



## SERVICE AGREEMENT NO. 37092

### Playground Equipment and Installation for Parker Park

THIS **Playground Equipment and Installation Agreement** ("Agreement") is entered into by and between the City of Corpus Christi, a Texas home-rule municipal corporation ("City") and T.F. Harper & Associates LP ("Contractor"), effective upon execution by the City Manager or the City Manager's designee ("City Manager").

WHEREAS, Contractor has bid to provide Playground Equipment and Installation in response to Request for Bid/Proposal No. Vendor Quote 051116-05tb ("RFB/RFP"), which RFB/RFP includes the required scope of work and all specifications and which RFB/RFP and the Contractor's bid or proposal response, as applicable, are incorporated by reference in this Agreement as Exhibits 1 and 2, respectively, as if each were fully set out here in its entirety.

NOW, THEREFORE, City and Contractor agree as follows:

1. **Scope.** Contractor will provide playground equipment and installation ("Services") in accordance with the attached Scope of Work, as shown in Attachment A, the content of which is incorporated by reference into this Agreement as if fully set out here in its entirety, and in accordance with Exhibit 2.
2. **Term.** This Agreement is for three months, with performance commencing upon the date of issuance of a notice to proceed from the Contract Administrator or Purchasing Division. This Agreement includes an option to extend the term for up to zero additional zero-month periods ("Option Period"), provided, the parties do so prior to expiration of the original term or the then-current Option Period. The decision to exercise the option to extend the term of this Agreement is, at all times, within the sole discretion of the City and is conditioned upon the prior written agreement of the Contractor and the City Manager.
3. **Compensation and Payment.** The total value of this Agreement is not to exceed \$157,794.00, subject to approved extensions and changes. Payment will be made for Services completed and accepted by the City within 30 days of acceptance, subject to receipt of an acceptable invoice. All pricing must be in accordance with the attached Bid/Pricing Schedule, as shown in Attachment B, the content of which is incorporated by reference into this Agreement as if fully set out here in its entirety.

4. **Contract Administrator.** The Contract Administrator designated by the City is responsible for approval of all phases of performance and operations under this Agreement, including deductions for non-performance and authorizations for payment. The City's Contract Administrator for this Agreement is as follows:

Joshua Wentworth, Park & Recreation Superintendant  
Park & Recreation  
Phone: (361) 826-3483  
Email: JoshuaW@cctexas.com

5. **Insurance; Bonds.**

(A) Before performance can begin under this Agreement, the Contractor must deliver a certificate of insurance ("COI"), as proof of the required insurance coverages, to the City's Risk Manager and the Contract Administrator. Additionally, the COI must state that the City will be given at least 30 days' advance written notice of cancellation, material change in coverage, or intent not to renew any of the policies. The City must be named as an additional insured. The City Attorney must be given copies of all insurance policies within 10 days of the City Manager's written request. Insurance requirements are as stated in Attachment C, the content of which is incorporated by reference into this Agreement as if fully set out here in its entirety.

(B) In the event a payment bond, a performance bond, or both, are required of the Contractor to be provided to the City under this Agreement before performance can commence, the terms, conditions, and amounts required in the bonds and appropriate surety information are as included in the RFB/RFP or as may be added to Attachment C, and such content is incorporated here in this Agreement by reference as if each bond's terms, conditions, and amounts were fully set out here in its entirety.

6. **Purchase Release Order.** For multiple-release purchases of Services to be provided by the Contractor over a period of time, the City will exercise its right to specify time, place and quantity of Services to be delivered in the following manner: any City department or division may send to Contractor a purchase release order signed by an authorized agent of the department or division. The purchase release order must refer to this Agreement, and Services will not be rendered until the Contractor receives the signed purchase release order.

- 7. Inspection and Acceptance.** Any Services that are provided but not accepted by the City must be corrected or re-worked immediately at no charge to the City. If immediate correction or re-working at no charge cannot be made by the Contractor, a replacement service may be procured by the City on the open market and any costs incurred, including additional costs over the item's bid/proposal price, must be paid by the Contractor within 30 days of receipt of City's invoice.
- 8. Warranty.** The Contractor warrants that all products supplied under this Agreement are new, quality items that are free from defects, fit for their intended purpose, and of good material and workmanship. The Contractor warrants that it has clear title to the products and that the products are free of liens or encumbrances. In addition, the products purchased under this Agreement shall be warranted by the Contractor or, if indicated in Attachment D by the manufacturer, for the period stated in Attachment D. Attachment D is attached to this Agreement and is incorporated by reference into this Agreement as if fully set out here in its entirety.
- 9. Quality/Quantity Adjustments.** Any Service quantities indicated on the Bid/Pricing Schedule are estimates only and do not obligate the City to order or accept more than the City's actual requirements nor do the estimates restrict the City from ordering less than its actual needs during the term of the Agreement and including any Option Period. Substitutions and deviations from the City's product requirements or specifications are prohibited without the prior written approval of the Contract Administrator.
- 10. Non-Appropriation.** The continuation of this Agreement after the close of any fiscal year of the City, which fiscal year ends on September 30<sup>th</sup> annually, is subject to appropriations and budget approval specifically covering this Agreement as an expenditure in said budget, and it is within the sole discretion of the City's City Council to determine whether or not to fund this Agreement. The City does not represent that this budget item will be adopted, as said determination is within the City Council's sole discretion when adopting each budget.
- 11. Independent Contractor.** Contractor will perform the work required by this Agreement as an independent contractor and will furnish such Services in its own manner and method, and under no circumstances or conditions will any agent, servant or employee of the Contractor be considered an employee of the City.
- 12. Subcontractors.** Contractor may use subcontractors in connection with the work performed under this Agreement. When using subcontractors,

however, the Contractor must obtain prior written approval from the Contract Administrator if the subcontractors were not named at the time of bid or proposal, as applicable. In using subcontractors, the Contractor is responsible for all their acts and omissions to the same extent as if the subcontractor and its employees were employees of the Contractor. All requirements set forth as part of this Agreement, including the necessity of providing a COI in advance to the City, are applicable to all subcontractors and their employees to the same extent as if the Contractor and its employees had performed the work.

- 13. Amendments.** This Agreement may be amended or modified only by written change order signed by both parties. Change orders may be used to modify quantities as deemed necessary by the City.
- 14. Waiver.** No waiver by either party of any breach of any term or condition of this Agreement waives any subsequent breach of the same.
- 15. Taxes.** The Contractor covenants to pay payroll taxes, Medicare taxes, FICA taxes, unemployment taxes and all other related taxes. Upon request, the City Manager shall be provided proof of payment of these taxes within 15 days of such request.
- 16. Notice.** Any notice required under this Agreement must be given by fax, hand delivery, or certified mail, postage prepaid, and is deemed received on the day faxed or hand-delivered or on the third day after postmark if sent by certified mail. Notice must be sent as follows:

**IF TO CITY:**

City of Corpus Christi  
Attn: Joshua Wentworth  
Park & Recreation Superintendant  
Address: 1201 Leopard St., 2<sup>nd</sup> Floor, Corpus Christi, TX 78401  
Fax: (361) 826-3174

**IF TO CONTRACTOR:**

T.F. Harper & Associates LP  
Attn: Angie Randolph  
Title: Account Representative  
Address: 103 Red Bird Lane, Austin, Texas 78745-3122  
Fax: (512) 440-0736

**17. CONTRACTOR AGREES TO INDEMNIFY, HOLD HARMLESS AND DEFEND THE CITY OF CORPUS CHRISTI AND ITS OFFICERS, EMPLOYEES AND AGENTS ("INDEMNITEES") FROM AND AGAINST ANY AND ALL LIABILITY, LOSS, CLAIMS, DEMANDS, SUITS AND CAUSES OF ACTION OF ANY NATURE WHATSOEVER ON ACCOUNT OF PERSONAL INJURIES (INCLUDING DEATH AND WORKERS' COMPENSATION CLAIMS), PROPERTY LOSS OR DAMAGE, OR ANY OTHER KIND OF INJURY, LOSS, OR DAMAGE, INCLUDING ALL EXPENSES OF LITIGATION, COURT COSTS, ATTORNEYS' FEES AND EXPERT WITNESS FEES WHICH ARISE OR ARE CLAIMED TO ARISE OUT OF OR IN CONNECTION WITH THIS AGREEMENT OR THE PERFORMANCE OF THIS AGREEMENT, REGARDLESS OF WHETHER THE INJURIES, DEATH OR DAMAGES ARE CAUSED OR ARE CLAIMED TO BE CAUSED BY THE CONCURRENT OR CONTRIBUTORY NEGLIGENCE OF INDEMNITEES, BUT NOT IF BY THE SOLE NEGLIGENCE OF INDEMNITEES UNMIXED WITH THE FAULT OF ANY OTHER PERSON. CONTRACTOR MUST, AT ITS OWN EXPENSE, INVESTIGATE ALL CLAIMS AND DEMANDS, ATTEND TO THEIR SETTLEMENT OR OTHER DISPOSITION, DEFEND ALL ACTIONS BASED THEREON WITH COUNSEL SATISFACTORY TO THE CITY ATTORNEY, AND PAY ALL CHARGES OF ATTORNEYS AND ALL OTHER COSTS AND EXPENSES OF ANY KIND ARISING FROM ANY SAID LIABILITY, DAMAGE, LOSS, CLAIMS, DEMANDS, SUITS, OR ACTIONS. THE INDEMNIFICATION OBLIGATIONS OF CONTRACTOR UNDER THIS SECTION SHALL SURVIVE THE EXPIRATION OR EARLIER TERMINATION OF THIS AGREEMENT.**

**18. Termination.**

(A) The City Manager may terminate this Agreement for Contractor's failure to perform the work specified in this Agreement or to keep any required insurance policies in force during the entire term of this Agreement. The Contract Administrator must give the Contractor written notice of the breach and set out a reasonable opportunity to cure. If the Contractor has not cured within the cure period, the City Manager may terminate this Agreement immediately thereafter.

(B) Alternatively, the City Manager may terminate this Agreement for convenience upon 30 days advance written notice to the Contractor. The City Manager may also terminate this Agreement upon 24 hours written notice to the Contractor for failure to pay or provide proof of payment of taxes as set out in this Agreement.

- 19. Assignment.** No assignment of this Agreement by the Contractor, or of any right or interest contained herein, is effective unless the City Manager first gives written consent to such assignment. The performance of this Agreement by the Contractor is of the essence of this Agreement, and the City Manager's right to withhold consent to such assignment is within the sole discretion of the City Manager on any ground whatsoever.
- 20. Severability.** Each provision of this Agreement is considered to be severable and, if, for any reason, any provision or part of this Agreement is determined to be invalid and contrary to applicable law, such invalidity shall not impair the operation of nor affect those portions of this Agreement that are valid, but this Agreement shall be construed and enforced in all respects as if the invalid or unenforceable provision or part had been omitted.
- 21. Order of Precedence.** In the event of any conflicts or inconsistencies between this Agreement, its attachments, and exhibits, such conflicts and inconsistencies will be resolved by reference to the documents in the following order of priority:
- A. this Agreement and its attachments
  - B. the bid solicitation document, including addenda (Exhibit 1)
  - C. the Contractor's bid response (Exhibit 2)
- 22. Certificate of Interested Parties.** Contractor agrees to comply with Texas Government Code Section 2252.908, as it may be amended, and to complete Form 1295 "Certificate of Interested Parties" as part of this Agreement.
- 23. Governing Law.** This Agreement is subject to all federal, State, and local laws, rules, and regulations. The applicable law for any legal disputes arising out of this Agreement is the law of the State of Texas, and such form and venue for such disputes is the appropriate district, county, or justice court in and for Nueces County, Texas.
- 24. Entire Agreement.** This Agreement constitutes the entire agreement between the parties concerning the subject matter of this Agreement and

supersedes all prior negotiations, arrangements, agreements and understandings, either oral or written, between the parties.

(SIGNATURE PAGE FOLLOWS)

**CONTRACTOR** T.F. Harper & Associates, LP

Signature: By: Harper Services, LLC  
general partner of T.F. Harper & Associates, LP

Printed Name: By: Thomas F. Harper 8.29.16

Title: Thomas F. Harper, Manager of Harper Services, LLC  
in its capacity as general partner for T.F. Harper & Associates, LP

Date: \_\_\_\_\_

**CITY OF CORPUS CHRISTI**

Signature: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**Attached and Incorporated by Reference:**

- Attachment A: Scope of Work
- Attachment B: Bid/Pricing Schedule
- Attachment C: Insurance/Bond Requirements
- Attachment D: Warranty Requirements

**Incorporated by Reference Only:**

- Exhibit 1: RFB/RFP No. None
- Exhibit 2: Contractor's Bid/Proposal Response



## **Attachment A – Scope of Work**

Contractor will install various playground items referenced on Attachment B - Bid/Pricing Schedule and 4,675 S.F. of artificial Turf for two play areas and one fitness area. The turf will be installed over a 2" pad.

Any installation charges quoted are based upon a soil work site (not rocky) that is freely accessible by truck, no fencing, tree/landscaping or utility obstacles, etc.), and level (+/- 1-2% max slope). Any site work not expressly described is excluded. All underground utilities must be located and clearly marked before any work can begin. Installation of all products (equipment, borders, ground cover, amenities) are as quoted and approved by acceptance of quote/drawing.



## Attachment B - Bid/Pricing Schedule BUYBOARD PROPOSAL

**103 Red Bird Lane  
Austin, Texas  
78745-3122**

**TO:** City of Corpus Christi - Parker Park  
**Attn:** Joshua Wentworth  
**Address:** 1201 Leopard St, Corpus Christi, Texas 78401  
**Install Site:** Parker Park, Corpus Christi, Texas  
**Phone:** 361-826-3483  
**Email:** [JoshuaW@cctexas.com](mailto:JoshuaW@cctexas.com)

**CONTRACT #423-13**  
**FOR PURCHASE THRU BUYBOARD.**  
**PLEASE FAX YOUR PURCHASE ORDER**  
**AND SIGNED QUOTE TO BUYBOARD**  
**AND T.F. HARPER & ASSOCIATES LP TO**  
**INSURE COMPLIANCE & RECEIPT OF**  
**YOUR ORDER.**

**QUOTE #:** 051116-05tb  
**DATE:** May 11, 2016  
**REVISED:** June 16, 2016  
**REVISED:** August 4, 2016

### Playgrounds @ Parker Park

QTY	DESCRIPTION OF EQUIPMENT	UNIT PRICE	TOTAL COST
	<b><u>5-12 Playground:</u></b>		
1	Gametime #TJ-05010-16-2A2 Custom Ramped 5-12 Power Scope Play Unit		\$35,987.00
	<b><u>2-5 Playground:</u></b>		
1	Gametime #TJ-05010-16-2AIR1 Custom 2-5 Power Scope Play Unit		\$23,695.00
	<b><u>Fitness Equipment (option 3):</u></b>		
1	Xccent #52020, Large Fitness Information Sign, In-Ground		\$850.00
1	Xccent #50421, Knee Raise Dip Combo		\$2,400.00
1	Xccent #48972, Wave Ladder		\$2,425.00
1	Xccent #52932, Plyometric Boxes 12"		\$330.00
1	Xccent #52934, Plyometric Boxes 18"		\$345.00
1	Xccent #52936, Plyometric Boxes 24"		\$360.00
1	Xccent #48958, Step & Balance Stretch Combo		\$2,300.00
1	Xccent #50467, Double Lower Back Trainer		\$1,750.00
1	Xccent #50479, Balance Beam		\$875.00
	<b>Less Buyboard Discount</b>		(\$4,992.00)
1	Freight on Above Equipment		\$8,160.00
1	Installation of Above Equipment		\$28,850.00
	<b><u>Artificial Turf Surfacing:</u></b>		
4,675	S.F. Artificial Turf for the Two (2) Play Areas and One (1) Fitness Area, 70 oz. Weight, Installed over a 2" Pad. To be Installed over Owner Furnished Concrete Slab and within Owner Furnished Concrete Curbs.		\$49,737.00
		Bonding	\$4,722.00
	<b>TOTAL</b>		<b>\$157,794.00</b>

**QUOTE IS VALID FOR 60 DAYS FROM DATE OF QUOTE OR DATE OF REVISION.**

**OWNER RESPONSIBLE FOR CONCRETE BORDERS AND CONCRETE BASE SLAB IN THE PLAY & FITNESS AREAS.**

**NOT INCLUDED:** Sales Tax (RESALE OR EXEMPTION CERTIFICATE REQUIRED), Permits, Bonds/Fees (if required), Site Work in Excess of Normal Installation (example: site prep - excavation/infill, concrete slab, french drains, excess rock removal, landscaping).

**CONTINUED ON NEXT PAGE**

*Commercial Play and Recreational Equipment*



## BUYBOARD PROPOSAL

103 Red Bird Lane  
Austin, Texas  
78745-3122

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Any installation charges quoted are based upon a soil work site (not rocky) that is freely accessible by truck, no fencing, tree/landscaping or utility obstacles, etc.), and level (+/- 1-2% max slope). Any site work not expressly described is excluded. All underground utilities must be located and clearly marked before any work can begin. Installation of all products (equipment, borders, ground cover, amenities) are as quoted and approved by acceptance of quote/drawings. The installer is not responsible for any damages or re-work resulting from after-hours events or activities during the work in progress period. The customer is responsible for maintaining the integrity of completed installation work until components have seated and/or cured (concrete footings, etc.).

**Payment Terms: Progress Payments are Acceptable**

**Estimated Delivery & Installation: 11 weeks from receipt of signed quote (or Purchase Order) and color selections.**

Accepted by: \_\_\_\_\_

Date: \_\_\_\_\_ P.O. # (if applicable): \_\_\_\_\_

**PLEASE ISSUE PURCHASE ORDER IN VENDOR NAME OF T.F. HARPER & ASSOCIATES, LP**

Thank you for giving us the opportunity to quote this equipment.  
Angie Randolph

## Attachment C - Insurance /Bond Requirements

### INSURANCE REQUIREMENTS

#### I. CONTRACTOR'S LIABILITY INSURANCE

- A. Contractor must not commence work under this contract until all insurance required has been obtained and such insurance has been approved by the City. Contractor must not allow any subcontractor, to commence work until all similar insurance required of any subcontractor has been obtained.
- B. Contractor must furnish to the City's Risk Manager and Director of Parks and Recreation one (1) copy of Certificates of Insurance with applicable policy endorsements showing the following minimum coverage by an insurance company(s) acceptable to the City's Risk Manager. The City must be listed as an additional insured on the General liability and Auto Liability policies **by endorsement**, and a waiver of subrogation **endorsement** is required on all applicable policies. **Endorsements** must be provided with Certificate of Insurance. Project name and/or number must be listed in Description Box of Certificate of Insurance.

TYPE OF INSURANCE	MINIMUM INSURANCE COVERAGE
<b>30-day advance written notice of cancellation, non-renewal, material change or termination required on all certificates and policies.</b>	<b>Bodily Injury and Property Damage</b> Per occurrence - aggregate
COMMERCIAL GENERAL LIABILITY including: 1. Commercial Broad Form 2. Premises – Operations 3. Products/ Completed Operations 4. Contractual Liability 5. Independent Contractors 6. Personal Injury- Advertising Injury	\$1,000,000 Per Occurrence \$2,000,000 Aggregate
AUTO LIABILITY (including) 1. Owned 2. Hired and Non-Owned 3. Rented/Leased	\$1,000,000 Combined Single Limit
WORKERS'S COMPENSATION (All States Endorsement if Company is not domiciled in Texas)	Statutory and complies with Part II of this Exhibit.
Employers Liability	\$500,000/\$500,000/\$500,000
INSTALLATION FLOATER	Value of the equipment

- C. In the event of accidents of any kind related to this contract, Contractor must furnish the Risk Manager with copies of all reports of any accidents within 10 days of the accident.

II. ADDITIONAL REQUIREMENTS

- A. Applicable for paid employees, Contractor must obtain workers' compensation coverage through a licensed insurance company. The coverage must be written on a policy and endorsements approved by the Texas Department of Insurance. The workers' compensation coverage provided must be in statutory amounts according to the Texas Department of Insurance, Division of Workers' Compensation. An All States Endorsement shall be required if Contractor is not domiciled in the State of Texas.
- B. Contractor shall obtain and maintain in full force and effect for the duration of this Contract, and any extension hereof, at Contractor's sole expense, insurance coverage written on an occurrence basis by companies authorized and admitted to do business in the State of Texas and with an A.M. Best's rating of no less than A- VII.
- C. Contractor shall be required to submit renewal certificates of insurance throughout the term of this contract and any extensions within 10 days of the policy expiration dates. All notices under this Exhibit shall be given to City at the following address:

City of Corpus Christi  
Attn: Risk Manager  
P.O. Box 9277  
Corpus Christi, TX 78469-9277

- D. **Contractor agrees that, with respect to the above required insurance, all insurance policies are to contain or be endorsed to contain the following required provisions:**
- List the City and its officers, officials, employees, and volunteers, as additional insureds by endorsement with regard to operations, completed operations, and activities of or on behalf of the named insured performed under contract with the City, with the exception of the workers' compensation policy;
  - Provide for an endorsement that the "other insurance" clause shall not apply to the City of Corpus Christi where the City is an additional insured shown on the policy;
  - Workers' compensation and employers' liability policies will provide a waiver of subrogation in favor of the City; and

- Provide thirty (30) calendar days advance written notice directly to City of any, cancellation, non-renewal, material change or termination in coverage and not less than ten (10) calendar days advance written notice for nonpayment of premium.
- E. Within five (5) calendar days of a cancellation, non-renewal, material change or termination of coverage, Contractor shall provide a replacement Certificate of Insurance and applicable endorsements to City. City shall have the option to suspend Contractor's performance should there be a lapse in coverage at any time during this contract. Failure to provide and to maintain the required insurance shall constitute a material breach of this contract.
- F. In addition to any other remedies the City may have upon Contractor's failure to provide and maintain any insurance or policy endorsements to the extent and within the time herein required, the City shall have the right to order Contractor to stop work hereunder, and/or withhold any payment(s) which become due to Contractor hereunder until Contractor demonstrates compliance with the requirements hereof.
- G. Nothing herein contained shall be construed as limiting in any way the extent to which Contractor may be held responsible for payments of damages to persons or property resulting from Contractor's or its subcontractor's performance of the work covered under this contract.
- H. It is agreed that Contractor's insurance shall be deemed primary and non-contributory with respect to any insurance or self insurance carried by the City of Corpus Christi for liability arising out of operations under this contract.
- I. It is understood and agreed that the insurance required is in addition to and separate from any other obligation contained in this contract.

2016 Insurance Requirements  
Parks and Recreation  
Park Equipment and Turf surfacing  
08/17/2016 mv Risk Management



# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

2/9/2016

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

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

**PRODUCER**

Watkins Insurance Group-Austin  
3834 Spicewood Springs Rd, St  
Austin TX 78759

**CONTACT**

NAME: Amy Perez

PHONE (A/C, No, Ext): 512-452-8877

FAX (A/C, No): 512-452-0999

E-MAIL: aperez@watkinsinsurancegroup.com

ADDRESS: aperez@watkinsinsurancegroup.com

**INSURED**

T F Harper & Associates, LP  
Cindi Chrasteky  
103 Red Bird Lane  
Austin TX 78745-3620

TFHAR-1

**INSURER(S) AFFORDING COVERAGE**

NAIC #

INSURER A: Cincinnati Insurance Company

10677

INSURER B: StarStone National

INSURER C: Texas Mutual Insurance Company

22945

INSURER D:

INSURER E:

INSURER F:

**COVERAGES**

CERTIFICATE NUMBER: 1632076031

REVISION NUMBER:

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

INSR LTR	TYPE OF INSURANCE	ADDL SUBR INSD WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR  GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:	Y Y	EPP 0179837	2/9/2016	2/9/2017	EACH OCCURRENCE \$1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$100,000 MED EXP (Any one person) \$10,000 PERSONAL & ADV INJURY \$1,000,000 GENERAL AGGREGATE \$2,000,000 PRODUCTS - COMP/OP AGG \$2,000,000
A	<input checked="" type="checkbox"/> AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> NON-OWNED AUTOS	Y	EBA 0179837	2/9/2016	2/9/2017	COMBINED SINGLE LIMIT (Ea accident) \$1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
B	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED <input checked="" type="checkbox"/> RETENTION \$10,000		71292M150ALI	2/9/2016	2/9/2017	EACH OCCURRENCE \$2,000,000 AGGREGATE \$2,000,000
C	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N N/A	TSF0001141452	2/17/2016	2/17/2017	<input checked="" type="checkbox"/> PER STATUTE E.L. EACH ACCIDENT \$1,000,000 E.L. DISEASE - EA EMPLOYEE \$1,000,000 E.L. DISEASE - POLICY LIMIT \$1,000,000
A	Contractors Equipment		EPP 0179837	2/9/2016	2/9/2017	Scheduled 150,500 Leased/Rented 50,000 Deductible 1,000

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

SUBJECT TO POLICY TERMS AND CONDITIONS

**CERTIFICATE HOLDER**

City of Corpus Christi  
P.O. Box 9277  
Corpus Christi TX 78469-9277

**CANCELLATION**

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

AUTHORIZED REPRESENTATIVE

00 61 13

## PERFORMANCE BOND

BOND NO. \_\_\_\_\_

<b>Contractor as Principal</b> Name: Mailing address ( <i>principal place of business</i> ):	<b>Surety</b> Name: Mailing address ( <i>principal place of business</i> ):  Physical address ( <i>principal place of business</i> ):
<b>Owner</b> Name: City of Corpus Christi, Texas Mailing address ( <i>principal place of business</i> ): Purchasing Division 1201 Leopard Street 4 <sup>th</sup> Floor Corpus Christi, Texas 78401	Surety is a corporation organized and existing under the laws of the state of:  <i>By submitting this Bond, Surety affirms its authority to do business in the State of Texas and its license to execute bonds in the State of Texas.</i>
<b>Contract</b> Project name and number: Playground Equipment and Installation for Parker Park Service Agreement No. 37092      Award Date of the Contract: Contract Price: \$157,794.40	Telephone ( <i>main number</i> ):  Telephone ( <i>for notice of claim</i> ):
<b>Bond</b> Date of Bond: <i>(Date of Bond cannot be earlier than Award Date of the Contract)</i> <i>Said Principal and Surety have signed and sealed this instrument in 4 copies, each one of which shall be deemed an original.</i>	Local Agent for Surety Name: Address:  Telephone: E-Mail Address:  <i>The address of the surety company to which any notice of claim should be sent may be obtained from the Texas Dept. of Insurance by calling the following toll-free number: 1-800-252-3439</i>



***Surety and Contractor, intending to be legally bound and obligated to Owner do each cause this Performance Bond to be duly executed on its behalf by its authorized officer, agent or representative. The Principal and Surety bind themselves, and their heirs, administrators, executors, successors and assigns, jointly and severally to this bond. The condition of this obligation is such that if the Contractor as Principal faithfully performs the Work required by the Contract then this obligation shall be null and void; otherwise the obligation is to remain in full force and effect. Provisions of the bond shall be pursuant to the terms and provisions of Chapter 2253 and Chapter 2269 of the Texas Government Code as amended and all liabilities on this bond shall be determined in accordance with the provisions of said Chapter to the same extent as if it were copied at length herein. Venue shall lie exclusively in Nueces County, Texas for any legal action.***

**Contractor as Principal**

Signature: \_\_\_\_\_  
 Name: \_\_\_\_\_  
 Title: \_\_\_\_\_  
 Email Address: \_\_\_\_\_  
 Date: \_\_\_\_\_

**Surety**

Signature: \_\_\_\_\_  
 Name: \_\_\_\_\_  
 Title: \_\_\_\_\_  
 Email Address: \_\_\_\_\_  
 Date: \_\_\_\_\_

*(Attach Power of Attorney and place surety seal below)*

**END OF SECTION**

00 61 16      PAYMENT BOND

BOND NO. \_\_\_\_\_

<b>Contractor as Principal</b> Name: Mailing address ( <i>principal place of business</i> ):	<b>Surety</b> Name: Mailing address ( <i>principal place of business</i> ):  Physical address ( <i>principal place of business</i> ):
<b>Owner</b> Name: City of Corpus Christi, Texas Mailing address ( <i>principal place of business</i> ): Purchasing Division 1201 Leopard Street 4 <sup>th</sup> Floor Corpus Christi, Texas 78401	Surety is a corporation organized and existing under the laws of the state of:  <i>By submitting this Bond, Surety affirms its authority to do business in the State of Texas and its license to execute bonds in the State of Texas.</i>
<b>Contract</b> Project name and number: Playground Equipment and Installation for Parker Park Service Agreement No. 37092     Award Date of the Contract: Contract Price: \$157,794.40	Telephone ( <i>main number</i> ):  Telephone ( <i>for notice of claim</i> ):
<b>Bond</b> Date of Bond: ( <i>Date of Bond cannot be earlier than Award Date of Contract</i> ) Said Principal and Surety have signed and sealed this instrument in 4 copies, each one of which shall be deemed an original.	Local Agent for Surety Name: Address:  Telephone: E-Mail Address:  <b><i>The address of the surety company to which any notice of claim should be sent may be obtained from the Texas Dept. of Insurance by calling the following toll-free number: 1-800-252-3439</i></b>

***Surety and Contractor, intending to be legally bound and obligated to Owner do each cause this Payment Bond to be duly executed on its behalf by its authorized officer, agent or representative. The Principal and Surety bind themselves, and their heirs, administrators, executors, successors and assigns, jointly and severally to this bond. The condition of this obligation is such that if the Contractor as Principal pays all claimants providing labor or materials to him or to a Subcontractor in the prosecution of the Work required by the Contract then this obligation shall be null and void; otherwise the obligation is to remain in full force and effect. Provisions of the bond shall be pursuant to the terms and provisions of Chapter 2253 and Chapter 2269 of the Texas Government Code as amended and all liabilities on this bond shall be determined in accordance with the provisions of said Chapter to the same extent as if it were copied at length herein. Venue shall lie exclusively in Nueces County, Texas for any legal action.***

**Contractor as Principal**

Signature: \_\_\_\_\_  
 Name: \_\_\_\_\_  
 Title: \_\_\_\_\_  
 Email Address: \_\_\_\_\_  
 Date: \_\_\_\_\_

**Surety**

Signature: \_\_\_\_\_  
 Name: \_\_\_\_\_  
 Title: \_\_\_\_\_  
 Email Address: \_\_\_\_\_  
 Date: \_\_\_\_\_

*(Attach Power of Attorney and place surety seal below)*

**END OF SECTION**



## WARRANTY

**LIMITED WARRANTY:** Xccent Fitness warrants its products to the original customer to be free from structural failure due to defect in materials or workmanship during normal use and installation in accordance with our published specifications. This warranty will commence on the date of the Xccent Fitness invoice and terminate at the end of the period stated below.

This Warranty is valid ONLY if the products are installed properly and in conformance of the specifications, installation guides, Xccent Fitness design layout, and properly maintained in accordance with the maintenance schedule provided within the installation instructions.

Xccent Fitness reserves the right to accept or reject any claim in whole or in part. Xccent Fitness will not accept the return of any product without prior written approval.

**WARRANTY EXCLUSIONS:** This Warranty does not cover: cosmetic defects, such as scratches, dents, marring, or fading; damage due to incorrect installation, vandalism, misuse, accident, wear and tear from normal use, exposure to extreme weather; immersion in salt or chlorine water, unauthorized repair or modification, abnormal use, lack of maintenance, or other cause not within Xccent Fitness' control.

This warranty does not cover damages due to "Acts of God", such as hail, flooding, lightning, tornadoes, sandstorms, earthquakes, windstorms. For complete warranty information, please visit [Xccentfitness.com](http://Xccentfitness.com) or contact your local authorized Xccent Fitness representative.

For complete warranty information, please visit [XccentFitness.com](http://XccentFitness.com) or contact your local authorized Xccent Fitness representative

**INSTALLATION:** Xccent Fitness shall provide warranty repair or replacement parts free of charge, but will not be responsible for cost of freight, labor or provision of labor for removal of defective parts and installation of replacement parts. Replacement parts shall be guaranteed for the remainder of the original warranty period.

**LIMITED WARRANTY TIME PERIODS** on Xccent Fitness Active Outdoor Fitness and Motion Wellness Systems products.

**100-YEAR LIMITED WARRANTY:** Stainless steel fasteners, steel posts and caps, steel arches and stainless steel fasteners, against structural failure due to corrosion or manufacturing defects and against structural failure due to material or manufacturing defects.

**15-YEAR LIMITED WARRANTY:** On all steel components (except 100-year steel posts and arches), vinyl coated decks, ramps, beams, stairs and seating surfaces against structural failure due to material or manufacturing defects.

**7-YEAR LIMITED WARRANTY:** Site furnishings against structural failure due to materials or workmanship.

**5-YEAR LIMITED WARRANTY:** On all PVC handholds, foot pads, ropes, plastic components against structural failure due to material or manufacturing defects.

**3-YEAR LIMITED WARRANTY:** On bumpers, urethane handles, mechanical torsion systems, bearings, or other moving parts against structural failure due to material or manufacturing defects.

# Warranty Information

## The Industry's Best Warranty

GameTime offers you peace of mind with one of the best, most all-encompassing warranties in the industry.

## Our Warranty

We want to assure you that we are part of your community playground long after the sale is made. Our quality is legendary, and we stand behind our products with one of the best warranties in the business and a level of customer service that assures you that your needs will be met. For complete Warranty information, consult your GameTime sales representative.

For the purpose of this warranty, "lifetime" encompasses no specific term of years, but rather that seller warrants to its original customer for as long as the original customer owns the product and uses the product for its intended purpose that the product and all its parts will be free from defects in material and manufacturing workmanship.

- Lifetime limited warranty on PowerScape®, PrimeTime® and Xscape® uprights.
- Lifetime limited warranty on all hardware.
- Lifetime limited warranty on GameTime PowerScape Tru-Loc® connections.
- Lifetime limited warranty on PrimeTime® and Xscape® bolt-through connections.
- Fifteen-Year limited warranty on metal decks, pipes, rungs, rails and loops.
- Fifteen-Year limited warranty on rotationally molded products.
- Five-Year limited warranty on glass fiber reinforced concrete PlayWorx® structures.
- Twenty-Year limited warranty on Timber Decor® & Timbers recycled plastic lumber.
- Five-Year limited warranty on nylon-covered cable net climbers and components.
- Ten-Year limited warranty on pressure-treated pine and redwood products.
- Ten-Year limited warranty on Advanced, Elite & stationary Base Series posts & bars.
- Ten-Year limited warranty on site furnishings.
- Ten-Year limited warranty on integrated GTShade® products.
- Ten-Year limited warranty on fiberglass and DHPL signage.
- Five-Year limited warranty on Super Seats™.
- Three-Year limited warranty on SaddleMates® rubber and "C"-springs.
- One-Year limited warranty on all other GameTime products.

All warranties specifically exclude damage caused by vandalism; negligence, improper installation or improper use; changes in appearance resulting from weathering; scratches, dents or marring as a result of use. Warranties are valid only if products are installed and maintained in accordance with GameTime instructions and use approved parts.



## Pour-In-Place Playground Safety Surfacing Five Year Limited Warranty

XGrass warrants the Pour-in-Place Playground Safety Surfacing ("the Surfacing") installed for \_\_\_\_\_ ("the Owner"), located at \_\_\_\_\_ for a period of five (5) years commencing from the date of substantial completion established on \_\_\_\_\_ and expiring on \_\_\_\_\_.

This limited warranty includes only XGrass' obligation to repair, replace or issue a credit, at XGrass' option, for defective material or workmanship in the Surfacing that has failed during the warranty period. A failure in the Surfacing includes edge raveling, bubbling, delamination, peeling or loss of integrity as a result of degradation. XGrass is under no obligation or responsibility to repair and/or replace the Surfacing if damaged by vandalism (including cuts, burns, gouges, etc.), misuse, abuse or alteration, improper subsurface design or construction, improper drainage, improper or lack of maintenance, any foreign residue that may be deposited on the surface, normal wear and tear, damage from sharp objects (high heels, spikes, etc.) or acts of God.

All warranty claims shall be made in writing to XGrass within ten (10) days after Owner has knowledge thereof, but in no event later than ten (10) days after expiration of the warranty. Written notice shall include the date of discovery of the failure, description of the failure, photos of the failure and a request for a warranty claim meeting with XGrass at the location of the Surfacing for which the warranty claim is being made. XGrass shall not be responsible for warranty claims if Owner fails to provide written notice within ten (10) days of discovery of the failure.

XGrass shall determine the validity of all warranty claims after sufficient evidence has been gathered. XGrass shall then repair, replace or issue a credit for any valid claims. Any credit issued to the Owner on a warranty claim shall be on a prorated basis and may only be used to purchase replacement and/or additional Surfacing. The prorated formula for issuing a credit shall be 100% of the original purchase price during year one, 80% during year two, 60% during year three, 40% during year four, and 20% of the original purchase price during year five.

Any dispute as to whether and to what extent there is a Surfacing failure and a subsequent valid warranty claim within the meaning of this limited warranty shall be initially dealt with by joint investigation and discussion between XGrass and the Owner in order to achieve a mutually agreeable solution. If such a solution cannot be reached within thirty (30) days, then either XGrass or the Owner shall submit the matter to an arbitrator who shall make a determination in accordance with the rules and regulations of the American Arbitration Association. The decision of said arbitrator shall be binding on both parties.

This limited warranty does not include the subsurface (existing surface, existing or new aggregate, existing or new concrete or existing or new asphalt). If the subsurface fails for any reason whatsoever (including hydrostatic pressure, cracking, shifting, heaving or settling), this limited warranty shall be rendered invalid. If the subsurface is new concrete and a curing agent was used, this limited warranty shall be rendered invalid. In addition, there is no warranty against the Surfacing cracking along expansion joints or underlying cracks, or separating from an adjacent border, curb or walkway. This limited warranty does not include discoloration as a result of exposure to ultraviolet rays, unapproved cleaning materials or vandalism.

Note that surface temperature can rise significantly when exposed to direct sunlight. Shoes and/or socks must be worn.



Owner agrees that it will not, under any circumstances, make alterations to the Surfacing without the written authorization of XGrass. Any unauthorized alterations by the Owner shall immediately void this limited warranty and shall give rise to the duty of the Owner to hold harmless, defend and indemnify XGrass from any claim, suit or cause of action, personal injury, death or property damage arising out of or related to said alteration.

This limited warranty is expressly made in lieu of any other warranties and is exclusive to the original Owner. Owner acknowledges that this limited warranty shall be voided if the Owner fails to follow the maintenance guidelines provided by XGrass. Owner agrees that in no event shall XGrass have any liability to Owner for loss of use or loss of profits or any form of consequential damages. The following chemicals can damage the Surfacing and should be avoided: disinfectants, concentrated chlorine bleach, gasoline, diesel fuel, hydraulic and lubricating oils, acids and organic solvents.

Failure to pay for the Surfacing within the agreed upon terms shall void this limited warranty. Any damages to the Surfacing during the curing period are the responsibility of the Owner and shall be repaired at the Owner's expense. This limited warranty does not lessen or eliminate any other obligations of Owner to XGrass.





## **Supplemental Warranty**

The undersigned, as Installer for the above referenced project:

- a. Does hereby guarantee the work performed by T. F. Harper & Associates LP on the above referenced project against defects in workmanship for a period of one year from the date of the completion of the installation.
- b. If the workmanship should become defective within the specified time, T. F. Harper & Associates LP will replace and/or repair, as required, any such defects promptly at no additional cost to the owner of the above project.
- c. In addition, if any component of the manufacturer's equipment is to be replaced under warranty by said manufacturer, T. F. Harper & Associates LP will remove defective component and install replacement component free of charge to customer.
- d. This warranty does not include normal wear and tear, or repair and replacement of materials, which have been abused, neglected, or not maintained in accordance with the manufacturer's recommended maintenance procedures and schedules.

### **Date of Completion of Installation:**

Claim Procedure: In the event a warranty claim is required, please contact

Nance Carmack, Sales Administrator  
800-976-0107 or 512-440-0707  
FAX: 512-440-0736

T. F. Harper & Associates LP

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

Title: \_\_\_\_\_ Date: \_\_\_\_\_

**103 Red Bird Lane • Austin • Texas • 78745**  
**512-440-0707 • 800-976-0107 • 512-440-0736 (F) • [playground@ttharper.com](mailto:playground@ttharper.com)**