

TOWN OF SUPERIOR  
RESOLUTION NO. R-50  
SERIES 2023

A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF SUPERIOR APPROVING THE DESIGNS FOR AND PURCHASE OF PLAYGROUND EQUIPMENT FROM ROCKY MOUNTAIN RECREATION, INC FOR THE BIG SAGAMORE, LITTLE SAGAMORE, AND CHILDREN'S PARKS REBUILD PROJECT

NOW BE IT RESOLVED BY THE BOARD OF TRUSTEES OF THE TOWN OF SUPERIOR, COLORADO, as follows:

Section 1. The PURCHASE of playground equipment for the Big Sagamore, Little Sagamore, and Children's Park project for \$241,280 is hereby approved in substantially the form attached hereto, subject to final approval by the Town Attorney.

ADOPTED this 28<sup>th</sup> day of AUGUST, 2023.



Mark Lacis, Mayor

ATTEST:



Lydia Yecke, Town Clerk



## PURCHASE AGREEMENT

THIS PURCHASE AGREEMENT (the "Agreement") is made and entered into as of this 28 day of AUGUST, 2023 (the "Effective Date"), by and between the TOWN OF SUPERIOR COLORADO, a Colorado municipal corporation with an address of 124 East Coal Creek Drive, Superior, CO 80027 (the "Town"), and Rocky Mountain Recreation Inc., a Colorado corporation, with an address of 3778 S. Kalamath St., Englewood, CO 80110 ("Vendor") (each a "Party" and collectively the "Parties").

WHEREAS, the Town is rebuilding Big Sagamore Park, Little Sagamore Park, and Children's Park which were destroyed in the Marshall Fire ("Parks Project"); and

WHEREAS, the Town wishes to purchase playground equipment from Vendor to begin the rebuild projects for each park.

NOW, THEREFORE, for the consideration hereinafter set forth, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. Materials.

A. Vendor shall furnish all materials described in **Exhibit A**, attached hereto and incorporated herein by this reference.

B. A change in the materials contained therein shall not be effective unless authorized as an amendment to this Agreement. If Vendor proceeds without such written authorization, Vendor shall be deemed to have waived any claim for additional compensation, including a claim based on the theory of unjust enrichment, quantum merit or implied contract. Except as expressly provided herein, no agent, employee, or representative of the Town is authorized to modify any term of this Agreement, either directly or implied by a course of action.

2. Purchase Price. The Purchase Price to be paid by the Town to Vendor for the purchase of the materials in **Exhibit A** is not to exceed \$241,280.

3. Deposit. Within 10 days after the Effective Date, the Town shall pay Vendor 50 percent of the Purchase Price with the remaining balance due at the completion of the Parks Project.

4. Warranties. Vendor shall warrant and guarantee all materials furnished and work performed by Vendor under this Agreement for a period of 2 years from the date of final acceptance by the Town. Under this warranty, Vendor agrees to repair or replace, at its own expense and under the direction of the Town, any portion of the work or materials that fails or is defective, unsound, unsatisfactory because of materials or workmanship, or that is not in conformity with the provisions of the Vendor. The expiration of the warranty period shall in no way limit the Town's legal or equitable remedies, or the period in which such remedies may be asserted, for work negligently or defectively performed.

5. Miscellaneous.

A. *Entire Agreement.* This Agreement contains the entire agreement of the Parties. There are no other agreements, oral or written, and this Agreement can be amended only by written agreement signed by the Parties.

B. *Assignment.* Neither this Agreement nor any of the rights or obligations of the Parties shall be assigned by either Party without the written consent of the other.

C. *Modification.* This Agreement may only be modified upon written agreement of the Parties.

D. *Notice.* Any notice under this Agreement shall be in writing, and shall be deemed sufficient when directly presented or sent pre-paid, first class United States Mail to the party at the address set forth on the first page of this Agreement.

E. *Governing Law and Venue.* This Agreement shall be governed by the laws of the State of Colorado, and any legal action concerning the provisions hereof shall be brought in Boulder County, Colorado.

F. *Severability.* If any provision of this Agreement is found by a court of competent jurisdiction to be unlawful or unenforceable for any reason, the remaining provisions hereof shall remain in full force and effect.

G. *Third Parties.* There are no intended third-party beneficiaries to this Agreement.

H. *Subject to Annual Appropriation.* Consistent with Article X, § 20 of the Colorado Constitution, any financial obligation of the Town not performed during the current fiscal year is subject to annual appropriation, shall extend only to monies currently appropriated, and shall not constitute a mandatory charge, requirement, debt or liability beyond the current fiscal year.


I. *Governmental Immunity.* The Town and its officers, attorneys and employees, are relying on, and do not waive or intend to waive by any provision of this Agreement, the monetary limitations or any other rights, immunities or protections provided by the Colorado Governmental Immunity Act, C.R.S. § 24-10-101, *et seq.*, as amended, or otherwise available to the Town and its officers, attorneys or employees.

IN WITNESS WHEREOF, the Town and Vendor have executed this Agreement as of the Effective Date.

**TOWN OF SUPERIOR, COLORADO**

  
\_\_\_\_\_  
Mark Lachs, Mayor

ATTEST:

  
\_\_\_\_\_  
Lydia Yecke, Town Clerk



**VENDOR**

DocuSigned by:

*Caroline Owen*

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STATE OF COLORADO )  
 ) ss.  
COUNTY OF \_\_\_\_\_ )

Subscribed, sworn to and acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_,  
20\_\_, by \_\_\_\_\_.

My Commission expires: \_\_\_\_\_

(SEAL)

\_\_\_\_\_  
Notary Public

## **EXHIBIT A MATERIALS**

### Children's Park

- Landscape Structures – Smart Play Motion (2-5 yrs)
- Landscape Structures – Toddler Swing Set (2-5 yrs)
- Landscape Structures – Tree Tops (5-12 yrs)
- Landscape Structures – Double Bobble Rider

### Big Sagamore Park

- Landscape Structures – PlayBooster with Peak Rock Climber and Steppers (5-12 yrs)

### Little Sagamore Park

- Landscape Structures – PlayBooster with Pine Tree Toppers and TreeHouse (5-12 yrs)