



CITY OF ROCKVILLE RIDER AGREEMENT

This **CITY OF ROCKVILLE, RIDER AGREEMENT** (this “**Rider Agreement**”) is, made this ____ day of _____, 2025 (the “**Effective Date**”), by and between **THE MAYOR AND COUNCIL OF ROCKVILLE**, a body politic and municipal corporation of the State of Maryland (the “**Mayor and Council**”), acting through its City Manager, and **Playcore Wisconsin, Inc. d/b/a GameTime**, a Wisconsin corporation with its principal place of business at 544 CHESTNUT ST. CHATTANOOGA, TN 37402-4906, registered to do business in Maryland with a corporate agent located at 2405 YORK ROAD, SUITE 201, LUTHERVILLE TIMONIUM, MD 21093-2264 (the “**Contractor**” or “**GameTime**”). Individually, the Mayor and Council and Gametime may each be referred to hereinafter as the “**Party**,” or collectively as the “**Parties**.”

RECITALS

1. The City of Charlotte, North Carolina, (“**Charlotte**”) on behalf of itself and all participating entities in the OMNIA Partners Purchasing Cooperative, issued a Request For Proposals (“**RFP #269-2017-028**”) for Playground Equipment, Outdoor Fitness Equipment, Surfacing, Site Accessories and Related Products; and
2. The Contractor submitted a Proposal in response to RFP #269-2017-028 on March 16, 2017. This Proposal, together with all attachments and separately sealed confidential trade secrets, is referred to as the “**Proposal**” and has been incorporated into contract by and between the Charlotte and Contractor.
3. Charlotte awarded its contract on May 8, 2017, to Contractor to provide Playground Equipment, Outdoor Fitness Equipment, Surfacing, Site Accessories and Related Products and Services to Charlotte all in accordance with the terms and conditions set forth in Charlotte’s contract.
4. Charlotte, on behalf of itself and all states, local governments, school districts, and higher education institutions in the United States of America, and other government agencies and nonprofit organizations (“**Participating Public Agencies**”), competitively solicited and awarded its contract to Contractor. Charlotte has designated U.S. Communities as the administrative and marketing conduit for the distribution of the Contract to Participating Public Agencies.
5. U.S. Communities is the predecessor entity to OMNIA Partners.
6. Charlotte has amended its contract with Contractor 16 times to update prices, adjust delivery terms, and extend and renew the contract. The most recent of these

amendments was completed on January 22, 2025, and renewed the term of the contract through July 1, 2026. Together, the Charlotte contract and the 16 amendments constitute the “**Amended Charlotte Contract**” attached hereto as **Attachment A**.

7. Because the City Manager of the City of Rockville has determined that the City needs precisely the services which have been provided by Contractor to Charlotte and offered to all participating entities in the OMNIA Partnership, which includes Rockville, the City Manager has recommended entering into this Rider Agreement to obtain these services at the price provided to Charlotte under substantially the same terms as provided to Charlotte.
8. Pursuant to Rockville City Code Sec. 17-71(b), the Mayor and Council is authorized to “contract with any contractor who offers . . . services . . . on the same terms as provided other state or local governments or agencies thereof who have arrived at those terms through a competitive procurement procedure similar to the procedure used by the City.”
9. The Contractor has agreed to provide the Mayor and Council furnishing of various parks and recreation equipment, installations, replacements, and repairs at certain favorable prices contained in the Amended Charlotte Contract.
10. The Parties agree that the terms and conditions set forth in the Amended Charlotte Contract have been incorporated herein and used as the basis for the Rider Agreement, except to the extent expressly modified herein. All modifications to the Amended Charlotte Contract have been summarized in this Rider Agreement. Where the terms of this Rider Agreement vary from the terms and conditions of the Amended Charlotte Contract, the terms and conditions of this Rider Agreement shall prevail.

NOW, THEREFORE, IN CONSIDERATION of the foregoing and the covenants, warranties and agreements of the Parties hereto, as are hereinafter set forth, and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged by each Party hereto, the Parties hereby agree as follows:

TERMS OF AGREEMENT

INCORPORATION OF RECITALS

The foregoing recitals above are an integral part of this Rider Agreement and set forth the intentions of the Parties and the premises on which the Parties have decided to enter into this Rider Agreement. Accordingly, the foregoing recitals above are fully incorporated into this Rider Agreement by this reference as if fully set forth herein.

Notwithstanding the requirements that the Amended Charlotte Contract is fully binding on the Parties, the Parties have agreed to modify certain provisions of the Amended Charlotte Contract as applied to the Mayor and Council. The agreed upon changes are reflected below in an effort to create a single, comprehensive document representing the Amended Charlotte Contract as modified for the Mayor and Council. Changes are made to the following areas of the Amended Charlotte Contract:

- A. All references in the Amended Charlotte Contract to “City of Charlotte” and any offices or departments of the City of Charlotte have been revised to refer to the Mayor and Council, the City of Rockville, and the respective departments of the City of Rockville.
- B. All references to North Carolina have been revised to refer to Maryland and Montgomery County, Maryland as applicable.

ADDITIONAL PROVISIONS

A. Term, Payment Terms and Conditions.

The initial term of this Rider Agreement is from the Effective Date through July 1, 2026. This Rider Agreement may be extended or renewed upon agreement of the Parties if the Amended Charlotte Contract is extended or renewed.

Mayor and Council agree to pay the Contractor a sum not-to-exceed (“NTE”) \$450,000 (Four Hundred and Fifty Thousand Dollars and no cents) for the initial term of this Agreement.

Mayor and Council agree to pay the Contractor a sum NTE of \$450,000 (Four Hundred and Fifty Thousand Dollars and no cents) annually for any renewal of this Rider Agreement, if it is renewed, subject to annual appropriation by Mayor and Council. Any renewal or extension of this Rider Agreement must be in writing signed by both the Contractor and the City Manager or the Manager’s designee.

Mayor and Council expect all vendors to provide year over year cost reduction recommendations. Should any of the playground equipment prices have cost efficiencies that can be implemented, Contractor agrees to implement such efficiencies and update these prices accordingly.

Price decreases are acceptable at any time, need not be verifiable, and are required should Contractor experience a decrease in costs associated with the execution of the contract.

Should the Contractor be able to offer additional discounts based on the quantity and scope of the order, Contractor shall offer those to the City.

The Contract Administrator shall make payment upon proper application by the Contractor for payment for the playground equipment.

The invoice, with the Purchase Order number referenced, shall be directed to:

Ms. Alex Kramer

Parks and Facilities Administrative Manager

Recreation and Parks Department
City of Rockville
240-314-8700 (Main)
240-314-8712 (Direct)
240-314-8719 (Fax)

Contractor may choose to use the City’s ACH Payment Process.

Contractor shall submit the invoice printed on Contractor letterhead, dated, and signed; each deliverable must be identified separately with the associated amount due. The invoices can be submitted via email. The Contract Administrator will verify the playground equipment were received from Contractor before authorizing payment.

The Mayor and Council will not pay in excess of the amounts approved. Contractor’s submission of invoices exceeding these amounts will be rejected.

Prior to the execution of the contract by the City, the Contractor must obtain at their own cost and expense and keep in force and effect during the term of the contract including all extensions, the following insurance with an insurance company/companies licensed to do business in Maryland evidenced by a certificate of insurance and/or copies of the insurance policies. The Contractor’s insurance shall be primary. The Contractor must submit to the Purchasing Division, 111 Maryland Avenue, Rockville, MD 20850 a certificate of insurance prior to the start of any work. In no event may the insurance coverage be less than shown below.

Unless otherwise described in this contract the successful contractor and subcontractors will be required to maintain for the life of the contract and to furnish the City evidence of insurance as follows:

B. Insurance.

MANDATORY REQUIREMENTS FOR INSURANCE

Contractor’s insurance coverage shall be primary insurance as respects the City, its elected and appointed officials, officers, consultants, agents and employees and any insurance or self-insurance maintained by the City, shall be excess of the Contractor’s insurance and shall not be called upon to contribute with it.

| Type of Insurance | Amounts of Insurance | Endorsements and Provisions |
|---|---|--|
| 1. Workers’ Compensation 2. Employers’ Liability | Bodily Injury by Accident: \$100,000 each accident Bodily Injury by Disease: \$500,000 policy limits Bodily Injury by Disease: \$100,000 each employee | Waiver of Subrogation: WC 00 03 13 Waiver of Our Rights to Recover From Others Endorsement signed and dated. |

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|---|---|---|
| 3. Commercial General Liability a. Bodily Injury b. Property Damage c. Contractual Liability d. Premise/Operations e. Independent Contractors f. Products/Completed Operations g. Personal Injury | Each Occurrence: \$1,000,000 | City to be listed as additional insured and provided 30 day notice of cancellation or material change in coverage. CG 20 10 04 13 form to be signed and dated. |
| 4. Automobile Liability a. All Owned Autos b. Hired Autos c. Non-Owned Autos | Combined Single Limit for Bodily Injury and Property Damage - (each accident): \$1,000,000 | City to be listed as additional insured and provided 30 day notice of cancellation or material change in coverage. Form CA20 48 10 13 form to be both signed and dated. |
| 5. Excess/Umbrella Liability | Each Occurrence/Aggregate: \$1,000,000 | Umbrella Liability follows form over the General Liability, Automobile Liability, and Employers Liability policies. |
| 6. Professional Liability (if applicable) | Each Occurrence/Aggregate: \$1,000,000 | |

Alternative and/or additional insurance requirements, when outlined under the special provisions of this contract, shall take precedence over the above requirements in part or in full as described therein.

POLICY CANCELLATION

No change, cancellation or non-renewed shall be made in the General Liability, Workers' Compensation, or Automobile Liability insurance coverage without a thirty (30) day written notice to the City Purchasing Division. The Contractor shall furnish a new certificate prior to any change or cancellation date. The failure of the Contractor to deliver a new and valid certificate will result in suspension of all payments and cessation of on-site work activities until a new certificate is furnished.

ADDITIONAL INSURED

The Mayor and Council of Rockville, which includes its elected and appointed officials, officers, consultants, agents and employees must be included as an additional insured on the Contractor's Commercial Insurance for liability arising out of contractor's products, goods, and services provided under this contract. Additionally, The Mayor and Council of Rockville must be included as additional insured on the Contractor's Automobile and General Liability Policies. Blanket Endorsements are required to be submitted with the insurance certificate.

SUBCONTRACTORS

All subcontractors shall meet the requirements of this Section before commencing work. In addition, Contractor shall include all subcontractors as additional insureds under its policies or shall furnish separate certificates and endorsements for each subcontractor. All coverages for subcontractors shall be subject to all of the requirements stated herein. Independent subcontractor performing onsite operations will provide additional insured status for both ongoing and completed operations.

CERTIFICATE HOLDER

The Mayor and Council of Rockville

(Contract #, title)

City Hall

111 Maryland Avenue

Rockville, MD 20850

C. Notices, Demands, and Communications Between the Parties. Formal notices, demands, and communications between the Contractor and the Mayor and Council shall be given either by (i) personal service, (ii) delivery by reputable document delivery service such as Federal Express that provides a receipt showing date and time of delivery, (iii) mailing utilizing a certified or first class mail postage prepaid service of the United States Postal Service that provides a receipt showing date and time of delivery, or (iv) delivery by facsimile or electronic mail (email) with transmittal confirmation and confirmation of delivery, addressed to:

To the Mayor and Council: City of Rockville
111 Maryland Avenue
Rockville, Maryland 20850
Attention: Sara Taylor-Ferrell, City Clerk
Email: SFerrell@rockvillemd.gov
Telephone: (240) 314-8283

With a Copy to: Robert E. Dawson, City Attorney
Email: RDawson@rockvillemd.gov
Telephone: (240) 314-8150
Jeff Mihelich, City Manager
Email: JMichelich@rockvillemd.gov
Telephone: (240) 314-8102

To the Contractor: Playcore Wisconsin, Inc. d/b/a GameTime
c/o:
THE CORPORATION TRUST INCORPORATED
2405 YORK ROAD
SUITE 201
LUTHERVILLE TIMONIUM MD 21093-2264

With a Copy to: Clint Whiteside
150 PlayCore Drive S.E.
Fort Payne, AL 35967
Email: clint.whiteside@gametime.com
Telephone: 256-638-5914

Notices personally delivered or delivered by document delivery service shall be deemed effective upon receipt. Notices mailed shall be deemed effective on the second business day following deposit in the United States mail. Notices delivered by facsimile or email shall be deemed effective the next business day, not less than 24 hours, following the date of transmittal and confirmation of delivery to the intended recipient. Such written notices, demands, and communications shall be sent in the same manner to such other addresses as any Party may from time to time designate in writing.

- D. Interpretation.** The terms of this Rider Contract shall be construed in accordance with the meaning of the language used and shall not be construed for or against any Party by reason of the authorship of this Rider Contract or any other rule of construction which might otherwise apply. The Section headings are for purposes of convenience only and shall not be construed to limit or extend the meaning of this Rider Contract.
- E. Indemnification.** Contractor shall indemnify and save harmless the Mayor and Council from all suits, actions and damages or costs, of every name and description to which the Mayor and Council may be subjected or put by reason of injury to persons or property as a result of the work performed or goods or services provided under this Contract, but only to the extent caused by negligence or carelessness on part of Contractor, or contractors or agents of Contractor.
- F. Non-Liability of Officials, Employees and Agents.** No member, official, employee or agent of the Mayor and Council shall be personally liable to the Contractor in the event of any default or breach by the Mayor and Council or for any amount which may become due to the Contractor or its successors or assigns or on any obligation under the terms of this Rider Agreement.
- G. No Waiver of Sovereign Immunity by Mayor and Council.** Notwithstanding any other provisions of this Rider Agreement to the contrary, nothing in this Rider Agreement nor any action taken by the Mayor and Council pursuant to this Rider Agreement nor any document which arises out of this Rider Agreement shall constitute or be construed as a waiver of either the sovereign immunity or governmental immunity of the Mayor and Council and its appointed officials, officers and employees.
- H. No Third-Party Beneficiaries.** No provision of this Rider Agreement shall be construed to confer any rights upon any person or entity who is not a Party hereto, whether a third-party beneficiary or otherwise.
- I. Equal Opportunity Employment.** Contractor will not discriminate against any employee or applicant for employment because of age (in accordance with applicable law), sex, race, ancestry, color, religion, sexual orientation, gender identity or expression, physical or mental handicap, marital status, or political expression. Contractor will take affirmative action to ensure that applicants are

employed, and the employees are treated fairly and equally during employment with regard to the above. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer; recruitment, layoff or termination, rates of pay or other form of compensation; and selection for training, including apprenticeship. Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.

If Contractor fails to comply with nondiscrimination clauses of this contract or fails to include such contract provisions in all subcontracts, this contract may be declared void AB INITIO, cancelled, terminated or suspended in whole or in part and Contractor may be declared ineligible for further contracts with the Mayor and Council. Any employee, applicant for employment, or prospective employee with information concerning any breach of these requirements may communicate such information to the City Manager who shall commence a prompt investigation of the alleged violation. Pursuant to such investigation, the Contractor will permit access to Contractor's books, records, and accounts. If the City Manager concludes that the Contractor has failed to comply with nondiscrimination clauses, the remedies set out above may be invoked.

- J. Severability.** If any term, provision, covenant, or condition of this Rider Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of this Rider Agreement shall not be affected thereby to the extent such remaining provisions are not rendered impractical to perform taking into consideration the purposes of this Rider Agreement. In the event that all or any portion of this Rider Agreement is found to be unenforceable, this Rider Agreement or that portion which is found to be unenforceable shall be deemed to be a statement of intention by the Parties; and the Parties further agree that in such event, and to the maximum extent permitted by law, they shall take all steps necessary to comply with such procedures or requirements as may be necessary in order to make valid this Rider Agreement or that portion which is found to be unenforceable.
- K. Authority of the City Manager in Disputes.** Any dispute concerning a question of fact arising under the Rider Agreement signed by the City and the Contractor which is not disposed of by this Agreement shall be decided by the City Manager who shall notify the Contractor in writing of his determination. The Contractor shall be afforded the opportunity to be heard and offer evidence in support of the claim. Pending final decision of the dispute herein, the Contractor shall proceed diligently with performance under the Agreement. The decision of the City Manager shall be final and conclusive unless an appeal is taken pursuant to the Rockville City Code Chapter 17 – Procurement.

- L. Governing Law.** This Rider Agreement shall be construed in accordance with and governed by the laws of the State of Maryland. The exclusive venue for litigation shall be Montgomery County. If the Parties are not able to resolve disputes directly with each other, the Parties may, prior to litigation, attempt to resolve any disputes that arise out of this Rider Agreement through mediation before a mutually acceptable mediator.
- M. Entire Contract, Waivers and Amendments.** This Rider Agreement integrates all of the terms and conditions mentioned herein, or incidental hereto, and supersedes all negotiations and previous Agreement or Contracts between the Parties. All waivers of the provisions of this Rider Agreement must be in writing and signed by the appropriate authorities of the Party to be charged, and all amendments and modifications hereto must be in writing and signed by the appropriate authorities of the Parties.
- N. Language Construction.** The language of each and all paragraphs, terms and/or provisions of this Rider Agreement, shall in all cases and for any and all purposes, and in any way and all circumstances whatsoever, be construed as a whole, according to its fair meaning, and not for or against any Party and with no regard whatsoever to the identity or status of any person or persons who drafted all or any portion of this Rider Agreement.
- O. Time of the Essence.** Time is of the essence in the performance of this Rider Agreement.
- P. Counterparts.** This Rider Agreement may be executed in counterparts, each of which shall be deemed to be an original, and such counterparts shall constitute one and the same instrument.

[Signatures and acknowledgments appear on the following pages]

IN WITNESS WHEREOF, the Parties have each executed, or caused to be duly executed, this Rider Agreement in the name and behalf of each of them (acting individually or by their respective officers or appropriate legal representatives, as the case may be, thereunto duly authorized) as of the day and year first written above.

MAYOR AND COUNCIL

Approved as to form:

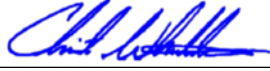
**THE MAYOR AND COUNCIL OF
ROCKVILLE**, a body corporate and municipal
corporation of the State of Maryland

Robert E. Dawson, City Attorney

By: _____
Jeff Mihelich, City Manager

CONTRACTOR

**PLAYCORE WISCONSIN, INC. D/B/A
GAMETIME**, a Wisconsin corporation authorized
to do business in Maryland

By: 
Clint Whiteside,
Director of Sales Administration