coverage, the retroactive date must be on or before the first date when any goods or services were provided to City. Vendor must advise the City in the event any general aggregate or other aggregate limits are reduced below the required per occurrence limits. At their own expense, and where such general aggregate or other aggregate limits have been reduced below the required per occurrence limit, the Contractor will procure such per occurrence limits and furnish a new certificate of insurance showing such coverage is in force.

**21. Severability:**

If any provision of this Master Purchase Order, except for the provisions requiring appropriation and encumbering of funds and limiting the total amount payable by City, is held to be invalid, illegal or unenforceable by a court of competent jurisdiction, the validity of the remaining portions or provisions shall not be affected if the intent of City and Vendor can be fulfilled.

**22. Survival:**

All terms and conditions of this Master Purchase Order which by their nature must survive termination/expiration shall so survive. Without limiting the foregoing, Vendor's insurance, warranty and indemnity obligations shall survive for the relevant warranty or statutes of limitation period plus the time necessary to fully resolve any claims, matters or actions begun within that period. Bonds shall survive as long as any warranty period.

**23. No Construction Against Drafting Party:**

No provision of this Master Purchase Order shall be construed against the drafter.

**24. Status of Vendor/Ownership of Work Product:**

Vendor is an independent contractor retained on a contractual basis to perform services for a limited period of time as described in Section 9.1.1E(x) of the Charter of City. Vendor and its employees are not employees or officers of City under Chapter 18 of the D.R.M.C. for any purpose whatsoever. All goods, deliverables, hardware, software, plans, drawings, reports, submittals and all other documents or things furnished to City by Vendor shall become and are the property of City, without restriction.

**25. Records and Audits:**

Vendor shall maintain for three (3) years after final payment hereunder, all pertinent books, documents, papers and records of Vendor involving transactions related to this Master Purchase Order, and City shall have the right to inspect and copy the same.

**26. Remedies/Waiver:**

No remedy specified herein shall limit any other rights and remedies of City at law or in equity. No waiver of any breach shall be construed as a waiver of any other breach.

**27. No Discrimination in Employment:**

Vendor shall not refuse to hire, discharge, promote or demote, or to discriminate in matters of compensation against any person otherwise qualified, solely because of race, color, religion, national origin, gender, age, military status, sexual orientation, marital status, or physical or mental disability; and Vendor shall insert the foregoing provision in any subcontracts hereunder.

**28. Use, Possession or Sale of Alcohol or Drugs:**

Vendor shall cooperate and comply with the provisions of Executive Order 94. Violation may result in City terminating this Master Purchase Order or barring Vendor from City facilities or from participating in City operations.

**29. Conflict of Interest:**

No employee of City shall have any personal or beneficial interest in the goods/services described in this Master Purchase Order; and Vendor shall not hire or contract for services any employee or officer of City which would be in violation of City's Code of Ethics, D.R.M.C. §2-51, et seq. or the Charter §§ 1.2.8, 1.2.9, and 1.2.12.

**30. No Employment of Illegal Aliens to Perform Work Under The Agreement:**

a. This Agreement is subject to Division 5 of Article IV of Chapter 20 of the Denver Revised Municipal Code, and any amendments (the "Certification Ordinance").

b. The Contractor certifies that:

- (1) At the time of its execution of this Agreement, it does not knowingly employ or contract with an illegal alien who will perform work under this Agreement.
- (2) It will participate in the E-Verify Program, as defined in § 8-17.5-101(3.7), C.R.S., to confirm the employment eligibility of all employees who are newly hired for employment to perform work under this Agreement.

c. The Contractor also agrees and represents that:

- (1) It shall not knowingly employ or contract with an illegal alien to perform work under the Agreement.
- (2) It shall not enter into a contract with a subconsultant or subcontractor that fails to certify to the Contractor that it shall not knowingly employ or contract with an illegal alien to perform work under the Agreement.
- (3) It has confirmed the employment eligibility of all employees who are newly hired for employment to perform work under this Agreement, through participation in the E-Verify Program.
- (4) It is prohibited from using the E-Verify Program procedures to undertake pre-employment screening of job applicants while performing its obligations under the Agreement, and that otherwise requires the Contractor to comply with any and all federal requirements related to use of the E-Verify Program including, by way of example, all program requirements related to employee notification and preservation of employee rights.
- (5) If it obtains actual knowledge that a subconsultant or subcontractor performing work under the Agreement knowingly employs or contracts with an illegal alien, it will notify such subconsultant or subcontractor and the City within three (3) days. The Contractor will also then terminate such subconsultant or subcontractor if within three (3) days after such notice the subconsultant or subcontractor does not stop employing or contracting with the illegal alien, unless during such three-day period the subconsultant or subcontractor provides information to establish that the subconsultant or subcontractor has not knowingly employed or contracted with an illegal alien.

(6) It will comply with any reasonable request made in the course of an investigation by the Colorado Department of Labor and Employment under authority of § 8-17.5-102(5), C.R.S, or the City Auditor, under authority of D.R.M.C. 20-90.3.

d. The Contractor is liable for any violations as provided in the Certification Ordinance. If Contractor violates any provision of this section or the Certification Ordinance, the City may terminate this Agreement for a breach of the Agreement. If the Agreement is so terminated, the Contractor shall be liable for actual and consequential damages to the City. Any such termination of a contract due to a violation of this section or the Certification Ordinance may also, at the discretion of the City, constitute grounds for disqualifying Contractor from submitting bids or proposals for future contracts with the City.

**31. Prevailing Wages**

This Master Purchase Order shall be subject to the following provisions concerning prevailing wages.

- a. The minimum wages to be paid for every class of labor, mechanics and worker shall be not less than the scale of wages from time to time determined to be the prevailing wages.
- b. The Vendor or his/her subcontractor shall pay mechanics, laborers and workers employed directly upon the site of the work the full amounts accrued at time of payment, computed at wage rates not less than those stated or referenced in the specifications, and any addenda thereto, on the actual date of proposal opening, or in effect on the date of grant of permit for performance of such work under D.R.M.C. Section 49-171 et seq., or on the date of the written Purchase Order for contracts let by informal procedure under D.R.M.C. Section 20-63(b), regardless of any contractual relationship which may be alleged to exist between the vendor or subcontractor and such laborers, mechanics and workers.
- c. The vendor and subcontractors to pay all workers, mechanics and other laborers at least once a week the full amounts of wages accrued at the time of payment except that the vendor and subcontractor shall make such payments to non-construction workers such as janitorial or custodial workers at least twice per month.
- d. The vendor shall post in a prominent and easily accessible place at the site of the work the scale of wages to be paid by the vendor and all subcontractors working under the vendor.
- e. If the vendor or any subcontractor shall fail to pay such wages as are required by the contract, the Auditor shall not approve any warrant or demand for payment to the vendor until the vendor furnishes the Auditor evidence satisfactory to the Auditor that such wages so required by the contract have been paid.
- f. The vendor shall furnish to the Auditor each week during which work is in progress under the contract, a true and correct copy of the payroll records of all workers, laborers and mechanics employed under the contract, either by the vendor or subcontractors.
- g. The copy of the payroll record shall be accompanied by a sworn statement of the vendor that the copy is a true and correct copy of the payroll records of all mechanics, laborers or other workers working under the contract either for the vendor or subcontractors, that payments were made to the workers, laborers and mechanics as set forth in the payroll records, that no deductions were made other than those set forth in such records, and that all workers, mechanics and other laborers employed on work under the contract, either by the vendor or by any subcontractor, have been paid the prevailing wages as set forth in the contract specifications.
- h. If any laborer, worker or mechanic employed by the vendor or any subcontractor under the contract has been or is being paid a rate of wages less than the rate of wages required by the contract to be paid as aforesaid, the City may, by written notice to the vendor, suspend or terminate the vendor's right to proceed with the work, or such part of the work as to which there has been a failure to pay the required wages, and in the event of termination may prosecute the work to completion by contract or otherwise, and the vendor and any sureties shall be liable to the City for any excess costs occasioned the City thereby.

Information as to forms and other requirements concerning prevailing wages may be obtained from the City Auditor's office, Prevailing Wage Section, 201 West Colfax, Denver, CO 80202, telephone 720-913-5009.

This Master Purchase Order is acknowledged and agreed to by:

Vendor Name: RECREATION PLUS, LTD  
(Company Name)

City & County of Denver, Purchasing Division

By: Cathy Weissberg  
(Authorized Signature)

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

Print Name: CATHY WEISSBERG

Print Name: Chris Vanderbilt

Title: PRESIDENT

Title: Associate Buyer

Date: 9-4-14

Date: 9/4/2014

EXHIBIT "A"

Vendor: Recreation Plus  
Title: Playground Equipment and Site Furnishings  
Master Purchase Order No.: 0379A0712

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**It is recommended that you use your Master Purchase Order No. – 0379A0712, in all future correspondence, billing, invoicing or other communications.**

1. SCOPE OF WORK:

The work covered by this Master Purchase Order (MPO) agreement consists of furnishing all transportation, labor and materials, and performing all operations for the installation of the structures covered in this proposal. All items are to be assembled and installed in accordance with manufacturer recommendations unless otherwise stated.

In general, the work consists of, but is not limited to, the following:

- The vendor is to provide coordination with manufacturer's representative regarding the compliance with manufacturer's specifications and recommended procedures for installation and the City.
- Measurement, layout and staking of footing locations, concrete pads, limits of required safety zones, and any other items deemed necessary by the City designated Project Manager.
- Installation of all shoring, bracing and barricading of structures and excavations necessary to ensure proper alignment and protection of equipment, surfacing and any items included in this bid **including barricading as necessary to prevent unauthorized use until final acceptance by the city.**
- Removal and off-site disposal or recycling of all concrete rubble and miscellaneous debris.
- The Vendor shall assume full responsibility for all items, including scheduling of shipments, checking condition and quantities of goods received, and protection of goods until final acceptance.
- The Vendor is responsible for verifying that all play pit dimensions are sufficient for the equipment/furnishings being installed. If the play pit is constructed per plan, but delivered product does not fit, any adjustments and/or corrections that need to be made to such a pit are the responsibility of the vendor and are to be performed at no additional charge to the City.
- Any damages caused by the vendor or his/her contractor to the project site, including the pit, during installation shall be repaired at the cost of the vendor. Final payment will not be released until the City has accepted/approved any and all repairs.

2. SPECIFIC REQUIREMENTS:

1. Catalogue pricing provided must be fixed and firm through January of the following year, from the date of award. Such pricing shall be made available to all interested Park Planners.
2. This MPO covers specifically play-structure and landscape furniture needs. Indoor and outdoor sporting equipment such as basketball hoops, soccer goals, tennis nets, etc. may be included. Sporting accessories such as balls, bats, bags, etc. are not covered by this specific bidder's proposal.

3. Pricing for a complete structure is to be based on a discount off of a manufacturer's suggested retail prices or posted pricing. This posted pricing must be standard in the trade and in common use for either the vendor's general clientele or comparable government accounts. Prices artificially derived for this bid will not be acceptable. Manufacturer's list(s) will be allowed to change as may be standard in the industry but the discount(s) will remain firm.
4. Equipment price decreases as well as increases will apply, but shall be based solely on industry wide price changes. If vendor's prices are reduced for any reason, users shall receive the benefit of such reductions. Price increases will not be retroactive to orders already placed, including backorders. Orders are to be filled at the price in effect on the date of receipt by the vendor.
5. Play-structures and components should comply with ASTM F K187-95 (IPEMA Certified). For any item not meeting this standard, submit separate sheeting explaining all exceptions.
6. Installation of all equipment/furnishings is to be compliant with CPSC guidelines as well as any pertinent ADA guidelines.

3. UNITED STATES EPA COMPREHENSIVE PROCUREMENT GUIDELINES:

The Comprehensive Procurement Guideline (CPG) program is part of EPA's continuing effort to promote the use of materials recovered from solid waste. Buying recycled-content products ensures that the materials collected in recycling programs will be used again in the manufacture of new products.

The EPA's Recovered Materials Advisory Notice (RMAN) recommends recycled content levels for purchasing park benches and picnic tables, plastic fencing, playground equipment, playground surfaces and running tracks. These recommended recycled content levels are listed below.

<b>Park Benches and Picnic Tables<sup>1</sup></b>		
<b>Product</b>	<b>Postconsumer Content (%)</b>	<b>Total Recovered Materials (%)</b>
Plastics <sup>2</sup>	90-100	100
Plastic Composites	50-100	100
Aluminum	25	25
Concrete	--	15-40
Steel <sup>3</sup>	16 67	25-30 100

<sup>1</sup>EPA's recommendations do not preclude a procuring agency from purchasing playground equipment manufactured from other materials. They simply require that a procuring agency, when purchasing playground equipment made from plastic, steel, wood, or aluminum, purchase these items with recovered materials when those items meet applicable specifications and performance requirements.

<sup>2</sup>"Plastics" includes both single and mixed plastic resins. Playground equipment made with recovered plastics may also contain other recovered materials such as wood or fiberglass. The percentage of these materials contained in the product would also count toward the recovered materials content level of the item.

<sup>3</sup>The recommended recovered materials content levels for steel in this table reflect the fact that the designated items can be made from steel manufactured in either a Basic Oxygen Furnace (BOF) or an Electric Arc Furnace (EAF). Steel from the BOF process contains 25-30% total recovered materials, of which 16% is postconsumer steel. Steel from the EAF process contains a total of 100% recovered steel, of which 67% is postconsumer.

<b>Plastic Fencing<sup>1,2</sup></b>		
<b>Product</b>	<b>Postconsumer Content (%)</b>	<b>Total Recovered Materials (%)</b>
Plastic	60-100	90-100

<sup>1</sup>EPA's recommendation does not preclude a procuring agency from purchasing fencing manufactured from another material, such as wood. It simply requires that a procuring agency, when purchasing plastic fencing, purchase this item made with recovered materials when this item meets applicable specifications and performance requirements.

<sup>2</sup>Designation includes fencing containing recovered plastic for use in controlling snow or sand drifting and as a warning/safety barrier in construction or other applications.

<b>Playground Equipment<sup>1</sup></b>		
<b>Product</b>	<b>Postconsumer Content (%)</b>	<b>Total Recovered Materials (%)</b>
Plastics <sup>2</sup>	90-100	100
Plastic Composites	50-75	95-100
Steel <sup>3</sup>	16 67	25-30 100
Aluminum	25	25

<sup>1</sup>EPA's recommendations do not preclude a procuring agency from purchasing playground equipment manufactured from other materials. They simply require that a procuring agency, when purchasing playground equipment made from plastic, steel, wood, or aluminum, purchase these items with recovered materials when those items meet applicable specifications and performance requirements.

<sup>2</sup>"Plastics" includes both single and mixed plastic resins. Playground equipment made with recovered plastics may also contain other recovered materials such as wood or fiberglass. The percentage of these materials contained in the product would also count toward the recovered materials content level of the item.

<sup>3</sup>The recommended recovered materials content levels for steel in this table reflect the fact that the designated items can be made from steel manufactured in either a Basic Oxygen Furnace (BOF) or an Electric Arc Furnace (EAF). Steel from the BOF process contains 25-30% total recovered materials, of which 16% is postconsumer steel. Steel from the EAF process contains a total of 100% recovered steel, of which 67% is postconsumer.

<b>Playground Surfaces<sup>1,2</sup></b>	
<b>Product</b>	<b>Postconsumer Content (%)</b>
Rubber or Plastic	90-100

<sup>1</sup>EPA's recommendation does not preclude procuring agencies from purchasing playground surfaces manufactured from another material. It simply recommends that procuring agencies, when purchasing playground surfaces made from rubber or plastic, purchase these items made from recovered materials.

<sup>2</sup>The recommended recovered materials content levels are based on the dry weight of the raw materials, exclusive of any additives such as adhesives, binders, or coloring agents.

<b>Running Track<sup>1,2</sup></b>	
<b>Product</b>	<b>Postconsumer Content (%)</b>
Rubber or Plastic	90-100



<sup>1</sup>EPA's recommendation does not preclude procuring agencies from purchasing running tracks manufactured from another material. It simply recommends that procuring agencies, when purchasing running tracks made from rubber or plastic, purchase these items made from recovered materials.

<sup>2</sup>The recommended recovered materials content levels are based on the dry weight of the raw materials, exclusive of any additives such as adhesives, binders, or coloring agents.

**The above guidelines do not preclude the City and County of Denver from procuring park and playground equipment manufactured from other materials, or materials with lesser or higher recycled content.**

#### 4. METHOD – GENERAL:

All items shall be installed in accordance with manufacturer specifications and as indicated on layout plans and details. The designated Denver Park Planning Project Manager, prior to ordering concrete, shall review all layout staking. The Project Manager's review does not alleviate the installer of responsibility for proper construction or for making corrections that may be required thereafter. Minor layout adjustments warranted by field conditions shall be made by the installer at no additional cost to the City. The Project Manager must first approve all adjustments. Failure to obtain prior approval may result in the vendor having to re-do the work at no extra cost to the City.

Structures shall be assembled and set in place with bracing as needed to ensure that all posts are centered in footing holes and plumbed prior to pouring concrete. Installer shall avoid moving clamps or other hardware to prevent marring of finished surfaces. If marring occurs, the installer shall use manufacturer-approved paint to match and shall touch up all damaged surfaces to the satisfaction of the Project Manager.

If the installer is uncertain as to the meaning of any of the manufacturer specifications, he/she shall coordinate with the manufacturer's representative to obtain clarifications and shall assume all costs associated with fees charged by the manufacturer. If, at any time, the equipment is found to have been installed improperly, the installer shall assume full responsibility and cost for removing, replacing (if necessary), and re-installing the improperly installed or defective items to the satisfaction of the City's Project Manager.

No extra compensation will be given for work that could have been avoided by obtaining additional information from the manufacturer or its representatives.

#### 5. METHOD – CONCRETE FOOTING AND SLAB INSTALLATION:

In most instances the General Contractor shall provide specifications and recommendations for concrete installation. In instances where the project's General Manager does not provide specifications, the contractor shall follow all manufacturer's specifications and recommendations.

If the Denver Parks deems it necessary to have tests performed on the slab by an outside qualified/certified laboratory or individual and the slab is found to be not in compliance all costs incurred by this process and to correct the situation will be the full responsibility of the contractor. Failure to correct the situation in a timely manner may result in the "Cancellation" or "Termination" clauses being enforced.

New and existing site improvements and items being installed shall be protected as necessary so as to prevent concrete from being spilled or slopped on visible finished surfaces. Contractor and his/her designated installer shall assume full responsibility for removing all spills or stains to the satisfaction of the Project Manager. Any items that cannot be effectively cleaned shall be replaced at the vendor's own expense.

6. COORDINATION WITH MAINTENANCE DISTRICT:

The Vendor shall coordinate with the Parks Maintenance District Superintendent to facilitate salvaging of re-usable items and to adjust irrigation schedules as necessary to accommodate construction. Requests from District Personnel affecting the installations shall be reviewed with the Parks Planning Project Manager prior to implementation.

7. STANDARD REQUIREMENTS:

All provisions of the City and County of Denver Public Works Department and Parks and Recreation standard specifications for park construction projects shall apply, unless otherwise noted. A copy of these specifications can be obtained by calling BeeGee Brem at 720-913-0623 (8:00AM to 5:00PM weekdays).

Any and all "otherwise noted exceptions to the above specifications" must be approved by the City's Project Manager. Failure to obtain such approval may result in the vendor re-constructing the unaccepted area at no extra charge to the City.

8. UNANTICIPATED ALTERATIONS OR CHANGES THAT MAY ARISE DURING THE TERM OF THE AGREEMENT:

The City requires that any unforeseen changes or alteration(s) shall be submitted in writing to the City prior to implementation. This notification shall be in a timely manner. Failure to provide the City with all pertinent information may be taken under consideration during future bidding opportunities. It is the City's responsibility to indicate that such changes are acceptable.

Unacceptable changes include, but are not limited to:

- Decrease of discount
- Decrease of fixed % discount for installation
- Bid requirements, terms and conditions

The City reserves the right to accept or reject any changes proposed.

9. PAYMENT CONDITIONS:

Final Inspection: Should final inspection reveal that work accomplished under any resulting purchase order or contractual agreement is incomplete, or has not been made in accordance with drawings, specifications and authorized changes thereto, then the vendor shall be required to correct or complete the project before final payment will be made.

Final payment for work accomplished will not be considered until final inspection and approval by the City.

The Parks and Recreation Division of the City and County of Denver anticipates receiving one detailed invoice from which only one check is to be generated. Payments will be made to the contracted representative, not the manufacturer. It is the responsibility of the Awarded Vendor to pay all sub-contractors; manufacturers or suppliers involved with any particular project. Failure to abide by this request will be taken under consideration in assigning future projects.

#### 10. PARTIAL PAYMENTS:

Partial payments for materials in vendor's possession will be authorized only if the delay is due to the City. Full Payment will only be made upon acceptance/approval of delivered/installed product, upon final inspection. If delay is due to the City, the City agrees to pay 2/3 of the total cost. The remaining 1/3 will be payable upon final delivery / installation.

#### 11. QUOTES TO PARKS:

Contractors who are proposing on specific projects at the request of an authorized Parks Planner shall include the following information on all quotations:

- 1) Planner/Project Manager for whom the quote is addressed.
- 2) Date of the quote and for how long the pricing is fixed and firm (no less than 30 days)
- 3) Exact location of installation.
- 4) Itemized listing of all material with the list price and discounted price, part numbers and brief description of the product.
- 5) Weight of all materials and identification of special delivery requirements.
- 6) Labor/Installation costs itemized with time.
- 7) Shipping charges with the trucking company identified.
- 8) Name of the vendor quoting the product with contact phone number.
- 9) Date or identifying number of the Pricing schedule used to create the quote. If such a list is not available to the planner for whom the quote is being generated, such a list shall accompany the quote.
- 10) Sub-contractor providing labor/installation if applicable.

Failure to present a quote with all of the above may result in your quote not being considered and no requests for your company to present future projects.

#### 12. CONSTRUCTION AND REMODELING CONTRACTING PROVISIONS:

Vendor shall be responsible for obtaining any and all permits (including the cost thereof) required to perform this installation. To the best of our knowledge, permit fees required for City projects are at no cost. If conditions dictate unforeseen permit fees, the City will evaluate reimbursing the vendor. The installation shall be in complete compliance with City of Denver Building and Fire Codes.

#### PROTECTION OF PROPERTY

The vendor shall assume full responsibility and expense for the protection of all public and private property, structures, watermains, sewers, utilities, etc., both above and below ground, at or near the site or sites of the work being performed under the contract, or which are in any manner affected by the prosecution of the work or the transportation of men and materials in connection therewith. The Vendor shall give reasonable written notice in advance to the Department of the City having charge of any property or utilities owned by the City and to other owner or owners of public or private property or utilities when they will be affected by the work to be performed under the contract, and shall make all necessary arrangements with such department, departments, owner or owners for the removal and replacement or protection of such property or utilities.

The Vendor shall assume full responsibility for protection of all materials and installations until final acceptance by the City has occurred. The awarded vendor or his/her designee shall erect and maintain barriers to prevent inappropriate use. All open excavations, partially completed structures, stockpiled materials, equipment, etc., shall be barricaded as described in Denver Parks Department standard specifications, or as necessary to prevent unauthorized use and potentially unsafe conditions.

### METHODS OF OPERATION

Construction work started by the vendor on any unit of his/her contract must be continuously and actively prosecuted with an optimum complement of workmen and equipment to expedite completion in the shortest possible time. The Vendor shall organize to do this construction eight hours per day from Monday to Friday inclusive in each week, excluding legal holidays.

All work shall be accomplished by workers proficient and experienced in the trades required and in an orderly and responsible manner in accordance with recognized standards and the plans and specifications.

Premises shall be kept clean and neat. Materials, scrap and equipment not having further use at the site shall be promptly removed from the job site. Disposal of vendor's waste materials in the City's containers is prohibited unless prior permission has been granted.

The site/play area shall be protected and/or fenced to prevent use by the public until final acceptance is granted and site/play area is safe for public use.

### OSHA GUIDELINES

The vendor shall be familiar with and operate within the guidelines as set forth by the Occupational Safety and Health Act.

For all operations requiring the placement and movement of the Vendor's equipment, vendor shall observe and exercise and compel his/her employees to observe and exercise all necessary caution and discretion so as to avoid injury to persons, damage to property of any and all kinds, and annoyance to or undue interference with the movement of the public and City personnel.

All ladders, scaffolding or other devices used to reach the surface of objects not otherwise accessible, shall be of sound construction, firm and stable, and shall be maintained in good condition. All such equipment shall be moved onto the areas where they are required, placed, shifted where necessary, and removed from the areas in such manner as to provide maximum safety to persons and property and cause the least possible interference with the normal usage of such areas by the public and City personnel.

VENDOR'S PERFORMANCE: Vendor shall furnish all necessary labor, tools, equipment and supplies to perform the required services at the City facilities designated. The Manager of Parks and Recreation or his/her authorized representative will decide all questions which may arise as to the quality and acceptability of any work performed under the contract. If, in the opinion of the Manager of Parks and Recreation or his/her authorized representative, performance becomes unsatisfactory, the City shall notify the vendor.

The vendor will have seven (7) days from the time of notification to correct any specific instances of unsatisfactory performance. In the event the unsatisfactory performance is not corrected within the time specified above, the City shall have the immediate right to complete the work to its satisfaction and shall deduct the cost to cover from any balances due or to become due the vendor. Repeated incidences of unsatisfactory performance will result in cancellation of the agreement for default.

### 13. PATENTS:

Seller agrees to defend the City and County of Denver at seller's own expense, in all suits, actions or proceedings in which the City and County of Denver is made a defendant for actual or alleged infringement of any United States of America or foreign letters patent resulting from the City and County of Denver's use of the goods purchased as a result of this Invitation for Proposal. Seller further agrees to pay and discharge any and

all judgments or decrees which may be rendered in any such suit, action or proceeding against the City and County of Denver.

Seller agrees to indemnify and hold harmless the City and County of Denver from any and all license, royalty and proprietary fees or costs, including legal costs, which may arise out of the City and County of Denver's purchase and use of goods supplied by the seller.

It is expressly agreed by seller that these covenants are irrevocable and perpetual.

14. F.O.B. POINT:

Prices quoted shall be F.O.B. various City locations, unloaded and installed. Parks Planner shall designate specific delivery locations. Prior approval must be obtained for any deviation to the delivery location whether the vendor is installing or not.

It is the responsibility of the vendor to notify the Planner of any special delivery considerations. If the Planner is aware that the delivery requires the City to provide labor and/or special equipment (such as a forklift), then the Planner can accept or reject the quote.

Alternatively to quoting prices F.O.B. various City locations, vendors may identify the freight line(s) involved in transporting their products to the City site. In a requested quote the vendor is to provide a contact name and number to the Parks Planner to confirm the quoted freight costs.

15. REPAIR AND REPLACEMENT:

Repair or replacement parts for existing equipment may be accomplished by the vendor using other than original equipment manufacturer's (OEM) parts. However, all parts or equipment furnished must equal or exceed that of the original equipment manufacturer(s).

All repair and/or replacement items provided by vendor shall be equal in all respects to original equipment and completely interchangeable.

Vendor shall agree to accept, for full credit and return shipping charges, the return of any item received which is found to be deficient in quality or defective in packaging so as to render the item unusable for its intended purpose. Merchandise so designated shall be replaced at the full expense of the bidder within seven (7) calendar days. If a replacement part cannot be provided within seven (7) calendar days, vendor shall notify the Parks Planner in writing of the situation and when actual delivery will occur.

The Vendor shall respond in full with a corrective action plan to Vendor Deficiency/Deviation Report sent by the City and County of Denver within three (3) working days.

16. LABORATORY TESTING:

In the event materials shipped to the City as outlined herein indicate substandard specifications in a qualitative or quantitative manner, the City reserves the right to have a laboratory test made. If material is found to be deficient, the vendor shall be required to pay all costs of testing. The City shall pay all costs, if found to meet specifications.

17. PALLET CHARGE:

All pallets supplied shall be non-returnable, no deposit.

**18. ARSENIC TREATED WOOD:**

The Denver Revised Municipal Code Section 20-57, prohibits the purchase or use of wood treated with preservatives containing arsenic in the performance of work on city-owned property. The vendor's signature on the front page of this proposal signifies their understanding of and intent to comply with this legal requirement.

**Description of the goods, and services related thereto, being purchased and pricing:**

<b>1 PLAY STRUCTURES</b>				
Item No.	Manufacturer/Catalogue	% Discount	Installation / Hourly Rate for Proposed Structures	Repair Parts - % Discount if applicable (OEM)
1-c	Little Tykes (Commercial Play Systems)	-10%	\$100.00 / Hour	0%
1-o	Wausau Tile	-5%	\$100.00 / Hour	0%
1-o	Dynamo	-10%	\$100.00 / Hour	0%

<b>2 INDEPENDENT ITEMS, ATTACHMENTS &amp; ENCLOSURES, SPRING TOYS</b>				
Item No.	Manufacturer/Catalogue	% Discount	Installation / Hourly Rate for Proposed Structures	Repair Parts - % Discount if applicable (OEM)
2-b	Little Tykes	-10%	\$100.00 / Hour	0%
2-k	Wausau Tile	-5%	\$100.00 / Hour	0%
2-k	Dynamo	-10%	\$100.00 / Hour	0%

<b>3 OUTDOOR SPORTS EQUIPMENT</b>				
Item No.	Manufacturer/Catalogue	% Discount	Installation / Hourly Rate for Proposed Structures	Repair Parts - % Discount if applicable (OEM)
3-a	Patterson-Williams Athletic Company	-10%	\$100.00 / Hour	0%

<b>4 SITE FURNITURE</b>				
Item No.	Manufacturer/Catalogue	% Discount	Installation / Hourly Rate for Proposed Structures	Repair Parts - % Discount if applicable (OEM)
4-c	Iron Mountain Forge	-10%	\$100.00 / Hour	0%
4-x	Wausau Tile	-5%	\$100.00 / Hour	0%

6	<b>BULK MATERIALS FOR PLAY SURFACING</b>			
Item No.	Manufacturer/Catalogue	Pricing	Haul Charge	Total
6-C	Recycled Shredded Rubber (15 CYD minimum order)	\$85.50 / per CYD	N/A	\$85.50 / per CYD