

**CITY OF MARATHON, FLORIDA  
RESOLUTION 2019-07**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, ACCEPTING THE RANKING AND RECOMMENDATION OF THE CITY'S EVALUATION TEAM IN RESPONSE TO AN RFQ FOR PLAYGROUND EQUIPMENT AT SOMBERO BEACH; AUTHORIZING THE CITY MANAGER AND CITY ATTORNEY TO NEGOTIATE AND ENTER INTO A CONTRACT WITH THE TOP RANKED FIRM OF LEGACY CONSTRUCTION SERVICES GROUP INC. IN THE AMOUNT OF \$133,000; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the City of Marathon (the "City") published a Request for Qualifications (RFQ) for playground equipment at Sombrero Beach (the "Project"); and

**WHEREAS**, the City Manager established an "Evaluation Team" consisting of City Staff to review, evaluate and rank qualifications packages in accordance with the RFQ criteria; and

**WHEREAS**, the City received three (3) timely responses to the RFQ which were subsequently reviewed and evaluated by the City's Evaluation Team; and

**WHEREAS**, the City evaluation team recommends that the Council authorize the City Manager to enter into a contract with the highest rated firm of Legacy Construction Services Group Inc.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, THAT:**

**Section 1.** The above recitals are true and correct and incorporated herein.

**Section 2.** The City Council accepts the City's Evaluation Team ranking and authorizes the City Manager and City Attorney to enter into a contract with the top ranked submittal from Legacy Construction Services Group Inc. in the amount of \$133,000.

**Section 3.** This resolution shall take effect immediately upon its adoption.

**PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, THIS 8<sup>TH</sup> DAY OF JANUARY, 2019.**

**THE CITY OF MARATHON, FLORIDA**



**John Bartus, Mayor**

AYES: Zieg, Cook, Gonzalez, Senmartin, Bartus  
NOES: None  
ABSENT: None  
ABSTAIN: None

**ATTEST:**



Diane Clavier, City Clerk  
(City Seal)

**APPROVED AS TO FORM AND LEGAL SUFFICIENCY FOR THE USE AND RELIANCE OF THE CITY OF MARATHON, FLORIDA ONLY:**



David Migut, City Attorney

**SECTION 00500  
CONTRACT FOR  
SOMBRERO BEACH PLAYGROUND EQUIPMENT**

THIS CONTRACT is made this 11<sup>th</sup> day of March, 2019 by and between the City of Marathon, Florida (the "City") and Legacy Construction Services Group, Inc. DBA Pro Playground (the "Contractor").

The parties, for the consideration provided for below, mutually agree as follows:

1. **SCOPE OF WORK**- The Contractor shall furnish all permitted drawings, labor, materials, supervision, equipment, supplies, and incidentals required to perform the "Scope of Work," as Described in **Exhibit A**.

2. **COMPENSATION/PAYMENT**-

Contractor shall be paid in accordance with the schedule of values in **Exhibit A**.

Contractor shall provide the City with an invoice on a monthly basis within ten (10) days of the end of each month stating the services provided in the preceding month.

Lien Releases must be provided for all subcontractors and a general final release from subcontractors and general contractor.

10% of Contract amount may be paid for mobilization. The City shall make payment on said invoices of approved amounts due, as required under the Florida Prompt Payment Act. No payments shall be due or payable for Work not performed or materials not furnished.

The Contractor shall be compensated at the unit prices specified in Schedule of Values based upon the actual Work completed for the month.

3. **TERM**- This Contract shall be effective upon execution by both parties. The project shall be completed within sixty (60) days after issuance of the formal Notice To Proceed.

4. **CONTRACTOR'S RESPONSIBILITIES**-

The Contractor has carefully examined the areas for the Work contemplated under this agreement and has made sufficient tests and other investigations to fully satisfy himself as to site conditions, and he assumes full responsibility therefore. The Contractor shall be responsible for the repair or replacement of any property damaged by the Contractor.

Contractor is responsible to apply for any required building permit, and meet all requirements of local, state, and federal regulation. The City will waive any building permit fees associated with said permits.

CONTRACTOR is familiar with and is satisfied as to all federal, state and local Laws and Regulations that may affect cost, progress, performance and furnishing of the Work. Contractor shall abide with all conditions in attached **Attachment A**

5. **NON-WAIVER**- The approval, and/or acceptance of any part of the Work by the City shall not operate as a waiver by City of any other terms and conditions of the Contract.
6. **PROTECTION OF PROPERTY AND THE PUBLIC**- The Contractor shall continuously maintain adequate protection of all his Work from damage and shall protect public and private property from injury or loss arising in connection with this contract as follows:

The Contractor shall take all necessary precautions for the safety of employees in the performance of the Work on, about or adjacent to the premises, and shall comply with all applicable provisions of Federal, State, and local laws, including, but not limited to the requirements of the Occupational Safety and Health Act of 1970, and amendments thereto, the Construction safety Act of 1969, and amendments thereto, and building codes to prevent accidents or injury to persons on, about or adjacent to the premises where the Work is being performed.

The Contractor shall erect and properly maintain at all times, all necessary safeguards, including sufficient lights and danger signals on or near the Work, from sunset to sunrise, suitable railings, barricades, or other hazards or other protective devices about unfinished work, open trenches, embankments, or other hazards and obstructions to traffic; provide all necessary security staff on the Work by day or by night for the safety of the public; and take all necessary precautions to prevent accidents and injuries to persons or property on or near the Work.

The Contractor shall be completely responsible for, and shall replace and make good all loss, injury, or damage to any property (including landscaping, walks, drives, or structures of the City and of any land adjoining any work sites, which may be caused by Contractor. The Contractor shall, at all times while the Work is in progress, use extraordinary care to see that adjacent property, whether real or personal, is not endangered in any way by reason of fire, water, or construction operations, and shall take all necessary or directed steps, to protect the property. The same care shall be exercised by all Contractor's and subcontractor's employees.

Buildings, sidewalks, fences, shade trees, lawns and all other improvements shall be duly protected from damage by Contractor. Property obstructions, such as sewers, drains, water or gas lines, conduits, railroads, poles, walls, posts, galleries, bridges, manholes, valve boxes, meter boxes, street monuments, etc., shall be carefully protected from injury and shall not be displaced. The Contractor shall give due notice to any department or public service corporation controlling such items as manholes, valve boxes, meter boxes, street monuments, etc., prior to adjusting them to grade and shall be held strictly liable to the affected utility if any such appliances are disturbed, damaged or covered up during the course of the Work.

7. **INDEMNIFICATION-**

The Contractor shall indemnify and hold harmless the City, its officers, agents and employees from and against all liability, claims, damages, losses and expenses, including reasonable attorney's fees and costs at both trial and appellate levels arising out of or resulting from the performance of Work under this contract, caused by any act or omission of the Contractor or anyone directly or indirectly employed by Contractor or anyone for whose acts Contractor may be liable.

This indemnification obligation shall survive the termination of this Contract.

The Contractor shall defend the City or provide for such defense, at the City's option.

The Contractor shall be held responsible for any violation of laws, rules, regulations or ordinances affecting in any way the conduct of all persons engaged in or the materials or methods used by him, on the Work. Contractor shall give all notices and comply with all laws, ordinances, rules, regulations and orders of any public authority bearing on the performance of the Work under this contract. Contractor shall secure and pay for all permits, fees, licenses, and inspections necessary for the execution of the Work, and upon termination of this contract for any reason, Contractor shall transfer such permits, if any, and if allowed by law, to the City.

8. **CONTRACT DOCUMENTS-** The following documents shall, by this reference, be considered part of this Contract:

Request for Proposal  
Instructions to Respondents;  
All Addendums;  
Contract Agreement;  
Proposal;  
Scope of Work/Specifications;  
Qualification Statement;  
Insurance Certificates; and  
Bonds.  
Local Preference Ordinance

9. **CONTRACTOR'S EMPLOYEES-**

The Contractor shall at all times have a competent supervisor on site who thoroughly understands the Work, who shall, as the Contractor's agent, supervise, direct and otherwise conduct the Work. Contractor's employees shall serve the public in a courteous, helpful, and impartial manner.

Contractor's employees shall wear a clean uniform that provides identification of both the Contractor's company and the name of the employee.

Contractor shall, upon receipt of a written request from the City Manager, immediately exclude any employee of Contractor from providing Work under this Contract.

The Work contemplated in this Contract is on public property, accordingly no alcoholic beverages shall be allowed.

The same care shall be exercised by all Contractor's and subcontractor's employees.

**10. VEHICLES AND EQUIPMENT-**

Contractor shall have on hand at all times and in good working order such vehicles, machinery, tools, accessories, and other items necessary to perform the Work under this Contract. All vehicles used by Contractor to provide services under this Contract shall be painted uniformly with the name of Contractor, business telephone number, and the number of the vehicle in letters legible by the public. The City Manager may require the repair or replacement of equipment as reasonably necessary. No other advertising shall be permitted on the vehicles.

**11. INSURANCE**

The Contractor shall secure and maintain throughout the duration of this Contract, insurance of such type and in such amounts necessary to protect its interest and the interest of the City against hazards or risks of loss as specified below. The underwriter of such insurance shall be qualified to do business in Florida, be rated AB or better, and have agents upon whom service of process may be made in the State of Florida. The insurance coverage shall be primary insurance with respect to the City, its officials, employees, agents and volunteers, and naming the City as an additional insured. Any insurance maintained by the City shall be in excess of the Contractor's insurance and shall not contribute to the Contractor's insurance. The insurance coverages shall include a minimum of:

<b>INSURANCE REQUIREMENTS</b>		<b>STATUTORY LIMIT</b>
Worker's Compensation	WC3	Statutory Limit
General Liability	GL3	\$500,000 per Person; \$1,000,000 per Occurrence; \$300,000 Property Damage or \$1,000,000 Combined Single Limit
Vehicle Liability	VL3	\$500,000 per Person;\$1,000,000 per Occurrence; \$300,000 Property Damage or \$500,000,000 Combined Single Limit

12. **COMPREHENSIVE AUTOMOBILE AND VEHICLE LIABILITY INSURANCE:**

This insurance shall be written in comprehensive form and shall protect the Contractor and the City against claims for injuries to members of the public and/or damages to property of others arising from the Contractor's use of motor vehicles or any other equipment and shall cover operation with respect to onsite and offsite operations and insurance coverage shall extend to any motor vehicles or other equipment irrespective of whether the same is owned, non-owned, or hired. Coverage must be afforded on a form no more restrictive than the latest edition of the Business Automobile Liability Policy, without restrictive endorsement, as filed by the Insurance Services Office.

13. **COMMERCIAL GENERAL LIABILITY.**

This insurance shall be written in comprehensive form and shall protect the Contractor and the City against claims arising from injuries to members of the public or damage to property of others arising out of any act or omission to act of the Contractor or any of its agents, employees, or subcontractors. Coverage must be afforded on a form no more restrictive than the latest edition of the Commercial General Liability Policy, without restrictive endorsements, as filed by the Insurance Services Office, and must include: (1) Premises and/or Operations; (2) Independent contractors and Products and/or completed Operations; (3) Broad Form Property Damage, Personal Injury and a Contractual Liability Endorsement, including any hold harmless and/or indemnification agreement.

14. **CERTIFICATE OF INSURANCE:** Contractor shall provide the City Manager with Certificates of Insurance for all required policies. The Certificates of Insurance shall not only name the type of policy(ies) provided, but also shall refer specifically to this Contract and shall state that such insurance is as required by this Contract. The City reserves the right to require the Contractor to provide a certified copy of such policies, upon written request by the City. If a policy is due to expire prior to the completion of the services, renewal Certificates of Insurance or policies shall be furnished thirty (30) calendar days prior to the date of their policy expiration. Each policy certificate shall be endorsed with a provision that not less than thirty (30) calendar days' written notice shall be provided to the City before any policy or coverage is cancelled or restricted. Acceptance of the Certificate(s) is subject to approval of the City Manager.

15. **ADDITIONAL INSURED** - The City is to be specifically included as an Additional Insured for the liability of the City resulting from operations performed by or on behalf of Contractor in performance of this Contract. Contractor's insurance, including that applicable to the City as an Additional Insured, shall apply on a primary basis and any other insurance maintained by the City shall be in excess of and shall not contribute to Contractor's insurance. Contractor's insurance shall contain a severability of interest provision providing that, except with respect to the total limits of liability, the insurance shall apply to each Insured or Additional Insured in the same manner as if separate policies had been issued to each.

All deductibles or self-insured retentions must be declared to and be approved by the City Manager. The Contractor shall be responsible for the payment of any deductible or self-insured retentions in the event of any claim.

16. **ASSIGNMENT AND AMENDMENT**- No assignment by the Contractor of this contract or any part of it, or any monies due or to become due, shall be made, nor shall the Contractor hire a subcontractor to perform its duties under this Contract without prior written approval of the City Manager. This Contract may only be amended by the parties with the same formalities as this Contract.

17. **TERMINATION**-

The City may terminate this Contract without cause upon 30 days written notice to the other party.

Upon notice of such termination, the City shall determine the amounts due to the Contractor for services performed up to the date of termination. The Contractor shall not be entitled to payment of any lost profits or for Work performed after the date of termination.

After receipt of a notice of termination, and except as otherwise directed, the Contractor shall stop all Work under this Contract, and shall do so on the date specified in the notice of termination.

The City may terminate this Contract upon five (5) days written notice if the Contractor defaults on any material term of this Contract.

18. **CHOICE OF LAW**- This Contract shall be governed by the laws of the State of Florida. Venue shall lie in Monroe County.

19. **LIQUIDATED DAMAGES**. City and contractor recognize that time is of the essence in this contract and that the city will suffer financial loss if the work is not completed within the contract times specified in section 3.3 for the work above, plus any approved extensions thereof allowed in accordance with the general conditions. The contractor also recognizes that the damages which the city will incur if the work is not substantially completed on time and/or fully completed on time are not readily ascertainable at the time this agreement is entered into, and the contractor recognizes the difficulties involved in proving the actual loss suffered by city if the work is not substantially completed on time and/or fully completed on time. Accordingly, liquidated damages shall be imposed at **\$500.00** per day for any days beyond the stated contract time.

20. **ATTORNEY'S FEES**- in the event either party to this contract is required to retain legal counsel to enforce any of its rights under this contract, the prevailing party shall be entitled to recover its reasonable attorney's fees and costs from the non-prevailing party together with court costs incurred in any litigation at any trial and appellate proceedings.

21. **ACCESS TO PUBLIC RECORDS**- All records, books, documents, maps, data, deliverables, papers and financial information (the "Records") that result from the



Consultant providing services to the City under this Agreement shall be the property of the City.

The "CONTRACTOR" as defined by Section 119.0701(1)(a), Florida Statutes, and shall comply with the public records provisions of Chapter 119, Florida Statutes, including the following:

1. Keep and maintain public records required by the City to perform the service.
2. Upon request from the City Clerk, provide the City with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes or as otherwise provided by law.
3. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and following completion of the contract if the CONTRACTOR does not transfer the records to the City.
4. Upon completion of the contract, transfer, at no cost, to the City all public records in possession of the CONTRACTOR or keep and maintain public records required by the City to perform the service. If the CONTRACTOR transfers all public records to the City upon completion of the contract, the CONTRACTOR shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the CONTRACTOR keeps and maintains public records upon completion of the contract, the CONTRACTOR shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the City, upon request from the City Clerk, in a format that is compatible with the information technology systems of the City.

Public Records" is defined in Section 119.011(12), Florida Statutes, and includes all documents, papers, letters, photographs, data processing software, or other material, regardless of physical form, made or received in connection with this Agreement.

Should the CONTRACTOR assert any exemption to the requirements of Chapter 119 and related law, the burden of establishing such exemption, by way of injunctive or other relief as provided by law, shall be upon the CONTRACTOR.

The CONTRACTOR consents to the City's enforcement of the CONTRACTOR's Chapter 119 requirements by all legal means, including, but not limited to, a mandatory injunction, whereupon the CONTRACTOR shall pay all court costs and reasonable attorney's fees incurred by the City.

The CONTRACTOR's failure to provide public records within a reasonable time may be subject to penalties under Section 119.10, Florida Statutes. Further, such failure by the CONTRACTOR shall be grounds for immediate unilateral cancellation of this Agreement by the City.

**IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT 305-743-0033, CITYCLERK@CI.MARATHON.FL.US, OR 9805 OVERSEAS HIGHWAY, MARATHON FLORIDA 33050.**

22. **INSPECTION AND AUDIT**- During the term of this Contract and for three (3) years from the date of Termination the Contractor shall allow City representatives access during reasonable business hours to Contractor's records related to this Contract for the purposes of inspection or audit of such records. If upon audit of such records, the City determines the Contractor was paid for services not performed, upon receipt of written demand by the City, the Contractor shall remit such payments to the City.
23. **SEVERABILITY**- If a term, provision, covenant, contract or condition of this contract is held to be void, invalid, or unenforceable, the same shall not affect any other portion of this contract and the remainder shall be effective as though every term, provision, covenant, contract or condition had not been contained herein.
24. **WAIVER OF JURY TRIAL**. The parties irrevocably, knowingly agree to waive their rights to a trial by jury in any action to enforce the terms or conditions of this Contract.
25. **COUNTERPARTS**- This Contract may be signed in one or more counterparts, each of which when executed shall be deemed an original and together shall constitute one and the same instrument.
26. **NOTICES**- Whenever any party is required to give or deliver any notice to any other party, or desires to do so, such notices shall be sent via certified mail or hand delivery to:

FOR CITY:                   City of Marathon  
                                  9805 Overseas Highway  
                                  Marathon, Florida 33050  
                                  ATTN: City Manager  
                                  Phone 305-289-4130

WITH COPY TO:           David Migut, City Attorney  
                                  9805 Overseas Highway  
                                  Marathon, Florida 33050  
                                  Phone: 305-289-4103


FOR CONTRACTOR:       Legacy Construction Services Group, Inc. DBA Pro Playground  
                                  825 Thomasville Rd.  
                                  Tallahassee, FL 32303  
                                  Phone 800-573-7529


IN WITNESS WHEREOF the parties hereto have executed this Contract on the day and date first above written.

Attest:


CITY OF MARATHON

By:   
Diane Clavier, City Clerk

By:   
Chuck Lindsey, City Manager


By:   
David Migut, City Attorney

CONTRACTOR\*

By: 

Witness:

As to Contractor:

By: 

By: 

(\* In the event that the Contractor is a corporation, there shall be attached to each counterpart a certified copy of a resolution of the board of the corporation, authorizing the officer who signs the contract to do so in its behalf.

**EXHIBIT A**  
**SECTION 00300**  
**SCOPE OF WORK**  
**PLAYGROUND AT SOMBRERO BEACH**

The City of Marathon is seeking a contractor to provide and install playground equipment at its Sombrero Beach Park. Purchase, complete installation, including shipping, required materials, labor, all typically reimbursable expenses, and all equipment warranties shall be inclusive in the successful bidders quote to the City. Such bid quote shall not exceed the City's budget for this project of \$134,000.

The successful proposal and bidder shall provide a turnkey playground product for the Sombrero Beach site (site location & graphic attached). The successful proposal and bidder shall provide the City with the highest quality play and recreational equipment products and services for the budget allowed. All playground equipment and ancillary products and services must come with industry leading warranties and equipment carrying the highest safety standards including IPEMA, ASTM and CPSC. All playground equipment suggested in your proposal must be provided with the provider's information on quality, specification, and method for and ease of installation and maintenance.

As shown in the attached graphic, the playground area at Sombrero Beach is approximately 12,000 square feet, but there is limited flexibility dependent on the elements proposed in the successful proposal by its bidder. The playground equipment suggested should be well integrated, but can have individual elements and components. The playground elements proposed should be aimed at pre-teen children and have components appropriate for toddlers and pre-school kids. The playground equipment suggested should include elements for climbing, have slides, include tunnels and bridges. In addition, Sombrero Beach Park and the City of Marathon is in a hot humid climate exposed continuously to salt air. Equipment proposed for this project must be able to stand up to and be warranted for such a climate

The successful bid must provide a shade structure of approximately 2,000 square feet. Such structure should be approximately 12 feet in height, and meet all requirements of the Florida Building Code. The canopies for such structures must be removable in the event of a storm.

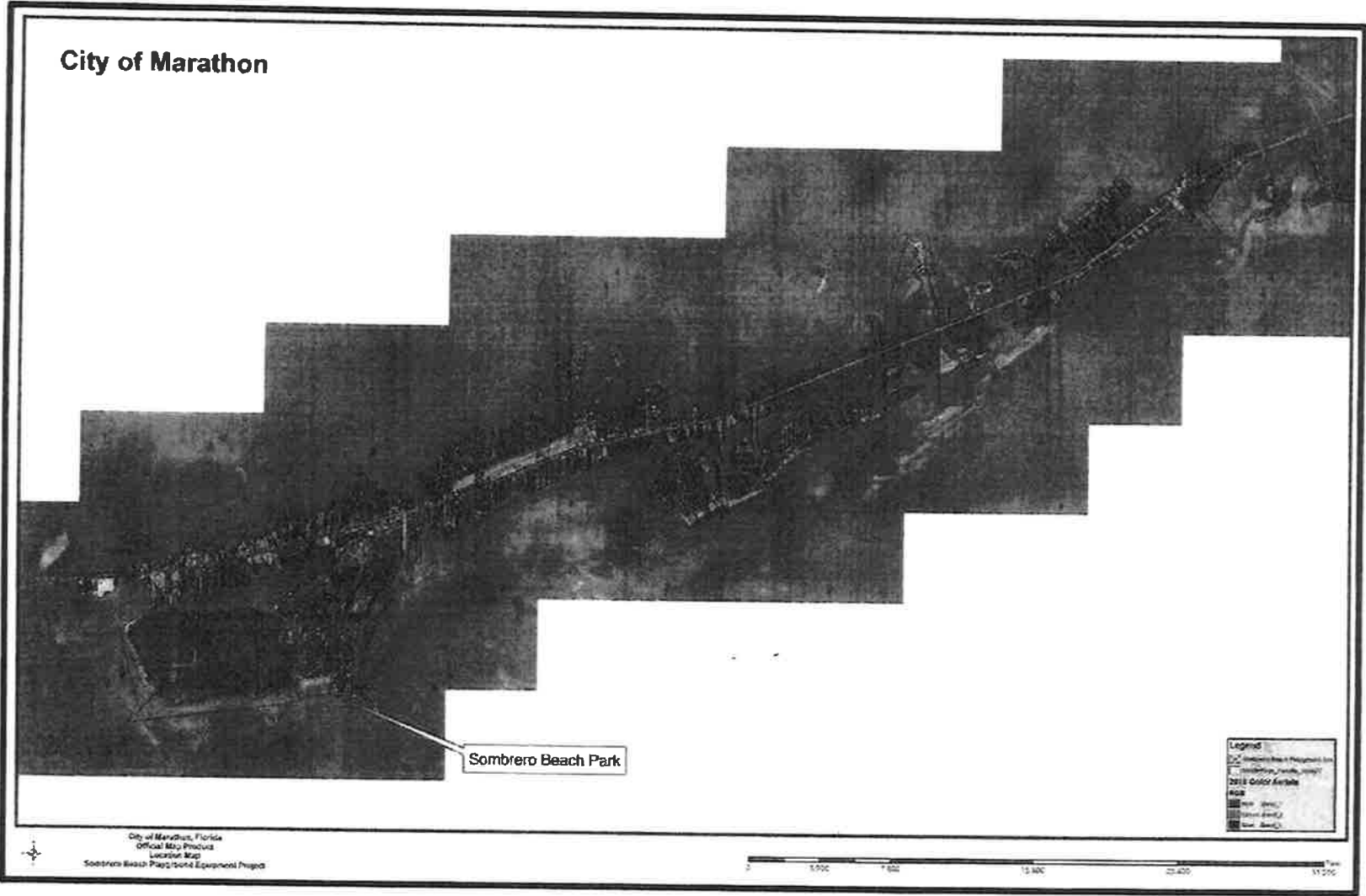
Surfacing in the play area should have a base of crushed and compacted local aggregate. The City seeks a "poured in place" rubber surface throughout the playground facility providing rubber mulch where appropriate based on necessary health and safety standards.

The successful proposal will provide a lump sum quote including a description, breakdown, and cost of each and all playground components, the expected additional material expenses (concrete, anchoring materials, etc.) and the anticipated labor costs. The City anticipates that the project will be complete within 90 days from approval and signing a contract for services with the successful Proposer.

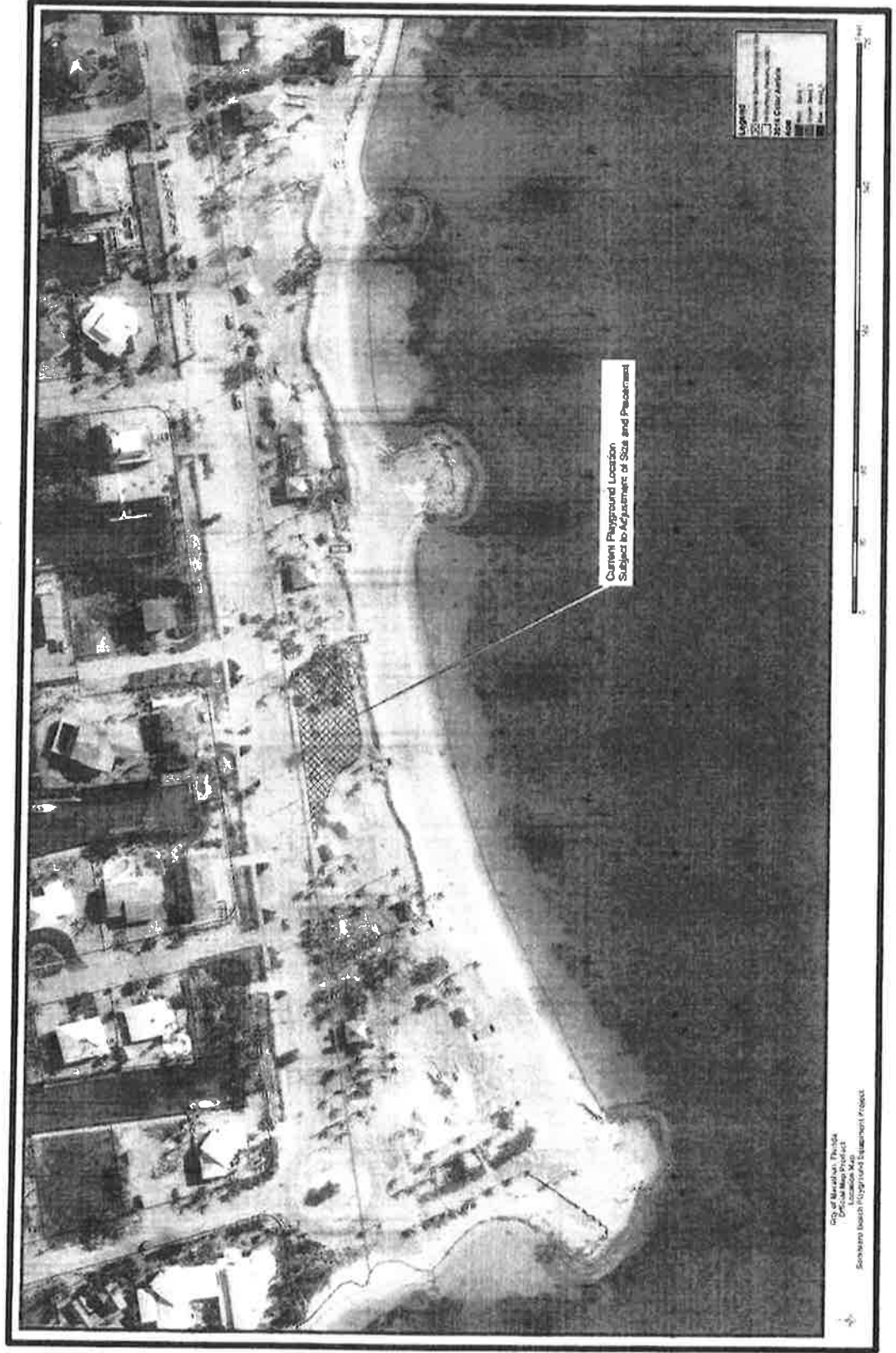
SCOPE OF WORK (CONT.)

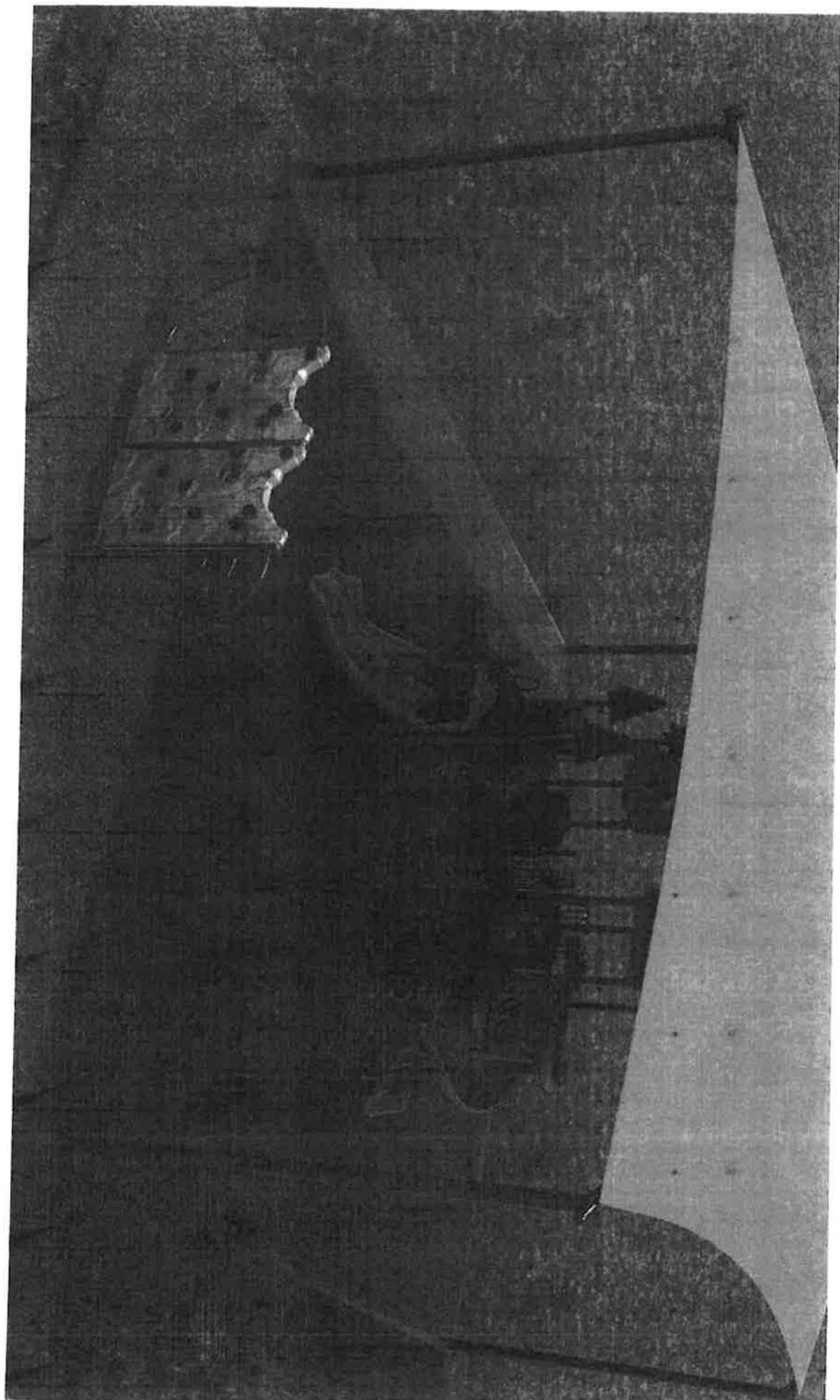
Scope	Unit of Measure	Price
Engineering (if required)	Lump Sum	\$ 635
Engineered Drawings for shade structure		
Playground Equipment	Lump Sum	\$ 48,713.55
Banana Bonanza Playground, Craggy Cl. ff Climber, & Hold-N-Spin with installation		
Shade Structure	Lump Sum	\$ 44,117.65
Super Dome Square tip shade (44'x44'x12') over playground (Banana Bonanza) with installation		
Surfacing	Lump Sum	\$ 39,533.80
2700 sqft (45'x60') of poured in place rubber at a 3" thickness with 50% color & 50% black granule mix over aggregate base		
<del>Labor</del>	NOT TO EXCEED	
TOTAL PROJECT QUOTE	Lump Sum	\$ 133,000

LOCATION MAP  
City of Marathon  
Sombrero Beach Park



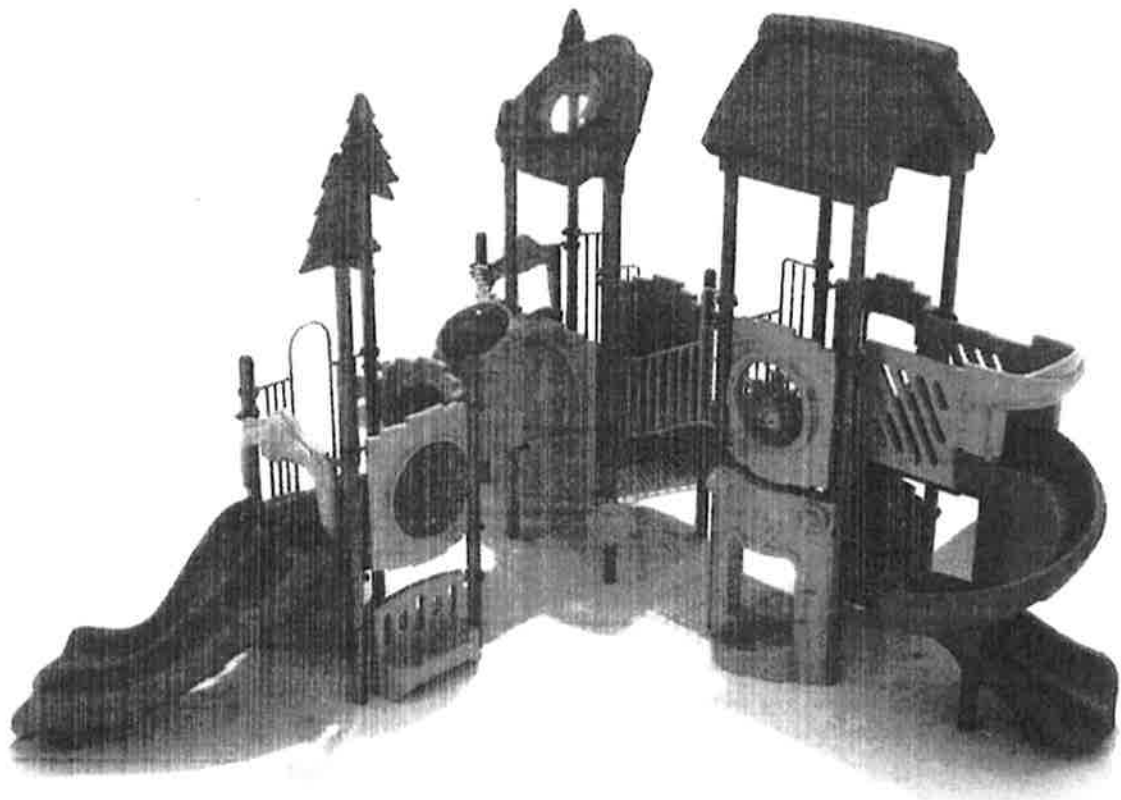
LOCATION MAP  
Sombroso Beach Park  
Current Playground Location



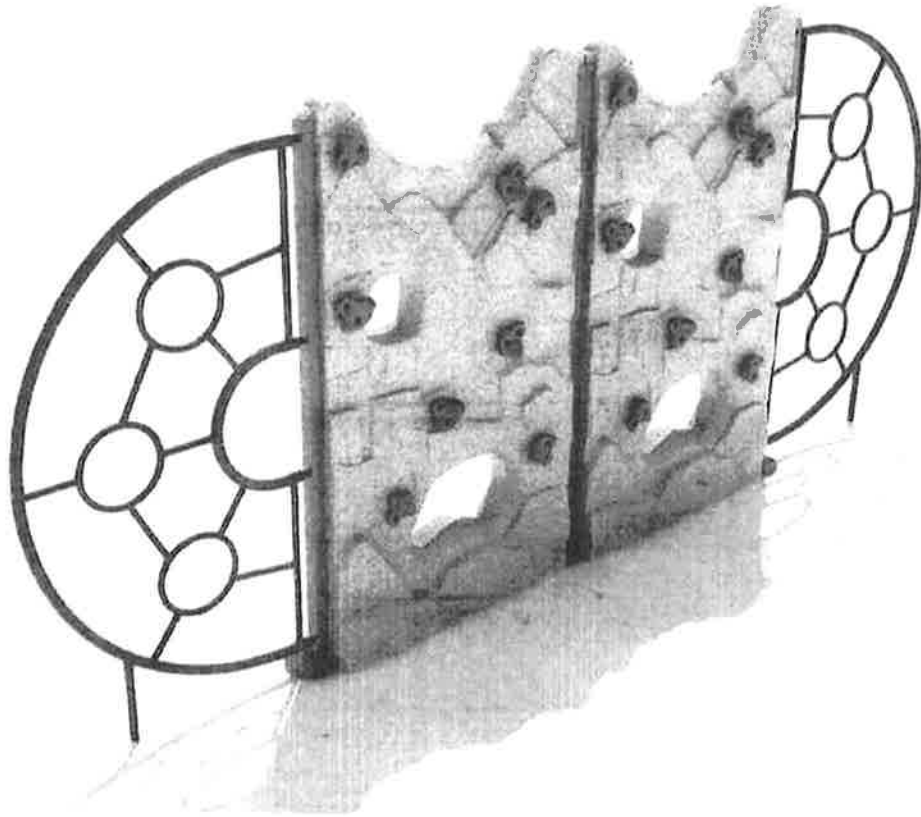




# Banana Bonanza Play System



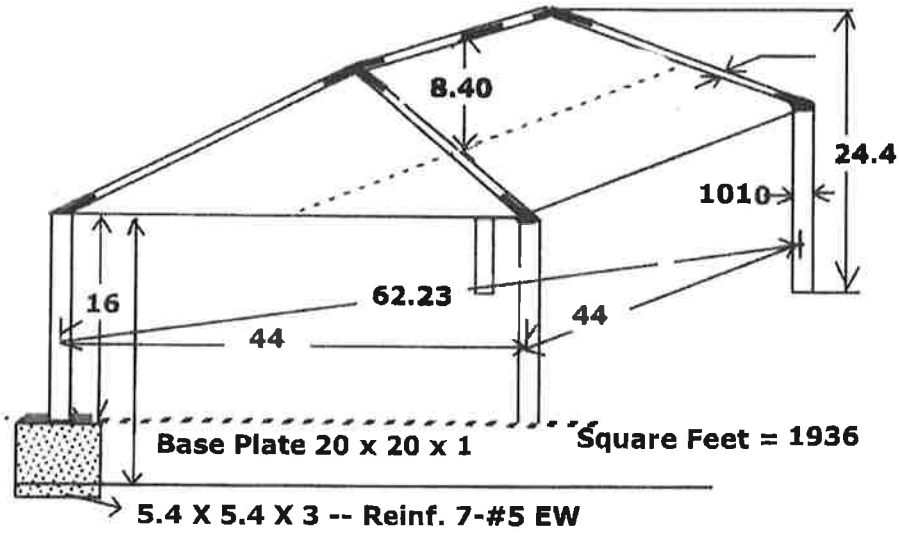
**Craggy Cliff Climber**



**Hold-N-Spin**



Date	Description	Proposal #
11/29/2011	SOLAR SHADE STRUCTURE HIP DESIGN	28311

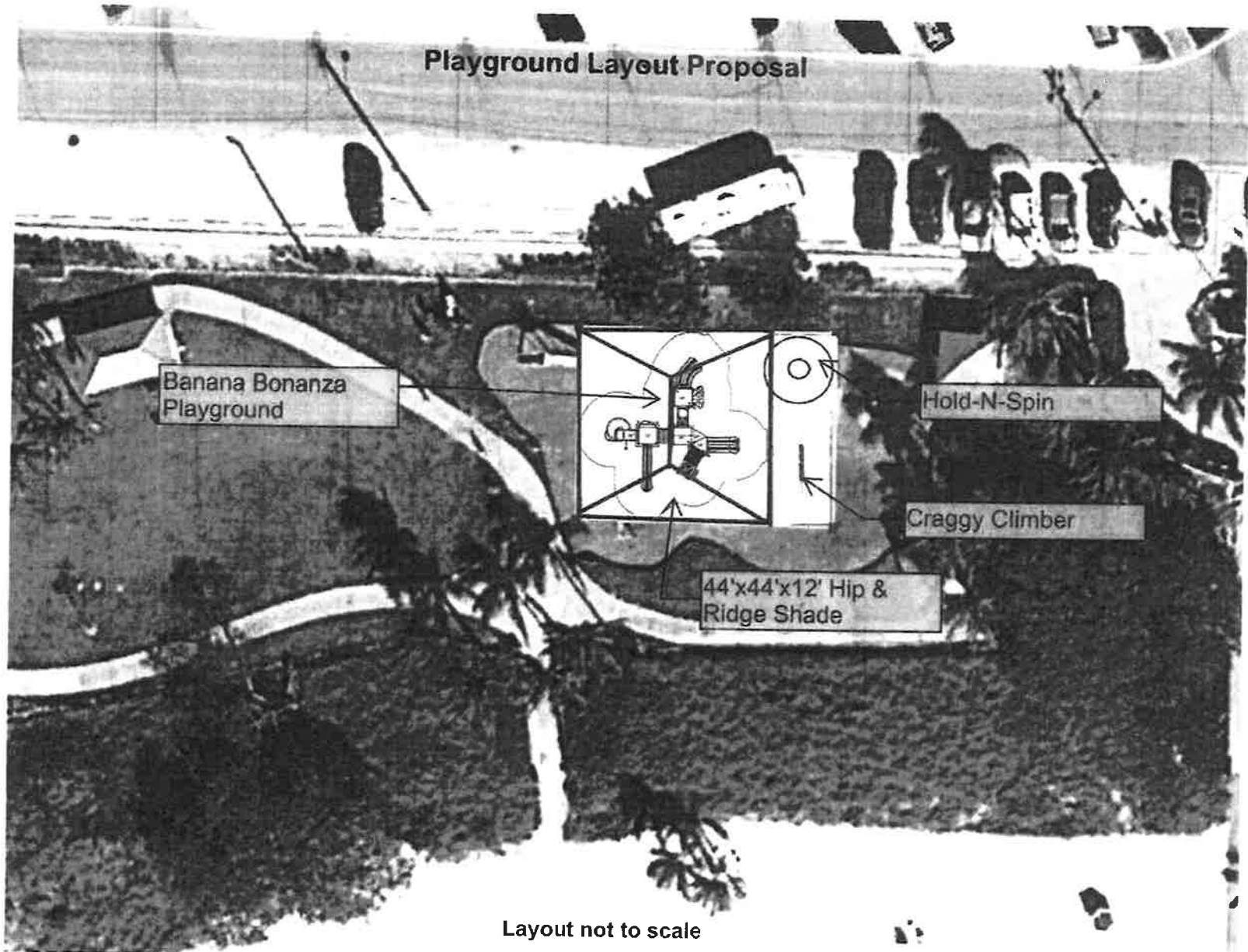


Reebar Total: 10 - # 5EW    Concrete Total: 12.96 Cy  
 Footer Multiple caps

TYPICALLY FOOTER SIZE SHOWN, ACTUAL FOOTER WILL VARY  
 BASED ON LOCAL SOIL CONDITIONS AND APPLICABLE CODES.

QTY	Rows	L	W	H	DESCRIPTION
1	1 Dome	44'	44'	16'	SOLAR SHADE STRUCTURE HIP DESIGN
6	4	COLUMNS ON BASE PLATES			POWDER COATING COLUMNS & HOOPS
		STEEL COLOR : TO BE SELECTED FABRIC COLOR: TO BE SELECTED			

# Playground Layout Proposal



Layout not to scale



- A. Bolt and fastening hardware shall be determined based on calculated engineering loads.
- B. All bolts shall comply with SAE-J429 (Grade 8) or ASTM A325 (Grade BD). All nuts shall comply with ASTM F-594, alloy Group 1 or 2.
- C. Upon request, Stainless Steel hardware shall comply with ASTM A-304.
- D. 1/4" galvanized wire rope shall be 7x19 strand with a breaking strength of 7,000 lbs. for shades generally under 575 sq. ft. unless requested larger by the customer. For shades over 575 sq. ft., cable shall be 5/16" with a breaking strength of 9,800 lbs. Upon request, 1/4" Stainless Steel wire rope shall be 7x19 strand with a breaking strength of 6,400 lbs. 5/16" Stainless Steel wire rope shall be 7/19 strand with a breaking strength of 9,000 lbs.
- E. All fittings required for proper securing of the cable are hot dipped galvanized.

**VIII. CONCRETE**

- A. Concrete work shall be executed in accordance with the latest edition of American Concrete Building Code ACI 318 unless specified by the governing municipality.
- B. Concrete specifications shall comply in accordance with, and detailed as per plans as follows:
  - 1. 28 Days Strength F'c = 2500 psi
  - 2. Aggregate: HR
  - 3. Slump: 3-5
  - 4. Portland Cement shall conform to C-150
  - 5. Aggregate shall conform to ASTM C-33
- C. All reinforcement shall conform to ASTM A-615 grade 60.
- D. Reinforcing steel shall be detailed, fabricated and placed in accordance with the latest ACI Detailing Manual and manual of Standard Practice.
- E. Whenever daily ambient temperatures are below 80 degrees Fahrenheit, the contractor may have mix accelerators and hot water added at the batch plant (See Table 1).
- F. The contractor shall not pour any concrete when daily ambient temperature is below 55° F.

Temperature Range	% Accelerator	Type Accelerator
75-80°	1%	High Early (Non-Calcium)
70-75°	2%	High Early (Non-Calcium)
Below 70°	3%	High Early (Non-Calcium)

**IX. FOOTINGS**

- A. All anchor bolts set in new concrete shall be ASTM A-307, or ASTM F-1554 if specified by engineer.
- B. All anchor bolts shall be zinc plated unless specified otherwise.
- C. Footing shall be placed in accordance with and conform to engineered specifications and drawings.

**Playground Equipment General Specifications**

All of the playground equipment we sell is commercial grade and made of the highest quality materials, which meet or exceed required ASTM guidelines, and meet ISO 9001. All of our products are IPEMA certified and comply with CPSC guidelines. Our long list of certifications and qualifications include the following: ISO 9001, IPEMA, ASTM-1487, ASTM CSA-Z614 and EN1176.

**KIDSPLAY SERIES**

- 3.5" O.D. vertical posts
- 36" deck grid / 48" deck grid
- ALUMINUM CLAMP
- 24" diameter plastic / 30" diameter plastic
- 13 gauge galvanized steel (3.5")
- 50,000 PSI yield strength (ASTM E-8)
- 55,000 PSI tensile strength (ASTM E-8)



Triple Flo-Coated corrosion protection (interior and exterior)  
Interior and exterior corrosion resistance (ASTM B-117)  
Contains a minimum of 30% recycled steel and is 95%-98% recyclable  
Manufactured per ASTM 500  
Limited lifetime warranty

**CLASSIC SERIES**

4.5" O.D. vertical posts  
42" deck grid  
DIRECT BOLT SYSTEM  
11 gauge galvanized steel (4.5")  
50,000 PSI yield strength (ASTM E-8)  
55,000 PSI tensile strength (ASTM E-8)  
Triple Flo-Coated corrosion protection (interior and exterior)  
Interior and exterior corrosion resistance (ASTM B-117)  
Contains a minimum of 30% recycled steel and is 95%-98% recyclable  
Manufactured per ASTM 500  
Limited lifetime warranty

**MAXFUN SERIES**

Treehouse, Pirate ship, and Spaceship  
5" O.D. vertical posts  
48" deck grid  
ALUMINUM CLAMP  
11 gauge galvanized steel (5") Maxfun Series  
50,000 PSI yield strength (ASTM E-8)  
55,000 PSI tensile strength (ASTM E-8)  
Triple Flo-Coated corrosion protection (interior and exterior)  
Interior and exterior corrosion resistance (ASTM B-117)  
Contains a minimum of 30% recycled steel and is 95%-98% recyclable  
Manufactured per ASTM 500  
Limited lifetime warranty



## Poured in Place Rubber General Specifications

### Part 1 - General

#### **Quality Assurance & Compliance Details:**

**Product shall be installed on existing slopes and grades unless otherwise specified. Contractor shall not complete site work changing existing slope of area unless expressly specified in the Contractors scope of work.**

**Coefficient of Friction - ASTM D2047-82:** All products must meet a minimum standard on coefficient of friction of .9-wet, 1.0 dry.

**Permeability:** Product shall meet or exceed a coefficient of permeability of 0.4 gallons per square yard per second.

**Flammability of Finished Floor cover - ASTM D2859:** Product shall meet requirements of ASTM D2859.

**Tensile Strength - ASTM D412-87:** This test indicates a product's ability to stretch, and how far it will stretch before it breaks. Test results for wear course must be a minimum tensile strength of 60. )

### **PART 2 - Material Specs**

**Polyurethane Primer and Binder - 100% Single Component Polyurethane Binding Agent - Methylene Diphenyl Isocyanate (MDI) based binder.**

**Aromatic Binder -** All projects will include aromatic binder unless project specifies the use of aliphatic binder. The natural properties of the aromatic binder is to present a yellow tint which may cause some EPDM/TPV colors to amber. The yellowing affect is more common on lighter EPDM colors and will wear off with foot traffic and weathering.

**Aliphatic Binder -** This binder is available upon request but at an added cost to the over all project. Aliphatic binder is all clear providing full EPDM/TPV color from day one. This binder has a higher resistance to ultra violet light and provides a greater resistance to wear.

**Impact Course -** The impact layer is to be a precise combination of 100% recycled black Styrene Budadine Rubber (SBR) and polyurethane binder. SBR is manufactured as a liquid, poured into molds and generally used by the automobile industry. This recycled rubber is shredded, mixed with binder and hand-trowelled to create a seamless application. The impact course thickness, as specified by owner or architect, must be composed of recycled rubber and free of foreign matter.

**Wear Course -** The wear course is made of Ethyl Propolyne Dione Monomer (EPDM) or Thermal Plastic Vulcanized (TPV) pigmented rubber granules with polyurethane binder. Thickness of the wear course shall be a minimum 1/2".

**EPDM-** The granule size will be 1-3 mm in diameter.

**TPV-** The granule size will be 1-4 mm in diameter.

**Colors -** The color of recycled poured rubber surfacing will be indicated on plans. Owner or owner's representative will be responsible for selecting standard blends. Selection of either standard color blends or custom color blends must be made at time quotation is being requested. EPDM/TPV colors are available in 100% black and a variety of colors. Ask your



Pro Playgrounds representative for available color combinations.

**Note:** If graphic designs and color transitions are used, they shall be full wear course depth. Color(s) to be determined by architect. Graphic Templates are the responsibility of the Architect or owner.

**Physical Properties:**

Tensile Strength (ASTM D412) 60 PSI, minimum  
Elongation at Break (ASTM D412) 140%, minimum  
Flammability (ASTM D2859) Pass  
Coefficient of Friction (ASTM D204)  
Wet 0.9, minimum  
Dry 1.0, minimum

Water Permeability 0.4 gal. /sq. yd./sec., minimum

**PART 3 - Base Prep**

**Sub-base Requirements** – Aggregate shall be installed on existing slopes and grades unless otherwise specified. Contractor shall not complete site work changing existing slope of area unless expressly specified in the Contractors scope of work.

**Concrete or Asphalt** - Concrete should be finished with a medium broom finish. All new concrete slabs must cure for a minimum of seven (7) days prior to installation. Asphalt cure time requires fourteen (14) days. Once the new asphalt has cured, it must be pressure washed prior to the surfacing being installed. The concrete contractor shall be responsible for flooding the pad to insure proper slope and tolerance. Any areas holding enough water to cover a flat nickel shall be patched prior to arrival of poured rubber installation crews.

**Depth:** 3.5 inch minimum thickness.

**PART 4 - Site Preparation**

**Drainage** – Owner or contractor shall be responsible for providing all draining details prior to installation.

**Security & Waste Disposal** - Surface installation crew shall be responsible for the protection of surface during the installation process while on site only. Owner or general contractor shall be responsible for the protection of the surface during the curing period upon completion of the installation and overnight during the installation. Owner or general contractor shall be responsible for having a dumpster on site for all waste and debris. Failure to provide security and a dumpster will result in additional cost.

**Utilities & Access** - Power and water must be available within 300 feet of installation. Site will require tractor-trailer access. In a case where tractor-trailer access is not possible, owner or general contractor shall be responsible for transporting materials from delivering carrier to the installation sites.

**PART 5 - Installation**

**Weather Conditions** - Because the polyurethane agents are moisture or heat sensitive, the nighttime temperatures must be above 40 degrees with daytime temperatures around 50-85 degrees. These temperatures must be consistent for several days before and after the poured rubber installation period. Complying with these weather conditions will prevent poured rubber from freezing which prevents proper curing.

**Thickness** - Overall depth of the poured rubber will vary based on critical fall heights and installers test results. Depth of EPDM/TPV will be no less than 0.5". Installation is performed by technically trained Pro Playgrounds approved specialists. Your Pro Playgrounds dealer will schedule installation of playground surfacing to meet your requirements.





**Cold Joints** - Areas in excess of 1500 square feet or areas that require adjacent color pours will have a cold joint or seam. Although seldom visible, seams are necessary when large pads require more than one day pours.

**Edges** - Surface edges shall be flush, beveled or rolled. It is important to advise what type of edge will be required so that the appropriate amount of materials are ordered.

**Flush** - When curbing is provided around the outside perimeters of the pad, the poured rubber will be adhered to the edge of the curbing so that the rubber surfacing is flush. This allows for a smooth transition into the play area. However, the sub-base should be installed to allow the proper depth of poured rubber so that the flush edge can be installed without having to fill voids by increasing the depth SBR materials. If the sub-base is not installed properly, using too much of the SBR materials can cause the installer to run short on the cushion course which is require a change order to add additional materials for the project.

**Beveled** - When curbing is not provided for concrete or asphalt sub-bases, the installers will bevel the edge down along the edge of the pad. This type of edge can be sloped to provide a smoother transition but will require additional materials. If beveled at the edge of the use zones, the edge can be more round due to the depth of the poured rubber. In this case, you may want to have a rolled edge added to allow a smooth transition for wheelchair users. )

**ADA Rolled** - This is the type of edge to meet the requirements of ASTM 1951, Specifications for Determination of Accessibility of Surface Systems Under and Around Playground Equipment. The rolled edge will require additional materials in order to provide adequate ADA Wheelchair access. The total linear feet of the pad will need to be provided if the whole site is to be ADA compliant.

**Keyway Cut** - This type of an edge requires a trenched saw cut of ½" wide x ½" deep along the edge of the concrete or asphalt pad. The contractor or customer will be responsible for providing the keyway cut. There will be a up charge if the poured rubber installer is asked to provide this cut. The poured rubber will be beveled down into the saw cut where it will adhere preventing the exposure of a raw edge.

**Cure Time** - The poured rubber will require 72 hours (3 days) to properly cure. Security is required by the owner during this time so to avoid unnecessary damages.

#### **PART 6 - Warranty**

When used under playground equipment, Pro Playgrounds recycled poured rubber is warranted against defects in materials and workmanship for one year when aromatic binders are used and five years when aliphatic binders are used. If material is purchased by customer from sources other than those used by Pro Playgrounds, the warranty shall be for one year, regardless of material type.

When used with water play equipment, Pro Playgrounds recycled poured rubber is warranted against defects in materials and workmanship for two years provided aliphatic binder is added. Without the aliphatic binder, the recycled poured rubber will carry only one-year warranty.

Ask you Pro Playgrounds representative for a copy of our full recycled poured rubber warranty details.

#### **PART 7 - Maintenance**

Ask your Pro Playgrounds representative for a copy of our full recycled poured rubber maintenance details.

# Equipment and Surfacing General Manufacturer Warranties

## Shade Structure Warranty

### General Conditions

- The warranty set forth shall be the purchaser's sole and exclusive warranty.
- All warranties below are effective from the date of delivery by Manufacturer, its subsidiaries or agents.
- Manufacturer reserves the right to repair or replace any item covered by this warranty.
- This warranty will be void if the structures are not paid for in full. The warranty is void if the structures are not installed in strict compliance with the manufacturer specifications.
- Purchaser shall notify Manufacturer or its agent in writing detailing any defect for which a warranty claim is being made.
- Manufacturer shall not in any event be liable for indirect, special, consequential or liquidated damages.
- Manufacturer specifically denies the implied warranties of fitness for a particular purpose and merchantability.
- The warranty is void if any changes, modifications, additions or attachments are made to the structures or fabric without the written consent of the manufacturer.
- No signs, objects, ornaments, fans, lights, fixtures or decorations may be hung from the top part of the structure, unless specifically designed and engineered by the manufacturer. These items may interfere with the fabric causing the warranty to be voided.
- 1 year limited warranty on all moving party and any item not specifically listed above.

### Thread

- Shall be 100% expanded PTFE fiber that is high strength and low shrinkage which carries a 10 year warranty.
- This warranties that the sewing thread will be free from defects in material and workmanship and will not be damaged by exposure to sunlight, weather and water.
- All other warranties disclaimed.

### Fabric

- Manufacturer fabrics carry a ten-year limited manufacturer's warranty from the date of delivery against failure from significant fading\*, deterioration, breakdown, mildew, outdoor hear, cold or discoloration. Should the fabric need to be replaced under the warranty, Manufacturer will manufacture and ship a new fabric at no charge for the first six years, thereafter pro-rated at 18% per annum over the last four years. \*The colors Red and Yellow are warranted against significant fading for only two years.
- If the corners of the fabric are equipped with both holes in the fabric corner PLUS reinforcing straps, BOTH the strap and fabric hole must be placed over each corner hook or the fabric warranty is void.
- Fabric curtains, valences or flat vertical panels are not covered under the warranty.
- Fabric is not warranted where it is installed on a structure that is not engineered and built by Manufacturer or tis agents.

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- This warranty shall be void if damage to or failure to the shade structure is caused by contact with chemicals, chlorine, bleaching agents, hydrocarbons or hydrocarbon containing solvents, misuse, vandalism or any act of God, including but not limited to wind in excess of the wind limitations set forth below.
- All fabric tops are warranted for sustained winds up to 76mph (hurricane force 1) and for gusts of up to 3 seconds duration up to 90mph. Removal of the shade fabric is required if damaging winds are called for. Damage due to snow and/or ice accumulation is not covered by this warranty. Canopies should be removed during the "off season".
- The structures have been designed to eliminate any friction between the rafters and the fabric. The warranty will, therefore, be voided if any modification (temporary or permanent) is made to the rafter, cross pieces or ridge beams, or fastening apparatus is not secured accordingly.
- Manufacturer reserves the right, in cases where certain fabric colors have been discontinued, to offer the customer a choice of available colors to replace the warranted fabric of the discontinued color. The company does not warranty that any particular color will be available for any period of time and reserves the right to discontinue any color for any reason it may determine, without recourse by the owner of the discontinued fabric color.

**Steel Structure**

- The structural steel frames are covered for a period of twenty years against failure due to rust-through corrosion under normal environmental conditions.
- Workmanship is warranted for a period of five years.
- Structures are warranted for winds up to 150mph only if shade canopies have been removed as per requirement set forth above in the fabric paragraph. Removal and reinstallation must be performed by a qualified person or authorized dealer following the instructions in APPENDIX A (please request).
- This steel warranty shall be void if damage to the steel frame is caused by the installer or from physical damage, damage by salt spray, or sprinkler systems, contact with chemicals, chlorine, pollution, misuse, vandalism, or any act of God.

**Powder Coat Finish**

- The factory applied powder coat finish is warranted for a period of 5 years under normal environmental conditions. This warranty does not cover cosmetic issues such as fading, discoloration, or weathering.
- This finish warranty shall be void if damage to the powder coat is caused by the installer, or from physical damage, damage by salt spray or sprinkler systems, contact with chemicals, chlorine, thinners, degreasers, hydrocarbon containing solvents, pollution, misuse, vandalism or any act of God, including but not limited to, ice, snow or wind in excess of the applicable building code parameters. The owner must report any defects in the powder coat at the time the installation is completed.

**Acts of Nature**

- This warranty does not cover natural disasters, such as earthquakes, shifts of terrain or tornados. If the structure is installed in an area exposed to hurricanes, removal of the shade fabric is required when a hurricane warning is issued.

**Playground Equipment Warranty**

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All warranties begin on the delivery date of the goods. Warranties are non-transferable and only apply to end users who purchase new products directly from Pro Playgrounds or an authorized Pro Playgrounds distributor for personal or business use and not for purpose of re-distribution or re-sale. No other warranties apply.

- **100 year** limited warranty on aluminum and steel upright posts against structural failure due to deterioration, corrosion, or workmanship.
- **100 year** limited warranty on hardware against structural failure due to deterioration, corrosion, or workmanship.
- **100 year** limited warranty on post caps and clamps against structural failure due to deterioration, corrosion, or workmanship.
- **15 year** limited warranty on rails, rungs, rigid climbers, loops and decks against structural failure due to deterioration, corrosion, or workmanship.
- **15 year** limited warranty on all HDPE and rotational molded plastic components against structural failure due to materials or workmanship.
- **3 year** limited warranty on all blow molded plastics against structural failure due to materials or workmanship.
- **5 year** limited warranty on the Funnel Ball Game and Poseidon's Hideout.
- **1 year** limited warranty on cables and nets against premature wear due to natural deterioration or manufacturing defects.
- **1 year** limited warranty on moving parts against structural failure due to materials or workmanship.
- **1 year** limited warranty on all materials and products not covered above against failure due to materials or workmanship.

#### **Artificial Turf Warranty**

- **10 year** limited warranty against UV failure and product defect.

#### **Poured in Place Rubber (G-FLEX) Warranty**

If G-FLEX™ deteriorates to the point of failure because of weathering or materials and workmanship within 3 years from date of delivery to the original purchaser, G-FLEX will replace free of charge all defective materials whose composition is not within G-FLEX specification and has been installed by an approved Dealer and maintained on the original site of installation. Defects and system failures due to installation techniques and workmanship by the flooring installer / contractor are the responsibility of the installation contractor.

G-Flex Recreational and Sport Surfacing System production and specifications have been independently tested by the United States Sport Surfacing Laboratory. G-Flex is not responsible for the selection of the thickness or type of surface for any application. The purchaser is solely responsible for determining the suitability of products for all applications.

This warranty does not include normal wear and tear from play, damage from vandalism, color variations from samples or printed brochures, color fading, damage due to stains, burns, cuts, gouges and indentations caused by unusual use, high heels and sharp objects, snow removal, problems caused by improper cleaning methods, moisture or improper drainage, alkali, hydrostatic pressure, cracking, settling, shifting, or lifting of the substrate over which the surfacing product has been installed, or shrinkage (which is an inherent characteristic of elastic rubber). Any damage resulting from vandalism, abnormal use, incorrect installation, acts of God, or lack of maintenance are not covered by this warranty. Normal wearing patterns are not considered a defect.

Owner(s)  
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Contractor  
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The Purchaser shall give notice of claim under this warranty within 30 days of discovering a suspect premature deterioration of the product. If upon inspection by a factory representative, the product shows abnormal deterioration or failure within the period stated herein, the Manufacturer's liability and the Purchaser's remedy are limited to the Manufacturer's option to providing repair material for the original system or credit to be applied towards the purchase of new material, the value of these remedies being determined by G-Flex based upon the current price of a new system. The maximum pro-rated value allowed for repair or credit shall not exceed the original purchase price of the materials. The installer's value / cost of labor is also prorated

This expressed warranty is in lieu of all other warranties, expressed or implied, including any implied warranty of merchantability or fitness for a particular purpose. The remedy of replacement is the sole and exclusive remedy for G-Flex's obligations arising from the sale of its products. In no case will G-Flex be liable for incidental or consequential damage, including without limitation, damage to other property, loss of profits, loss of good will, or other economic loss whether such incidental or consequential loss or damage is claimed on account of breach of warranty, breach of contract, negligence, strict liability in tort, or any other legal theory. Goods sold for resale are all subject to these terms and all offers are expressly conditioned upon acceptance of these terms.

This warranty is null and void if materials have not been fully paid for before use by the Owner or 45 days, whichever comes first. This warranty must be endorsed by the manufacturer to be valid.

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# Attachment A

COMPLIANCE WITH LAWS – The parties shall comply with all applicable local, state, and federal laws and guidelines relating to the services that are subject to this Agreement. Federal regulations apply to all of the City of Marathon contracts using Federal funds as a source for the solicitation of goods and services. The following Federal requirements apply to this Agreement:

## I. ACCESS TO RECORDS:

(1) The contractor agrees to provide MCSB, the FEMA Administrator, the Comptroller General of the United States, or any of their authorized representatives access to any books, documents, papers, and records of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts, and transcriptions.

(2) The Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.

(3) The contractor agrees to provide the FEMA Administrator or his authorized representatives access to construction or other work sites pertaining to the work being completed under the contract.

## II. CLEAN AIR/WATER

### Clean Air Act

(1) The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq.

(2) The Contractor agrees to report each violation to the School Board and understands and agrees that the School Board will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.

(3) The Contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA.

### Federal Water Pollution Control Act

(1) The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq.

(2) The Contractor agrees to report each violation to the School Board and understands and agrees that the School Board will, in turn, report each violation as required to assure notification to the Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.

(3) The contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA.

### **III. WORK HOURS/SAFETY STANDARDS ACT**

(1) Overtime requirements: No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

(2) Violation: liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (1) of this section the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1) of this section.

(3) Withholding for unpaid wages and liquidated damages: The School Board shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2) of this section.

(4) Subcontracts: The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (1) through (4) of this section.

### **IV. COPELAND ANTI-KICKBACK ACT**

Contractor shall comply with the Copeland "Anti-Kickback" Act (40 U.S.C. 3145), as supplemented by Dept. of Labor regulations (29 CFR Part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). The Act provides that Contractor or its subcontractors are prohibited from inducing, by any means, any person employed in the contracted work, to give up any part of the compensation

to which he or she is otherwise entitled. The MCSB will report all suspected or reported violations to the federal awarding agency.

## **V. EQUAL EMPLOYMENT**

During the performance of this contract, the contractor agrees as follows:

(1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer, recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.

(2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.

(3) The contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.

(4) The contractor will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice to be provided by the agency contracting officer, advising the labor union or workers' representative of the contractor's commitments under section 202 of Executive Order 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(5) The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(6) The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting



agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(7) In the event of the contractor's non-compliance with the nondiscrimination clauses of this contract or with any of such rules, regulations, or orders, this contract may be canceled, terminated or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(8) The contractor will include the provisions of paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as may be directed by the Secretary of Labor as a means of enforcing such provisions including sanctions for noncompliance: Provided, however, that in the event the contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

#### **VI. DEBARMENT/SUSPENSION**

(1) This contract is a covered transaction for purposes of 2 C.F.R. part 180, and 2 C.F.R. part 3000. As such, Contractor is required to verify that none of the contractor, its principals, or its affiliates are excluded (as defined by 2 C.F.R. § 180.94) or disqualified (as defined by 2 C.F.R. § 180.935)

(2) Contractor must comply with 2 C.F.R. part 180, Subpart C and 2 C.F.R. part 3000, Subpart C, and must include a requirement to comply with these regulations in any lower tier transaction it enters into.

(3) This certification is a material representation of fact relied upon by City. If it is later determined that Contractor did not comply with the provisions enumerated in subsection 2 of this paragraph, in addition to the remedies available to City, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.

#### **VII. BYRD ANTI-LOBBYING**

Contractors who apply or bid for an award of \$100,000 or more shall file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient.

## **VIII. FEMA FUNDING ACKNOWLEDGEMENT**

This is an acknowledgment that FEMA financial assistance will be used to fund the contract. The contractor will comply with all applicable federal law, regulations, executive orders, FEMA policies, procedures, and directives. The Federal Government is not a party to this contract and is not subject to any obligations or liabilities to the non-Federal entity, contractor, or any other party pertaining to any matter resulting from the contract. The contractor acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to the contractor's actions pertaining to this contract.