

## **PURCHASE AGREEMENT**

This Purchase Agreement (the "Agreement"), made this 21<sup>st</sup> day of January, 2020, by and between the Wheaton Park District, an Illinois park district (the "Park District") with its principal place of business at 102 E. Wesley Street, Wheaton, Illinois, and Titan Carter Platform Systems, Inc., a Utah corporation (the "Contractor"), with its principal place of business at 5820 South 4050 West, Roy, UT, 84067, collectively referred to as the "Parties" or individually as "Party."

### **WITNESSETH**

That the Park District and Contractor, for the consideration hereinafter named, agree as follows:

#### **1. Labor and Materials**

The Contractor shall provide all labor, equipment and materials required to complete the following work: furnish and deliver 334 matrix type removable seats and cupholders and trolleys to transport the seats, as more fully described in the Scope of Work in the Bid Documents as defined below (the "Work"), as indicated in Contractor's Proposal, dated December 16, 2019, attached to and incorporated as part of this Agreement as **Exhibit A** (the "Contractor's Proposal").

#### **2. Completion Date**

The Contractor shall provide and deliver all components of the Work not more than 17 weeks after a notice to proceed issued by the Owner. Time is of the essence of this Contract. If the Contractor fails to timely deliver the Work, the Contractor shall be liable for liquidated damages as set forth in Paragraph 3 of the Special Conditions of the Bid Documents.

#### **3. Performance of Work**

Contractor agrees to perform in a good and workmanlike manner and to the best of Contractor's ability, experience, and talents, in accordance with generally-accepted practices in the Greater Chicago area, all of the duties that are described in Contractor's Proposal or as otherwise required by the express and implicit terms of this Agreement, to the satisfaction of the Park District. Contractor's duties may be specified and modified from time to time by the Park District in writing. All equipment and products provided by Contractor shall be new materials of the like and kind specified in the Bid Documents. Defective or damaged equipment will not be accepted and must be replaced repaired to the satisfaction of the Park District.

The Park District reserves the right to evaluate Contractor's performance of the Work, its employees and agents and, in the event such Work or performance are not in conformity with the requirements of this Agreement, as determined by the Park District, the Park District shall have the option to terminate this Agreement in accordance with Section 8 of this Agreement.

Should the Park District reasonably determine that the performance of an employee or contractor of Contractor is inadequate or that said employee's or contractor's continued presence is in any way inconsistent with the policies and practices of the Park District, Contractor shall remove or reassign said employee or contractor immediately upon receipt of notice from the Park District.

Contractor shall not interfere in any way with and shall cooperate fully with other contractors used by Park District for any other work at the Project sites.

Contractor shall not grant rights in or to, or otherwise encumber the Work or any parts of the Work, to, in or by any third parties at any time, that would impair or delay the full exercise by Park District of any of its rights or remedies under the Contract. Clean and unencumbered title to the Work shall be transferred to the Park District upon acceptance of the Work by the Park District. Title to, and the risk of loss, injury or destruction from any casualty to the Work, regardless of cause, will be the responsibility of the Contractor until the Work has been received, inspected and accepted by the Park District.

#### **4. Contract Sum**

The Park District agrees to pay Contractor for the proper and timely performance of the Work in strict accordance with the Agreement for the Term of this Agreement as follows: eighty-four thousand eight hundred eighty-five dollars and no cents (\$84,885.00).

#### **5. Payment**

Payment shall be made by the Park District to the Contractor in full following the Contractor's delivery of the Work, subject to Paragraphs 3, 23 and 24 of this Agreement. Payments of all invoices, and any late payment penalties, shall be governed by the Local Government Prompt Payment Act (50 ILCS 505/1 *et seq.*). Acceptance of final payment by the Contractor, a subcontractor or material supplier shall constitute a waiver of claims by that payee except those previously made in writing and identified by that payee as unsettled at the time of the application for final payment

#### **6. Delivery**

The Contractor shall deliver the Work F.O.B. 1000 Manchester Road, Wheaton, Illinois 60187.

#### **7. Safety of Persons and Property**

- A. The Contractor shall take reasonable precautions for the health and safety of, and shall provide reasonable protection to prevent damage, injury or loss to:
  - 1. employees engaged in the Work and other persons who may be affected thereby;  
and

2. the Work and materials and equipment to be incorporated therein, whether in storage on or off the site, under care, custody or control of the Contractor or the Contractor's Subcontractors or Sub-subcontractors.
- B. The Contractor shall comply with and give notices required by applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities bearing on safety of persons or property or their protection from damage, injury or loss.
- C. The Contractor shall promptly remedy damage and loss to Park District property caused in whole or in part by the Contractor, a Subcontractor, a Sub-subcontractor, or anyone directly or indirectly employed by any of them, or by anyone for whose acts they may be liable and for which the Contractor is responsible, except damage or loss attributable to acts or omissions of the Park District or anyone directly or indirectly employed by Park District, or by anyone for whose acts Park District may be liable, and not attributable to the fault or negligence of the Contractor.

## **8. Termination**

The Park District may terminate this Contract as follows:

- a. Prior to the delivery of the Work, the Park District may, at any time, terminate the Contract in whole or in part for the convenience of the Park District and without cause. Termination by the Park District under this Paragraph shall be by a notice of termination delivered to the Contractor specifying the extent of the termination and the effective date of said termination. Upon receipt of a notice of termination, the Contractor shall immediately, in accordance with instructions from the Park District: (1) cease operation as specified in the notice; (2) place no further orders; (3) enter into no further subcontracts for materials, labors, services or facilities except as necessary to complete continued portions of the Contract; (4) terminate all subcontracts and orders to the extent they relate to the work and services terminated; (5) proceed to complete the performance of work and services not terminated; and (6) take actions that may be necessary or that the Park District may direct, for the protection and preservation of the terminated work and services. In the event of termination for convenience by the Park District, the Contractor shall recover payment for the reasonable, out-of-pocket expenses incurred by Contractor for approved work properly performed by Contractor before the effective date of termination. Contractor shall not be entitled to damages (including, but not limited to lost profits) resulting from termination for convenience under this Paragraph.
- b. If Contractor fails to provide the Work and services as required in the Contract Documents, or otherwise breaches or defaults under any provision of this Contract and does not remedy such failure, breach or default within three

(3) business days after demand from the Park District to take corrective action, or in the event of repeated or multiple failures or defaults by Contractor, the Park District may terminate this Contract and enter into an agreement with another contractor or contractors to provide the Work. In such event, Park District shall not be liable to Contractor for all or any portion of the Contract Sum. Contractor shall be liable to the Park District and shall pay the Park District promptly upon demand the increased cost to the Park District of obtaining the Work from the substitute contractor(s), including, without limitation, the cost of labor and materials associated with the preparation of bid documents, advertising and attorney's fees.

c. If Contractor is adjudged as bankrupt, or if Contractor makes a general assignment for the benefit of Contractor's creditors, or if a receiver is appointed on account of Contractor's insolvency, or if any provision of the bankruptcy law is invoked by or against Contractor, then notwithstanding any other rights or remedies granted the Park District, the Park District may, without prejudice to any other right or remedy, (i) immediately terminate the retention of Contractor and/or (ii) finish or cause to be finished the Contractor's services required under this Contract by whatever method and by whichever persons the Park District deems expedient. In such case, Contractor shall not be entitled to receive any payment until the work and/or services are completed. If the unpaid balance of the Contract Sum exceeds: (1) the expenses of completing the work and/or services, including compensation for additional managerial and administrative services, plus (2) the Park District's losses and damages because of Contractor's default (collectively "Park District Expenses and Damages"), such excess shall be paid to Contractor. If the Park District Expenses and Damages exceed such unpaid balance, Contractor shall pay the difference to the Park District promptly on demand and the Park District may resort to any other rights or remedies the Park District may have by law or under this Contract.

## **9. Insurance**

Contractor will procure and maintain during the Term the insurance coverages provided in **Exhibit B**, attached to and incorporated by this reference in this Agreement, or such other insurance coverages as shall be required by the Park District's insurer or the risk management agency of which the Park District is a member.

## **10. Indemnification**

To the fullest extent permitted by law, the Contractor shall defend with counsel acceptable to the Park District, indemnify and hold harmless the Park District and its officers, officials, employees, volunteers and agents from and against all claims, damages, losses and expenses, including but not limited to legal fees (attorney's and paralegals' fees and court costs), arising out of or resulting from the performance of the Contractor's obligations pursuant to this

Agreement, provided that any such claim, damage, loss or expense (i) is attributable to bodily injury, sickness, disease or death, or injury to or destruction of tangible property, including the loss of use resulting therefrom and (ii) arises in whole or in part out of any act or omission by the Contractor, any subcontractor, and anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable. Such obligation shall not be construed to negate, abridge, or otherwise reduce any other right or obligation of indemnity which would otherwise exist as to any party or person described in this Paragraph. Contractor shall similarly defend with counsel acceptable to the Park District, protect, indemnify and hold and save harmless the Park District's officers, officials, employees, volunteers and agents against and from any and all claims, costs, causes, actions and expenses including but not limited to legal fees, incurred by reason of breach of any of their obligations under, or default of, any provision of the Agreement. Contractor's obligations under this Section shall survive the termination of the Contract.

#### **11. No Liability**

The Park District is not responsible or liable for any injury, damages, loss or costs sustained or incurred by any person including, without limitation Contractor's employees, or for any damage to, destruction, theft or misappropriation of any property, relating in any way, directly or indirectly, to Contractor's Services and obligations under this Agreement. The Park District is not liable for acts or omissions of Contractor or any of Contractor's employees, contractor's, agents or other persons purporting to act at the direction or request, on behalf, or with the implied or actual consent, of Contractor.

#### **12. Compliance with Laws and Permits**

Contractor shall comply with all applicable local, state and federal codes, laws, ordinances, rules and regulations. Contractor shall be licensed and bonded to perform the Work hereunder and shall, at its sole cost and obligation, be responsible for obtaining all permits required to perform its duties under this Agreement. Any breach by Contractor of the foregoing laws, regulations and rules shall constitute a breach by Contractor of this Agreement. Contractor's Compliance and Certification Attachment is attached to and incorporated as **Exhibit C** to this Agreement.

#### **13. Choice of Law and Venue**

This Agreement is governed by the laws of the State of Illinois. Any suit or action regarding or arising under this Agreement shall be commenced in the Circuit Court of DuPage County, Illinois, but only after exhausting all possible administrative remedies, and the parties expressly agree to the jurisdiction of said court and proper venue in said court. In any suit or action arising under this Agreement, the prevailing party shall be entitled to an award of reasonable attorneys' fees and costs of litigation. Contractor, its successors or assigns shall maintain no suit or action against the Park District on any claim based upon or arising out of this Agreement or out of anything done in connection with this Agreement unless such action shall be commenced within one year of the termination of this Agreement. Contractor acknowledges

that each provision of this Agreement is important and material to the business and success of the Park District, and agrees that any breach of any provision of this Agreement is a material breach of the Agreement and may be cause for immediate termination of this Agreement. In the event of a breach, Contractor shall also pay to the Park District all damages (including, but not limited to, compensatory, incidental, consequential, and punitive), which arise from the breach, together with interest, costs, and the Park District's reasonable attorneys' fees.

**14. No Third Party Beneficiary**

This Agreement is entered into solely for the benefit of the contracting Parties, and nothing in this Agreement is intended, either expressly or impliedly, to provide any right or benefit of any kind whatsoever to any person and/or entity who is not a party to this Agreement or to acknowledge, establish or impose any legal duty to any third party. Nothing herein shall be construed as an express and/or implied waiver of any common law and/or statutory immunities and/or privileges of the Park District and/or Contractor, and/or any of their respective officials, officers and/or employees.

**15. No Waiver**

Waiver of any of the terms of this Agreement shall not be valid unless it is in writing and signed by all Parties. The failure of claimant to enforce the provisions of this Agreement or require performance by opponent of any of the provisions, shall not be construed as a waiver of such provisions or affect the right of claimant to thereafter enforce the provisions of this Agreement. Waiver of any breach of this Agreement shall not be held to be a waiver of any other or subsequent breach of the Agreement.

**16. Independent Contractor**

Contractor acknowledges that it is an independent contractor; that it alone retains control of the manner of conducting its activities in furtherance of this Agreement; that it, as well as any persons or agents as it may employ, are not employees of the Park District; and that neither this Agreement, nor the administration thereof, shall operate to render or deem either Party hereto the agent or employee of the other.

**17. Non-Assignment**

This Agreement is non-assignable in whole or in part by the Contractor, and any assignment shall be void without prior written consent of the Park District.

**18. Notices**

All notices required or permitted to be given under this Agreement shall be deemed given when such notice is hand delivered; or when such notice is sent by facsimile transmission provided such transmission together with fax machine generated confirmation of such transmission is

also sent on the transmission date to the other Party by United States mail, with postage therewith prepaid; or when such notice is deposited in the United States mail, with postage thereon prepaid, addressed to the other party at the following addresses:

If to Park District:           Wheaton Park District  
  102 E. Wesley Street  
  Wheaton, IL 60187  
  (Fax) 630-665-5880  
  Attention: Executive Director

If to Contractor:           Titan Carter Platform Systems, Inc.  
  5820 South 4050 West  
  Roy, UT 84067  
  
  Attention:    Walter Dalla Riva  
  (207) 652-2864 office  
  (905) 31-6712 mobile

**19. Entire Agreement; No Amendment**

This Agreement contains the entire agreement between the Parties, and no statement, promise or inducement made by either Party to the agency of either Party that is not contained in this written Agreement shall be valid or binding. No modification of this Agreement shall be effective unless in writing dated a date subsequent to the date of this Agreement and signed by an authorized representative of each Party.

**20. Headings**

The headings for each paragraph of this Agreement are for convenience and reference purposes only and in no way define, limit or describe the scope or intent of said paragraphs or of this Agreement nor in any way affect this Agreement.

**21. Severability**

The invalidity of any section, paragraph or subparagraph of this Agreement shall not impair the validity of any other section, paragraph or subparagraph. If any provision of this Agreement is determined to be unenforceable, such provision shall be deemed severable and the Agreement may be enforced with such provision severed or as modified by such court.

## **22. Warranties**

The Contractor warrants to the Park District that the items furnished under the Contract will be of the best quality and new, will be free from defects and deficiencies, and will conform to the requirements of the Contract Documents. Items not conforming to these requirements, including substitutions not properly approved and authorized, may be considered defective. Any such defects must be corrected, either through repair or replacement, at Contractor's expense.

Contractor guarantees the standard manufacturer's warranty and shall provide the Park District with two (2) copies of any such warranty. Liability or refusal of a subcontractor responsible for the defective item to correct the same shall not excuse the Contractor from performing under the warranty. If required by the Park District, the Contractor shall furnish satisfactory evidence as to the kind and quality of the item.

All warranties shall include labor and materials and shall be signed by the manufacturer or subcontractor as the case may be, countersigned by the Contractor and delivered to the Park District upon delivery of the Work. Any warranties issued in Contractor's name shall be assigned to the Park District.

Warranty shall become effective upon the Park District's final acceptance of the Work and shall run for a twelve month period, or longer, as provided by the manufacturer or as required by law. Final acceptance shall occur only after the Work has been delivered, inspected and accepted by the Park District. No warranty herein shall be deemed waived upon Park District's inspection and acceptance of delivery of the Work.

## **23. Acceptance and Rejection**

The Park District will have the right to inspect the Work upon receipt and to reject the nonconforming or damaged items within ten (10) business days after delivery. The Park District will give notice to Contractor of any rejection of the Work or claim for damages on account of condition, quality or grade of the Work.

Neither inspection nor acceptance by the Park District shall act as Park District's acceptance of any defects or deficiencies in the Work or the failure of the Work to conform to the requirements of the Contract Documents and shall not act as a waiver of any rights Park District has with respect to such defects, deficiencies or failure, including rights under any warranty.

## **24. Waiver of Liens**

Contractor for itself and for all its sub-suppliers and subcontractors, agrees that no mechanic's lien or other claim shall be filed or maintained by Contractor or by any sub-supplier, subcontractor, laborer or any other person, whatsoever, against the Park District's funds for or on account of the Work furnished under this Contract. Prior to the payment of the Contract

Sum, Contractor shall provide: a) for any payment other than final payment for the Work, a partial waiver of lien from Contractor and each sub-supplier and subcontractor reflecting any partial payouts, and for final payment, a final waiver of lien from Contractor and each sub-supplier and sub-contractor for the full amount of each subcontract providing services under this Contract, showing all materials and labor have been paid in full; and b) sworn affidavit, in triplicate, containing such information and in such form to comply with the Illinois Mechanics Lien Act (770 ILCS 60/001 et seq.), showing in detail the sources of all labor and materials used in performance of this Contract, including the names and addresses of sub-suppliers and subcontractors and showing amounts paid for each.

Final payment shall not become due until the Contractor has met Final Completion, including but not limited to delivery of all manufacturer's and supplier's warranties, and has delivered to the Park District a complete release of all liens arising out of this Contract or receipts in full covering all labor, materials and Work for which a lien could be filed, or a bond satisfactory to the Park District to indemnify the Park District against such lien. If such lien remains unsatisfied after payments are made, the Contractor shall refund to the Park District all money that the Park District may be compelled to pay in discharging such lien, including costs and reasonable attorneys' fees.

**25. Tax Exemption**

The Park District is exempt from the Illinois Retailer's Occupational Tax, the Illinois Use Tax and the Federal Excise Tax as an exempt entity under the Internal Revenue Code. The Park District's tax exemption identification number is E9997-3936-07.


**26. Contract Documents**

The Contract Documents consist of this Contract between the Park District and the Contractor, the Invitation to Bid, Instructions to Bidders, General and Special Conditions, Supplementary Conditions, Contractors Compliance and Certifications Attachment, and Substance Abuse Certification, Insurance Requirements, and Specifications dated December 4, 2019 (the "Bid Documents"), attached to and incorporated as part of this Contract by reference, the Contractor's Proposal, dated December 16, 2019, attached to and incorporated as part of this Contract as Exhibit A, and any addenda issued prior to the execution of this Contract and any modifications issued after the execution of this Contract. Modifications to this Contract may only be made in writing and endorsed by the Parties. All of the terms, conditions and specifications contained in the Bid Documents are incorporated herein.

[THIS SECTION INTIONALLY LEFT BLANK]

IN WITNESS WHERE OF the Parties hereto have set their respective hands and seals the day and year first above written.

**WHEATON PARK DISTRICT**

By:   
\_\_\_\_\_  
Michael J. Bernard, Executive Director

Attest:

By:

\_\_\_\_\_

**CONTRACTOR**

By:

  
\_\_\_\_\_

Attest:

By:

**EXHIBIT A**  
**CONTRACTOR'S PROPOSAL**



December 16, 2019

Wheaton Theater  
1000 Manchester Road  
Wheaton, IL  
Attn: Steve Hinchee

Dear Steve,

Herein is Titan Carter's proposal to deliver removable/portable seating based on those products manufactured by Audience Systems Limited (ASL) and in compliance with ICC 300, NFPA 102 and ADA Compliance. Our bid is based on specifications and drawings provided in the **Memorial Park Bandshell Seating Project** by Steve Hinchee on December 4<sup>th</sup> 2019.

As a global firm, Audience Systems Limited has installations worldwide. With over 45 years' experience, ASL provided retractable platforms for multipurpose areas, and compatible seating (matching construction) for fixed and event floor. Each proposal is developed to maximize multi-purpose / multi-venue objectives. Titan Carter manages the activities of Audience Systems for the USA. The Titan Carter organization provides the total infrastructure to support architects / designers, owners, and contractors. Particularly important to you are our experience in installation and follow on services.

I trust that we have interpreted the requirements correctly and look forward to receiving your further instructions.

## Product Specification

### ***Zenith***



Chair shown on the left is tread fixed model with arms, chair shown on the right is Matrix type with no arms

<b>General description</b>	<p>The ergonomically contoured Zenith chair is constructed from blow moulded, UV stabilised, high density polyethylene.</p> <p>The double skinned seat and back provide comfort, lightness, durability, and exceptional strength</p>
<b>Standards compliance</b>	<p><b>Strength and stability</b></p> <p>The Zenith chair satisfies the requirements of BS EN 12727 at Grade 4 (severe). <b>This is the highest level of test of the standard and we recommend that only a Grade 4 chair be used in demanding environments such as schools, colleges, theatres, arenas and sports venues.</b></p> <p><b>Flammability</b></p> <p>Standard Zenith mouldings have been tested and certified to BS 5852, ignition sources 0 and 1.</p>
<b>Type</b>	<p><b>Matrix</b></p> <p>Removable system for flat floors, with chairs to be mounted on beams in groups of two or three. To assemble the seating, removable bars are laid out on the floor and groups of chairs slotted into them. No floor fixings are necessary.</p>
<b>Chair width</b>	500mm (19 ½") between seat centres.
<b>Tip-up mechanism</b>	Automatic seat tipping mechanism using a spring.
<b>Seat and back</b>	<p>To consist of double skinned, blow moulded, UV stabilised, high density polyethylene. Colour to be chosen from Jet Black (RAL 9005), Window Grey (RAL 7040), Light Grey (RAL 7035), Signal White (RAL 9003), Brilliant Blue (RAL 5007), Ultramarine blue (RAL 5002), Traffic Green (RAL 6024), Traffic Yellow (RAL 1023), Bright Red Orange (RAL 2008) or Pure Red (RAL 3028).</p> <p><i>Minimum order quantity of 300 chairs per colour / chair width applies.</i></p>



**Steelwork** All steelwork to have a powder coated finish, colour RAL 9006 silver grey.  
Plastic fittings, end caps and fastenings to match.

**Seat numbers** Included – positioning as per specs, to be on bottom of seat. Can also be included on back as show.



**Row letters** Included.

**Trolleys** To be supplied with 9 trolleys for storage and transportation of matrix chairs and floor bars.



**Cup Holders** Rear mounted cup holders included.



**PRICING:**

To provide Flat Floor Seating.

**334 Zenith matrix chairs - Total Price \$84,885.00**

**Notes:**

Please read the following notes carefully, as some of the conditions mentioned here may affect the price or lead time for your system.

***Delivery Information***

The date for commencement of collection of product is to be mutually agreed prior to receipt of order, and will assume the following:

- The final specification is agreed both by you and by Titan Carter.
- Any drawings receive prompt written approval from you.
- You have made any required selections of fabrics or colours.
- Any required payment terms and credit references are in place.
- Any required deposit payment has been received.
- Our manufacturing schedule will still accommodate your order at the time when your order is placed.

Please note that until all outstanding information is received, the manufacturing process cannot commence, and availability of goods may be delayed.

We require a minimum of twelve weeks' notice to alter the agreed collection date, with a view to avoiding the need to charge storage costs for fabricated materials. A revised collection date must then be agreed in accordance with Audience Systems' manufacturing schedule. If the required collection date changes within twelve weeks of the agreed collection date, for reasons beyond our control, Titan Carter reserves the right to charge for any additional costs incurred. Payment will become due in accordance with the agreed payment terms, based on the original despatch date.

To minimise any disruption, we ask that we are included on the build schedule and issued with any updates so that we can accommodate any changes at the earliest possible time. We also require soft copies of the architect's drawings for the build area, and of the overall site for delivery purposes.

***Shipment***

We estimate that 1no. 40ft container will be required to ship the product. This estimate will be subject to final confirmation prior to collection, following manufacture of the product.

***Floor Compatibility***

Please read the following conditions carefully, as they may affect the prices quoted above.

- It is essential that no underfloor services or heating elements are present in the fixing zone, as it will not be possible to affix and subsequently commission the product. If applicable, details must be provided at tender stage to allow us the opportunity to assist with a possible solution.
- Tread and riser fixed seating is designed to be affixed to flat, level and smooth hard floors/risers, and requires a substrate that can resist a pull out load of up to 10KN per fixing (Audience Systems can supply guidance on this issue if required).

**Titan Carter Platform Systems Inc.**

**[www.titancarter.com](http://www.titancarter.com)**

- The product can only follow the contours of the structure and subsequently any deviations will be reflected in the completed installation (possibly with detrimental effect). It may be possible to accommodate slight variations of the structure by shimming. Please contact our sales department for a quotation for this variation.

#### ***Layout / Specification***

- While every effort has been made to ensure our products and the proposed layout comply with the relevant local authority's requirements, Titan Carter cannot accept responsibility for gaining approvals from Building Control / Licensing and Fire departments. However, Audience Systems' Technical Department would be happy to provide full assistance in obtaining the necessary approvals.
- Unless noted otherwise, our seating and retractable units comply with British Standards of design, construction and fire retardance as stated on our product data sheets.

#### ***Conditions of Sale***

In placing your order, we assume that you have read and understood our conditions of sale.



JOB NAME	Location	Project Name & Description	Architect	General Contractor	COST	% complete	DATE COMPLETED
<i>Friends Seminary School</i>	New York City, NY 222 E 16th Street	Friends Seminary School TX Telescopic Platform w/ Corus Bench	Kilment Halsband Architects Ph: 212-921-7400	Tishman Construction Corp Ph: 212-921-9510	\$167,802.00	99%	2019-12-30
<i>George Mason University</i>	Manassas, VA 10964 George Mason Circle	George Mason University TX Telescopic Platform w/ 135 Espace Chairs	Cho Benn Holback & Associates Ph: 410-576-0440	James G. Davis Construction Corp Ph: 301-881-2990	\$162,831.00	99%	2019-12-30
<i>Fayetteville Library</i>	Fayetteville, AR 401 West Mountain Street	Fayetteville Public Library TX Telescopic Platform w/ 560 Espace Chairs	MSR Design Ph: 612-375-0336	N/A	\$365,000.00	0%	2020-02-02
<i>Plano ISD Fine Arts</i>	Plano, TX 1900 Alma Road	Plano Independent School District TX Telescopic Platform w/ 153 Espace Chairs	Perkins + Will Ph: 214-283-8700	McCarthy Building Companies Inc. Ph: 469-673-4927	\$182,007.00	10%	2020-09-15
<i>Center For the Arts Grass Valley</i>	Grass Valley, CA 314 West Main Street	Center for the Arts at Grass Valley TX Telescopic Platform w/ 203 Espace + 251 Matrix	N/A	Northern California Theatre Company Ph: 530-274-8384	\$313,248.00	80%	2019-12-22
<i>University of Central Missouri</i>	Warrensburg, MO 108 West South Street	University of Central Missouri TX Telescopic Platform w/ 280 Espace + 22 Matrix	KWK Architects Ph: 314-942-8810	Westport Construction Co. Ph: 626-447-2448	\$317,525.00	70%	2020-01-20
<i>Northwestern University</i>	Chicago, IL 710 N Lake Shore Drive	Abbott Hall - Northwestern University TX Telescopic Platform w/ 80 Espace + 22 Matrix	HOLABIRD AND ROOT LLC Ph: 312-357-1771	NORCON, INC 312-715-9200	\$168,405.00	50%	2020-03-15
<i>John &amp; Judy Gay Library</i>	McKinney, TX 6861 Eldorado Pkwy	John and Judy Gay Public Library TX Telescopic Platform w/ 58 Espace Chairs	HIDELL AND ASSOCIATES ARCHITECTS Ph: 972-416-4666	POGUE Construction Ph: 972-529-9401	\$104,220.00	60%	2020-02-28
<i>UAE Mission to the United Nations</i>	New York City, NY 315 East 46th Street	UAE Mission to the United Nations TX Telescopic Platform w/ 56 Espace + 13 Matrix	SOM   SKIDMORE, OWINGS & MERRILL LLP Ph: 212-298-9300	Plaza Construction Ph: 212-849-4800	\$144,079.00	60%	2020-03-05
<i>AT&amp;T Headquarters - Dallas</i>	Dallas, TX 208 Sh Akard Street Ste 110	AT&T Headquarters USA 183 Quinette Fixed Chairs	Gensler Architects - Dallas Ph: 214-273-1500	Beck Construction Ph: 214-303-6200	\$125,000.00	0%	2020-08-01



December 12<sup>th</sup>, 2019

WHEATON PARK DISTRICT  
1000 MANCHESTER ROAD  
WHEATON, IL 60187

RE: MEMORIAL Park Bandshell Seating Project  
Bond Letter  
Titan Carter Platform Systems, Inc.

We at Smith Manus have the highest regard for Titan Carter Platform Systems, Inc. and are proud to be associated with their projects. Titan Carter Platform Systems, Inc. is a valued surety client of Smith Manus and Lexon Insurance Company. We have had the pleasure to bond them for the past three years.

Lexon Insurance Company is listed in the U.S. Department of the Treasury's acceptance report and an AM Best Rating of A+. Based on Titan Carter Platform Systems, Inc. track record of performance and strong financial position, we highly recommend them.

We understand that Titan Carter Platform Systems, Inc. is bidding on a project December 18<sup>th</sup>, 2019. If performance and payment bonds are required for this project, we are prepared to provide the bonds on their behalf. Our support is conditioned upon the satisfactory completion of the underwriting process, including the review of contract documents, bond forms and all other pertinent underwriting factors and our on-going review of the operational and financial capacity of Titan Carter Platform Systems, Inc.

At all times the Surety Company has the sole right to approve or decline to write any bid and/or performance bond for our client.

At this time and based on their track record of performance and capabilities, we have no reservation in offering our highest recommendation for Titan Carter Platform Systems, Inc., to you.

If we can provide any additional information or answer any questions, please feel free to contact us.

Yours very truly,

A handwritten signature in dark ink, appearing to read 'M. Lacrosse'.

Michele D. Lacrosse  
Attorney-In-Fact  
Lexon Insurance Company

8040 E Morgan Trail, Suite 1, Scottsdale, AZ 85258  
Phone: 480.949.6871



# POWER OF ATTORNEY

KNOW ALL BY THESE PRESENTS, that Endurance Assurance Corporation, a Delaware corporation, Endurance American Insurance Company, a Delaware corporation, Lexon Insurance Company, a Texas corporation, and/or Bond Safeguard Insurance Company, a South Dakota corporation, each, a "Company" and collectively, "Sompo International," do hereby constitute and appoint: Michele Lacrosse, Summer Betting as true and lawful Attorney(s)-in-Fact to make, execute, seal, and deliver for, and on its behalf as surety or co-surety; bonds and undertakings given for any and all purposes, also to execute and deliver on its behalf as aforesaid renewals, extensions, agreements, waivers, consents or stipulations relating to such bonds or undertakings provided, however, that no single bond or undertaking so made, executed and delivered shall obligate the Company for any portion of the penal sum thereof in excess of the sum of Ten Million Dollars (\$10,000,000.00).





Such bonds and undertakings for said purposes, when duly executed by said attorney(s)-in-fact, shall be binding upon the Company as fully and to the same extent as if signed by the President of the Company under its corporate seal attested by its Corporate Secretary.

This appointment is made under and by authority of certain resolutions adopted by the sole shareholder of each Company by unanimous written consent effective the 15<sup>th</sup> day of June, 2019, a copy of which appears below under the heading entitled "Certificate".

This Power of Attorney is signed and sealed by facsimile under and by authority of the following resolution adopted by the sole shareholder of each Company by unanimous written consent effective the 15<sup>th</sup> day of June, 2019 and said resolution has not since been revoked, amended or repealed:

RESOLVED, that the signature of an individual named above and the seal of the Company may be affixed to any such power of attorney or any certificate relating thereto by facsimile, and any such power of attorney or certificate bearing such facsimile signature or seal shall be valid and binding upon the Company in the future with respect to any bond or undertaking to which it is attached.

IN WITNESS WHEREOF, each Company has caused this instrument to be signed by the following officers, and its corporate seal to be affixed this 15<sup>th</sup> day of June, 2019.

<p>Endurance Assurance Corporation</p> <p>By: <i>Richard M Appel</i></p> <p>Richard Appel; SVP &amp; Senior Counsel</p> 	<p>Endurance American Insurance Company</p> <p>By: <i>Richard M Appel</i></p> <p>Richard Appel; SVP &amp; Senior Counsel</p> 	<p>Lexon Insurance Company</p> <p>By: <i>Richard M Appel</i></p> <p>Richard Appel; SVP &amp; Senior Counsel</p> 	<p>Bond Safeguard Insurance Company</p> <p>By: <i>Richard M Appel</i></p> <p>Richard Appel; SVP &amp; Senior Counsel</p> 
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## ACKNOWLEDGEMENT

On this 15<sup>th</sup> day of June, 2019, before me, personally came the above signatories known to me, who being duly sworn, did depose and say that he/she is an officer of each of the Companies; and that he executed said instrument on behalf of each Company by authority of his office under the by-laws of each Company.

By: *Amy Taylor*

Amy Taylor, Notary Public - My Commission Expires 5/9/23

## CERTIFICATE

I, the undersigned Officer of each Company, DO HEREBY CERTIFY that:

1. That the original power of attorney of which the foregoing is a copy was duly executed on behalf of each Company and has not since been revoked, amended or modified; that the undersigned has compared the foregoing copy thereof with the original power of attorney, and that the same is a true and correct copy of the original power of attorney and of the whole thereof;
2. The following are resolutions which were adopted by the sole shareholder of each Company by unanimous written consent effective June 15, 2019 and said resolutions have not since been revoked, amended or modified:

\*RESOLVED, that each of the individuals named below is authorized to make, execute, seal and deliver for and on behalf of the Company any and all bonds, undertakings or obligations in surety or co-surety with others: RICHARD M. APPEL, BRIAN J. BEGGS, CHRISTOPHER DONELAN, SHARON L. SIMS, CHRISTOPHER L. SPARRO, MARIANNE L. WILBERT

; and be it further

RESOLVED, that each of the individuals named above is authorized to appoint attorneys-in-fact for the purpose of making, executing, sealing and delivering bonds, undertakings or obligations in surety or co-surety for and on behalf of the Company."

3. The undersigned further certifies that the above resolutions are true and correct copies of the resolutions as so recorded and of the whole thereof.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the corporate seal this 12<sup>th</sup> day of December, 2019

By: *Daniel S. Lurie*

Daniel S. Lurie, Secretary

## NOTICE: U. S. TREASURY DEPARTMENT'S OFFICE OF FOREIGN ASSETS CONTROL (OFAC)

No coverage is provided by this Notice nor can it be construed to replace any provisions of any surety bond or other surety coverage provided. This Notice provides information concerning possible impact on your surety coverage due to directives issued by OFAC. Please read this Notice carefully.

The Office of Foreign Assets Control (OFAC) administers and enforces sanctions policy, based on Presidential declarations of "national emergency". OFAC has identified and listed numerous foreign agents, front organizations, terrorists, terrorist organizations, and narcotics traffickers as "Specially Designated Nationals and Blocked Persons". This list can be located on the United States Treasury's website - <https://www.treasury.gov/resource-center/sanctions/SDN-List>.

In accordance with OFAC regulations, if it is determined that you or any other person or entity claiming the benefits of any coverage has violated U.S. sanctions law or is a Specially Designated National and Blocked Person, as identified by OFAC, any coverage will be considered a blocked or frozen contract and all provisions of any coverage provided are immediately subject to OFAC. When a surety bond or other form of surety coverage is considered to be such a blocked or frozen contract, no payments nor premium refunds may be made without authorization from OFAC. Other limitations on the premiums and payments may also apply.

Any reproductions are void.

Surety Claims Submission: [LexonClaimAdministration@sompo-intl.com](mailto:LexonClaimAdministration@sompo-intl.com)

Telephone: 615-553-9500 Mailing Address: Sompo International; 12890 Lebanon Road; Mount Juliet, TN 37122-2870



## **Health & Safety Policy Statement**

At **Titan Carter**, we believe that Health and Safety for our workers is an integral aspect of our business. It is with this intention that we have developed this statement. Our business promotes employees, sub-contractors, suppliers, consultants and all those connected to our construction workplaces to abide by safety principles and practices in order to make each and every day a safe one.

In order to promote workplace safety and to prevent accidents, **Titan Carter** will continue to commit to the following:

1. Promote Health & Safety awareness, training and education.
2. Work closely with Health & Safety professionals in the prevention of accidents.
3. Encourage a pro-active approach to all Health & Safety issues.
4. Monitor the workplace conditions and implement corrective measures where required.
5. Consider legislative Health & Safety requirements as the minimum.
6. Require that sub-contractors commit to the above.

Performing our work safely and ensuring that our actions do not result in accidents or create unsafe conditions, requires knowledge of potential hazards, preplanning, thought and individual responsibility. **It is our expectation that all those associated with Titan Carter will be "BE AWARE, THINK AHEAD AND BE SAFE!"**

Titan Carter will continue to strive for the prevention of workplace accidents. It is our hope that all those working at the workplace conduct themselves according to the detail and intent of this Health & Safety Policy Statement.

Walter Dalla Riva  
President



## **Health & Safety Policy**

It should be noted that while it is not possible to encompass every conceivable safety issue or possible injury, this document is to be used as a guideline for Titan Carter employees and affiliates. By following these policies, it is Titan Carter's intention to promote the Health & Safety of all those on the jobsite.

### **Titan Carter shall ensure that:**

- 1) Measures and procedures required by the Occupational Safety & Health Act are carried out.
- 2) Employees and contractors comply with the O.S.H. A. and regulations.
- 3) The Health & Safety of everyone is protected to the policy and procedures set out in this document.

### **Supervisors, Superintendents and Foremen shall ensure that:**

- 1) Employees and contractors work in a manner with the protective devices, measures and procedures required by the O.S.H.A. and regulations.
- 2) Employees and contractors use or wear the equipment, protective devices or clothing that the employer requires.
- 3) The Health & Safety of everyone is protected by adhering to the policy and procedures set out in this document.
- 4) All accidents reported are properly investigated and recorded.

### **Workers and Sub-Contractors Shall:**

- 1) Work in compliance with the provisions of the O.S.H.A. and regulations.
- 2) Use or wear the equipment, protective devices, or clothing that the employer requires.
- 3) Report to the employer or supervisor any problems with equipment which may endanger personnel.
- 4) Report to the employer or supervisor any contravention of the O.S.H.A., regulations or any hazard to the job.
- 5) Never work in a manner that may endanger anyone.
- 6) Never engage in any prank, contest, feat of strength, unnecessary running or rough and boisterous conduct on the project.
- 7) Not use or be under the influence of alcohol or non-prescribed drugs while on any job site or while in control of a company vehicle or piece of equipment.
- 8) When in doubt ask for information or direction from the supervisor.
- 9) Report all accidents no matter how minor.
- 10) Wear only prescribed ear protection and no stereo equipment shall be allowed (i.e. iPods, mp3's)



### **Personal Protective Equipment:**

1. Every worker shall wear an O.S.H.A. approved safety hat at all times.
2. Every worker shall wear O.S.H.A. approved safety boots with heavy duty toe and sole protection. Badly worn or damaged work boots should be replaced.
3. Eye protection should be worn where there is a danger from chipping, sawing, grinding, cutting, welding, crushing, flying particles, dust or when using acid and/or toxic fluids.
4. Gloves must be worn when handling sharp edged mesh, or when there is a chance of being cut.
5. Hearing protection must be worn where applicable, as continuous exposure to excessive noise from certain construction activities may lead to hearing loss.

### **Equipment Operation:**

1. When operating a company vehicle, you are required to be the holder of a valid driver license; to know and obey all traffic regulations and to observe all the rules of safe driving. Become familiar with the operation of any vehicle assigned to you. Keep your vehicle properly serviced and report unsafe conditions. Be sure to have them corrected at once.
2. All vehicle and equipment operators are responsible for walking around their vehicle or equipment before starting it in order to ensure that there are no obstructions/obstacles. When starting up, sound warning.
3. All operators must ensure that their path is clear before backing up the vehicle or equipment. A signal person should always be used when the view is obstructed or when the equipment is driven in an area where the operator or other persons may be endangered.
4. Always be alert when operating equipment around overhead hydro lines.
5. Before mounting equipment, ensure that your boot soles are clean to avoid slips and falls. Climb up and down equipment maintaining 3-point contact at all times.
6. All mounting facilities must be maintained in a safe and clean condition. It is the responsibility of all operators to ensure that their equipment is in safe working order at all times and that all problems are reported and acted on immediately.
7. Mechanical problems are to be reported immediately to a supervisor.
8. Only company employees may be carried as passengers in company van.

Note: Operating vehicles/equipment in a careless or dangerous manner will be grounds for suspension without pay and could be cause for dismissal.

### **Traffic:**

1. All speed limits must be obeyed.
2. All street, railroad stops and warning signs must be obeyed.
3. Passengers must never leave or board a vehicle in motion.
4. Vehicles parked on job site must be left with the engine shut off.
5. Vehicle drivers must check clearance and access way when parking, backing up and negotiating turns.
6. All company vehicle accidents must be reported to the company.



### **Compressed Air:**

1. Eye protection must be worn when using compressed air.
2. Never, under any circumstances, use compressed air to clean your clothes or any part of your body.

### **Equipment and Tools:**

1. Keep tools, equipment and materials orderly.
2. Never use tools or equipment with defective or worn parts.
3. Tools with "mushroomed" heads are dangerous and must be replaced or reground.
4. Do not carry shape-edged or pointed tools in your pockets.
5. All portable power tools must be equipped with a 3-pronged wire cable and be properly grounded or be an approved double-insulated type.
6. Do not drop or throw tools or other materials from any height.
7. Never block, leave open, or otherwise render inoperative any protective guard devices.
8. If you think a guard is unsafe, or find a dangerous machine without guards, notify your foreman or supervisor.
9. Never use power tools in areas where there may be exposure to flammable gasses.
10. Inspect power cords for damage or knots as this may cause short circuits or electrical shock.
11. Always disconnect an electrical tool from a power source before adjustments or changing attachments. Before any electric tool is connected to a power source, the switch on the tool must be off.

### **Refueling and Servicing Equipment:**

1. Oiling and servicing shall be done only when the equipment is off.
2. Smoking and other sources of ignition shall be extinguished prior to refueling.
3. If a spill occurs, your immediate supervisor should be notified in order give instruction.

### **Cutting:**

1. Cutting equipment should only be used by authorized personnel and all required personal protective equipment should be used.
2. Only equipment in good condition should be used.
3. Adequate ventilation must be provided.

### **Ladders:**

1. Ladders with any defects should never be used and should be replaced. They should be equipped with safety feet in good condition and be placed on a firm surface.
2. The base of the ladder should be placed approximately 25% of its length away from the base of the structure to be mounted.
3. Make sure that the ladder is long enough for the job. If not, take the time to get on that is. A worker should never stand on a run higher than the second from the top.
4. Ladders longer than 12 feet should be carried by two men. When carrying a short ladder, raise the front end to prevent striking someone in front of you.



5. Do not reach. You should not reach more than one arm's length in either direction. If necessary move the ladder.
6. You should not reach more than one arm's length in either direction. If necessary, move the ladder.
7. Nothing should be carried in the hand while climbing a ladder. Materials should be hoisted after reaching the top.
8. Always face the ladder when climbing or descending.
9. Step ladders should always be properly locked and the top step and pail shelf should not be used.
10. All ladders erected between levels must be securely fastened, extended three feet above the top landing and afford clear access at top and bottom.

#### **Housekeeping:**

1. Shops, yards, plants, jobsites and work areas shall be kept neat and orderly at all times.
2. You are responsible for the housekeeping in all your work areas. Keep it neat and clean at all times as well as free from oil or anything that may cause a person to fall.
3. Aisles and passageways must be kept clear and clean.
4. Clean up all oil, grease, water and other slipping or stumbling hazard immediately.
5. Dispose of all waste in proper containers.
6. Properly store or put away all tools and equipment when finished using them or at the end of your day.

#### **First Aid Kit**

Every employer is required to have at least one First Aid Kit in accordance with the Workplace Safety and Insurance Act. You should know where the First Aid Kit is located.

#### **Fire Protection**

Prevention is the best way to fight a fire. In the event of a fire every employee should know what to do. Always be aware of where the fire protection is located and know how to operate it. Also, be aware of a safe way to evacuate the area if it becomes necessary.

#### **Designated Substances**

The Ministry of Labor has special regulations for many hazardous substances in the work place such as silica, lead, asbestos, etc. Special reference should be made to these "Designated Substance Regulations".

#### **Workplace Hazardous Materials Information System (WHMIS):**

1. All hazardous materials found in the workplace must be identified in accordance with the (WHMIS) requirement of the O.S.H.A.
2. Material Safety Data Sheets will be provided and maintained in each office and workplace, to assist all employees in how to handle, store and dispose of these materials.



3. All employees who work with or in close proximity to hazardous materials must have formal training under the WHMIS regulations.

#### **Workplace Safety and Insurance Act:**

Essentially all employees are covered by the Workers Compensation. The Act provides protection for workers injured in an accident on the job or for certain job related industrial diseases. The reporting of an accident does not automatically make it a valid claim. The WSIB reserves the right to reject any claim.

#### **Sub-Contractors:**

The safety practices of this company shall apply to all employees of other companies working or performing their duties in association with Titan Carter.

#### **IF INJURY OCCURS:**

**The Occupational Safety and Health Act States that in all Cases of Injury the Employer Shall:**

1. Make sure that first aid is given immediately, in accordance with the Regulations.
2. Record the first aid treatment or advice given to the worker.
3. Complete and give to the worker a Treatment Memorandum for if Health Care is acquired.
4. Provide immediate transportation to a Hospital, a Physician's office, clinic or the worker's home if necessary.
5. Submit to the Board, with 3 days of learning of accident, an Employer's Report of Accidental injury/industrial disease.
6. Pay full wages and benefits for the day shift on which injury occurred when compensation is payable for loss of earnings.

**The Occupational Safety and Health Act states that in all Cases of Injury the Worker Shall:**

1. Promptly obtain first aid and notify the employer immediately of any injury requiring health care and obtain from employer a completed Treatment Memorandum to take to the Physician/Hospital.
2. Injuries on a jobsite must be reported to the jobsite supervisor immediately. Jobsite management is responsible for completing Workers Compensation Board Forms. These forms must then be forwarded to Titan Carter as soon as possible.
3. Choose a Dr. or Practitioner who is qualified, with the understanding that a change in Dr. cannot be made without permission of the board.
4. Complete and promptly return all forms received from the board.



### **Workplace Violence and Harassment**

Titan Carter will not tolerate the unlawful harassment and discrimination of workers or employees, including implied or expressed forms of harassment or violence. Titan Carter promotes a violence free workplace and any act of violence committed by or against any worker or member of the public is unacceptable conduct and will not be tolerated.

Harassment is defined under the Human Rights Code as engaging in a course of vexation (annoying or irritating), comment or conduct that is known or ought reasonably to be known to be unwelcome.

This conduct is an expression of perceived power and superiority by the harasser over another person, usually for reason over which the victim has little or no control such as sex, race, age, color, creed, marital status, sexual preferences, disability, political or religious affiliation or place of natural origin.

Sexual harassment is any unwanted attention of sexual nature such as remarks about appearance or personal life, offensive written or visual actions such as graffiti, jokes or degrading pictures and pin-ups, physical contact of any kind and sexual demands.

Racial harassment is any action whether verbal or physical that expresses or promotes racial hatred in the workplace such as racial slurs, written or visually offensive actions, joke or other unwanted comments or acts.

Any worker or employee who feels that he or she has been subjected to harassment of any type, whether by a worker, supervisor or officer should promptly report the incident to their supervisor. Workers uncomfortable reporting harassment to their direct supervisor should report incidents to another person within their company/organization whom they are comfortable.



### **Disciplinary Action:**

**All employees will be subject to disciplinary action for the following offences while working on the jobsite or during performance of their duties.**

1. Flagrant safety violations which could or do endanger life or damage company property.
2. Fighting or engaging in any "Horse Play".
3. Possession of firearms or other weapons or explosives.
4. Removing, destroying or tampering with any safety device without authority.
5. Stealing First Aid Supplies and/or safety equipment. Stealing of any company equipment or property
6. Being intoxicated as a result of alcohol or drugs.
7. Smoking while in a Designated "No Smoking" area.
8. Not wearing required personal protective clothing or equipment.
9. Failure to report any personal or vehicle accident while on the jobsite or while using company equipment.

## LEGAL NOTICE

Notice is hereby given to potential Bidders that the Wheaton Park District will be receiving sealed bids for the **MEMORIAL PARK BANDSHELL SEATING PROJECT**.

Bid Documents are available electronically from the Park District commencing on **December 4, 2019** by contacting:

Steve Hinchee

Email: [shinchee@wheatonpark.org](mailto:shinchee@wheatonpark.org)

Phone: 630-510-4976

Each bid must be placed in a sealed, opaque envelope clearly marked "**Sealed Bid: MEMORIAL PARK BANDSHELL SEATING PROJECT**" and addressed to the Wheaton Park District, 1000 Manchester Road, Wheaton, IL 60187, **Attention: Secretary of the Board**. Bids will be received until **10:00 A.M. on Wednesday December 18, 2019**, at which time the bid proposals will be publicly opened and read aloud at 1000 Manchester Road, Wheaton, IL 60187.

The Wheaton Park District Board of Park Commissioners reserves the right to waive all technicalities, to accept or reject any or all bids, to accept only portions of a proposal and reject the remainder without disclosure for any reason. Failure to make such a disclosure will not result in accrual of any right, claim or cause of action by any Bidder against the Wheaton Park District.

Bids shall not include federal excise tax or state sales tax for materials and equipment to be incorporated in, or fully consumed in the performance of, the Work. An Exemption Certificate will be furnished by the Wheaton Park District on request of the Bidder, for use in connection with this Project only.

All bid proposals must be accompanied by a bid bond or bank cashier's check payable to the Wheaton Park District for ten percent (10%) of the amount of the bid as provided in the Instructions to Bidders. No proposals or bids will be considered unless accompanied by such bond or check.

The Contractor selected will also be required to comply with all applicable federal, state and local laws, rules, regulations and executive orders including but not limited to those pertaining to equal employment opportunity.

By order of the Board of Park Commissioners of the Wheaton Park District.

Michael J. Benard  
Secretary

WHEATON PARK DISTRICT  
1000 Manchester Road  
Wheaton, IL 60187  
630-653-5429

**PROJECT NAME:** MEMORIAL PARK BANDSHELL SEATING PROJECT

**DATE:** December 04, 2019

**BID SUBMISSION DEADLINE:** Wednesday December 18, 2019, 10:00 a.m.

**ESTIMATED BOARD RECOMMENDATION:** January 16, 2019

**INSTRUCTIONS TO BIDDERS**

The Wheaton Park District and Owner are one and the same. The Owner's representative or Project Manager, Steve Hinchee, can be contacted at the Wheaton Park District Office, 1000 Manchester Road, Wheaton, Illinois, 60187, 630-510-4976.

The words "Contractor" and "Bidder" shall mean the party bidding for or entering the Contract for the performance of the Work covered by the written Specifications and Drawings, and his/her legal representatives or authorized agents.

**I. EXAMINATION OF SITE, DRAWINGS, SPECIFICATIONS**

Each Bidder shall visit the site(s) of the proposed Work and fully acquaint himself with conditions, as they exist, and shall undertake such additional inquiry and investigation as he shall deem necessary so that he may fully understand the requirements, facilities, possible difficulties and restrictions attending the execution of the Work under the Contract. Bidder shall thoroughly examine and be familiar with all of the Bid Documents including, but not limited to, the Drawings and the written Specifications. Any conflicts or discrepancies found between or among Bid Documents including, but not limited to, the Drawings and written Specifications and the site conditions, or any errors, omissions or ambiguities in the Drawings or written Specifications shall be immediately reported to the Park District and written clarification requested prior to submission of a bid.

The failure or omission of any Bidder to obtain, receive or examine any form, instrument, or information or to visit the Project site(s), and become knowledgeable with respect to conditions there existing, or to seek needed clarification shall in no way relieve any Bidder from any obligations with respect to his bid. By submitting a bid, the Bidder agrees, represents and warrants that he has undertaken such investigation as he deemed necessary, has examined the site(s) and the Bid Documents, has obtained all needed clarifications and where the Bid Documents indicate in any part of the Work, that a given result be produced, that the Bid Documents are adequate and the required result can be produced as indicated in the Specifications and Drawing(s). Once the award has been made, failure to have undertaken and completed the foregoing tasks shall not be cause to alter the original Contract or to request additional compensation.

## II. REQUIREMENTS OF BIDDERS

Bidders must be able to demonstrate that they: 1) have experience in performing and have successfully performed and are still actively engaged in performing work similar in kind and scope to the Work of the Project; and 2) are able to show that they have adequate laborers and materials to successfully complete the Work as indicated in the Bid Documents and within the time required by the Bid Documents. The Contractor shall not have been debarred or determined ineligible for public contracts by any governmental agency.

The following information must be attached to the bid proposal. Failure to do so may result in disqualification of the Bidder.

On a separate sheet, list all projects your organization has in progress, giving the name of the project, project description, project address, owner and telephone number, architect and telephone number, contract amount, percent complete, and scheduled completion date.

On reference form provided herein, list at least five (5) similar projects your organization has completed in the past three (3) years, which are comparable in scope, giving the name of the project, project description, project address, owner and telephone number.

On a separate sheet, list all administrative proceedings and litigation filed by or against Bidder in the past five (5) years, including the name and case number, name/jurisdiction of the court or administrative agency, and a summary of each claim/case, including current status and if no longer pending, the disposition. The foregoing includes but is not limited to information regarding any proceedings and actions taken by any governmental agency to debar or disqualify the Bidder from bidding on public contracts, including the name of the agency initiating the proceeding/action, the nature of the proceeding/action, the claimed basis for the proceeding/action and the current status or disposition of the proceeding/action.

On a separate sheet, indicate all instances in which Bidder has been rejected for not being a responsible bidder, giving the name of the project, project description, project address, owner and telephone number, architect and telephone number, contract amount, and an explanation of the circumstances surrounding the rejection.

On a separate sheet, provide a list of all contracts to which you were a party and with respect to which you were declared to be in breach of one or more provisions, giving a the type of contract, the project location where applicable, the names and addresses of the parties to the contract, the name of the party declaring the breach, the nature of the claimed breach and current status or resolution of the claim. If a construction contract, also provide the name, address and telephone number of the architect and, if applicable also the construction manager or Owner's representative.

Other required submittals include: Bid proposal; Contractor's Compliance and Certification Attachment/ Substance Abuse Prevention Program Certification. **Failure of a Bidder to complete/submit these documents shall be the basis for immediate rejection of that Bidder's bid.**

The Park District may make such investigation as it deems necessary to determine the ability of the Bidder to perform the Work. The District reserves the right to require of any Bidder such information as stated above and necessary to verify the Bidder's qualifications and financial status and to withhold formal signing of the Contract until such information is received.

### III. SUBMISSION OF BID

It is the sole responsibility of the Bidder to see that his bid is received in proper time. **No faxed or e-mail bid or modification of a bid will be considered.** The Park District is not responsible for the premature opening of bids not marked as required. Any bid opened prematurely due to the failure of the Bidder to mark the envelope in accordance with these Bid Documents will be considered non-responsive. Bidders' prices are to include the delivery of all materials in specifications; including plant, equipment, supplies, tools, scaffolding, transportation, insurances, bonds, warranties, and all other items and facilities, and the performance of all labor and services, necessary for the proper completion of the Work except as may be otherwise expressly provided in the Contract Documents. Bids shall not include federal excise tax or state sales tax for materials to be incorporated in, or totally consumed in the prosecution of, the Work. An exemption certificate will be furnished by the Park District upon request of the Bidder.

Bidder must acknowledge all Addenda received in the spaces provided on the Contractor Bid Form. By submitting a bid, Bidder indicates that all considerations issued by Addendum are incorporated in the bid.

Bidders shall return all Bid Documents, including Drawings and Specifications with the bid, and **no sheets shall be detached from any part of the Bid Documents.**

Attached to the Bid Form will be one or more certifications regarding the Bidder's compliance with applicable laws. **Failure of a Bidder to complete/submit a required certification shall be the basis for immediate rejection of that Bidder's bid.** The certification of the successful Bidder shall become a part of the Contract with the Park District.

The Bidder shall submit its prices on the attached Contractor Bid Form. The Bid Form shall be executed properly and all writing, including all signatures, shall be with black ink. Failure to use the Bid Form provided could result in rejection of the bid. Do not detach any portion of this document; invalidation of the bid could result.

The Bidder shall specify in figures, in the places provided, a price for each of the separate items called for in the Bid Form.

#### IV. PLANS AND SPECIFICATIONS

Bid Documents are available electronically from the Park District commencing on December 4, 2019 by contacting:

Steve Hinchee

Email: [shinchee@wheatonpark.org](mailto:shinchee@wheatonpark.org)

Phone: 630-510-4976

#### V. ACCEPTANCE OR REJECTION OF BIDS

The Park District may accept the bid of, and award the contract for the Work to, the lowest responsive and responsible Bidder as determined by and in the sole discretion of the Park District.

The Owner reserves the right to (1) reject any or all bids; (2) reject only certain bids which are non-conforming or non-responsive to the bid requirements; (3) accept only a portion, part or specific items of Work of all and reject others, as the Owner shall in its sole discretion determine to be in its best interest; and/or (4) award the Contract to the responsible Bidder submitting the lowest bid responsive to the bidding requirements. The Park District will determine in its discretion the lowest responsible Bidder and may award the Contract to other than the lowest Bidder. No bid will be accepted from or Contract awarded to any person, firm or corporation that is in arrears or is in default to the Park District upon any debt or contract, or that is a defaulter, as surety or otherwise, upon any obligation to said Park District or that has failed to perform faithfully any previous contract with the Park District.

In the event of a rejection of a portion, part, or certain items of Work of all bids, the bid of each Bidder shall automatically be deemed reduced by the amount of such rejected part or item at the unit price or other cost designated therefore by that Bidder on its submitted Contractor Bid Form. The successful Bidder so selected may not refuse to enter into a Contract with the Owner on the basis that the Owner awarded a Contract for less than all portions or items of the Work specified in the Bid Documents. The Wheaton Park District Board of Park Commissioners reserves the right to waive any technicalities or irregularities, and to disregard any informality on the bids and bidding, when in its opinion the best interest of the Park District will be served by such actions and in accordance with applicable law.

#### VI. SURETY

All bids must be accompanied by a bid bond or bank cashier's check payable to the Wheaton Park District for ten percent (10 %) of the amount of the bid and drawn on a responsive and responsible bank doing business in the United States. All bids not accompanied by a bid security, when required, will be rejected.

The bid security of all except the three (3) lowest responsive and responsible Bidders will be returned after the decision to accept or reject bids by the Wheaton Park District Board of Park Commissioners. The bid security of the successful Bidder will be returned after acceptance by the Park District of an acceptable Performance Bond, Labor and Materials/Payment Bond and a certificate of insurance naming the Wheaton Park District as the certificate holder and as additional insured, and the successful Bidder has executed and returned to the Park District the Contract for the Work presented by the Park District.

Prior to beginning Work, the successful Bidder shall furnish a Performance Bond, and Labor and Materials/Payment Bond in the amount of 110% of the Contract Sum, using a form similar to the AIA-A312-2010 form, or its current equivalent, or one acceptable to Owner, cosigned by a surety company licensed to conduct business in the State of Illinois and with at least an "A" rating and a financial rating of at least "X" in the latest edition of the Best Insurance Guide. Said bond shall guarantee the faithful performance of the Work in accordance with the Contract, the payment of all indebtedness incurred for labor and materials, and guarantee correction of Work. The cost of each bond shall be included in the Contract Sum. The Bidder and all Subcontractors shall name the Park District as an obligee on all bonds. Said bonds shall meet the requirements of the Illinois Public Construction Bond Act, 30 ILCS 550/0.01 *et seq.* and any further amendments thereto. Bidder shall include in its Performance Bond and Labor and Material Payment Bond such language as shall guarantee the faithful performance of the Prevailing Wage Act as required in these Bid Documents.

The Performance Bond and Labor and Material Payment Bond will become a part of the Contract. The failure of the successful Bidder to enter into the Contract and supply the required bonds and evidence of insurance within ten (10) days after the Contract is presented for signature, or within such extended period as the Park District may grant, shall constitute a default, and the Park District may either award the Contract to the next responsible Bidder, or re-advertise for bids. In the event of a default, the Owner need not return the defaulting Bidder's bid surety and may charge against the defaulting Bidder for the full difference between the amount for the bid and the amount for which a Contract for the Work is subsequently executed, irrespective of whether the amount thus due exceeds the amount of the defaulting Bidder's bid surety.

## **VII. WITHDRAWAL OF BID**

Bidders may withdraw or cancel their bids at any time prior to the advertised bid opening time by signing and submitting a request for said withdrawal. After the bid opening time, no bid shall be withdrawn or canceled for a period of sixty (60) calendar days.

## **VIII. ACCEPTANCE AND CONTRACT**

Owner will award the Contract to the lowest most responsible and responsive Bidder, as determined by Owner in its discretion. In considering the Bidder's responsibility, the Owner may evaluate, among other factors, the ability of the Bidder to provide experienced labor sufficient in numbers to timely and properly complete the services, conformity with the Specifications, serviceability, quality, and the financial capability of the Bidder, and the performance of the Bidder on other projects.

The Owner shall have the right to accept Alternates in any order or combination, unless otherwise specifically provided in the Bid Documents, and to determine the low Bidder on the basis of the sum of the Base Bid and Alternates accepted.

Bids may be awarded to one Bidder for the entire Project or to any series of Bidders for an appropriate proportion of the Project. If specified in the Bid Form, awards will be based upon the submitted unit prices.

The acceptance of a bid will be by a Notice of Award, signed by a duly authorized representative of the Park District; no other act by the Park District shall constitute the acceptance of a bid. The acceptance of a bid by the Park District shall bind the successful Bidder to execute and perform the Work of the Contract. The successful Bidder to whom the Contract is awarded by the Park District shall sign and deliver to the Park District for execution by the Park District all required copies of the Contract, along with all required insurance and surety documents within ten (10) days after presentation to him of the Contract for signature. In case the Bidder shall fail or neglect to do so, he will be considered as having abandoned the Contract, and as being in default to the Owner. The Owner may thereupon re-advertise or otherwise award said Contract and forfeit the Bid Security.

The Invitation to Bid, Instructions to Bidders, General Conditions, Supplementary and/or Special Conditions, if any, Drawings, Specifications, Contractor Bid Form, Addenda, if any, Contractors Compliance and Certifications Attachment, and Substance Abuse Certification and the Prevailing Wage Determination and Supersedes Notice comprise the Bid Documents. The Bid Documents, together with the Purchase Agreement between Owner and Contractor and included in these Bid Documents, and the Performance Bond and Labor Material Payment Bond and proof of insurance comprise the Contract Documents.

## **IX. INTERPRETATION OF THE CONTRACT DOCUMENTS**

The Park District shall in all cases determine the amount or quantity of the several kinds of Work which are to be paid for under this Contract, and shall decide all questions which

may arise relative to the execution of the Contract on the part of the Contractor, and all estimates and decisions shall be final and conclusive. The Park District shall have the right to make alterations in the lines, grades, plans, forms, or dimensions of the Work herein contemplated either before or after the commencement of the Work. If such alterations diminish the quantity of the Work to be done, they shall not constitute a claim for damage or for anticipated profits on the work dispensed with, or if they increase the amount of Work, such increase shall be paid according to the quantity actually done and at the price or prices stipulated for such Work in the Contract. The Park District reserves the right to approve, an equal to or superior to product or equipment required under the Specifications, or to reject as not being and equal to or superior to the product or equipment required under the Specifications. If the Bidder is in doubt as to the interpretation of any part of the Bid Documents, or finds errors, discrepancies or omissions from any part of the Contract Documents, he must submit a written request for interpretation thereof not later than five (5) days prior to opening of bids to the Park District. Address all communications to Steve Hinchee at the Park District. If an error or omission is discovered in the Bid Documents after the bid opening, the Park District reserves the right: i) to determine whether to require the submission of new bids; or ii) if the error or omission is of such a nature that it was reasonably discoverable upon a careful review of the Bid Documents, to award the Contract to the lowest responsive and responsible Bidder as determined by the Park District and to require that Contractor to perform the Work in accordance with an issued correction by the Park District and for the amount bid by the Contractor. Such decisions are final and not subject to recourse. Errors and omissions made by the Bidder cannot be corrected after the bid opening.

#### **X. ADDENDA**

Any interpretation, correction to, or addition to the Bid Documents will be made by written Addendum and will be delivered by mail or fax to each prime Bidder of record. The written Addenda constitute the only interpretations of the Bid Documents; the Park District accepts no responsibility for any other claimed interpretations or communications.

It is the responsibility of each Bidder to verify that he has received all Addenda prior to submitting a bid. It is also the responsibility of each Bidder to verify that all subcontractors and material suppliers whose prices are incorporated in the Bidder's bid are familiar with the Bid Documents in their entirety, including all Addenda issued up to the time of bid opening.

In the event a conflict or omission is discovered in the Bid Documents after the issuing of the last Addendum such that an interpretation cannot be issued by the Park District prior to bidding, the Bidder is directed to estimate on and provide the quantity and quality of material and labor consistent with the overall represented and indicated Work so as to provide all materials, equipment, labor, and services necessary for the completion of the Work in accordance with the Bid Documents.

## **XI. SUBSTITUTIONS DURING BIDDING**

Unless otherwise indicated, the use of brand names in the Specifications is used for the purpose of establishing a grade or quality. Bidders proposing to use an alternate that is equal to or superior to in every respect to that required by the Specifications must request approval in writing to the Park District at least seven (7) business days prior to the bid opening and mark the item as 'or approved equal'.

Additionally, Bidders requesting approval for use of an alternate must provide certification by the manufacturer that the substitute proposed is equal to or superior in every respect to that required by the Contract Documents, and that its in-place performance will be equal to or superior to the product or equipment specified in the application indicated. The Bidder, in submitting the request for substitution, waives the right to additional payment or an extension of Contract Time because of the failure of the substitute to perform as represented in the request for substitution.

The Park District may request additional information or documentation necessary for evaluation of the request for substitution. The Park District will notify all Bidders of acceptance of the proposed substitute by means of an Addendum to the Bid Documents. Park District's approval of a substitute during bidding does not relieve the Contractor of the responsibility to submit required shop drawings and to comply with all other requirements of the Contract Documents, including but not limited to proper performance of all components of the Work and suitability for the uses specified.

Bids proposing alternates not previously approved by the Park District will be considered non-responsive and rejected. The Park District reserves the right to determine whether a substituted selection, in its judgment, is equal to or better quality and therefore an acceptable alternate. Such decisions are final and not subject to recourse.

## **XII. PROTESTED SOLICITATIONS**

Any actual or qualified prospective bidder, offeror, or Contractor who is aggrieved in connection with the solicitation or award of a Contract ("Award") may protest in writing to the Executive Director of the Park District ("Protest(s)"). Protests may be submitted any time prior to the Award; however, a Protest of an Award must be submitted in writing to the Executive Director within three (3) business days after the bid deadline.

### Subject of Protest

Protesters may file a Protest on any phase of bid solicitation or Award, including, but not limited to, procedure, Specification, Award or disclosure of information marked confidential in the bid or offer.

### Form

The written Protest shall include, as a minimum, the following:

- a. The name and address of the protester.
- b. Appropriate identification of the procurement.
- c. A statement of the reasons for the Protest.
- d. Any available exhibit, evidence or documents substantiating the Protest.

### Decision

The Executive Director shall provide a written determination to the protester within five (5) business days after receiving all relevant requested information.

### Appeals

A written appeal of the decision issued by the Executive Director must be received by the Park District within 3 business days after the protestor's receipt of the decision. The Executive Director prior to making the final decision may elect to:

- a. Render an immediate decision in the matter;
- b. Request additional documentation or meetings with parties involved;
- c. Select a panel of 2 or more Park District employees who are not involved with the protested requirement to jointly conduct a hearing with individuals on either side of the issue; or
- d. Utilize any other method deemed appropriate to bring the matter to timely resolution.

However, the decision, once issued, shall be final and will complete the administrative procedure. The Executive Director shall issue the final decision within 7 calendar days after receiving such an appeal unless extended by mutual agreement by both parties involved.

#### Stay of Procurement During Protest

In the event of a Protest in accordance with this Section, the Executive Director shall not proceed further with bid solicitation or Award of Contract until administrative remedies have been exhausted or until a written determination is made that Award of a Contract without delay is necessary to protect substantial interests of the Park District.

### **GENERAL CONDITIONS**

The General Conditions are the General Conditions of the Contract for Construction, AIA Document A201-2017, as modified by the Park District and included in these Bid Documents (the "General Conditions").

### **SUPPLEMENTARY CONDITIONS**

The General Conditions are hereby amended to include the following:

#### **1. INSURANCE REQUIREMENTS FOR CONTRACTORS**

Contractor shall obtain insurance of the types and in the amounts listed below.

##### **A. Commercial General and Umbrella Liability Insurance**

Contractor shall maintain commercial general liability (CGL) and, if necessary, commercial umbrella insurance with a limit of not less than \$1,000,000 each occurrence. If such CGL insurance contains a general aggregate limit, it shall apply separately to this Project/location.

CGL insurance shall be written on Insurance Services Office (ISO) occurrence form CG 00 01 04 13, or a substitute form providing equivalent coverage, and shall cover liability arising from premises, operations, independent contractors, products completed operations, personal injury and advertising injury, and liability assumed under an insured contract (including the tort liability of another assumed in a business contract).

Owner, its elected and appointed officials, employees, agents and volunteers shall be included as an additional insured under the CGL, using ISO additional insured endorsement CG 20 10 or a substitute providing equivalent coverage, and under the commercial umbrella, if any. This insurance shall apply as primary insurance with respect to any other insurance or self-insurance afforded to Owner.

There shall be no endorsement or modification of the CGL limiting the scope of coverage for liability arising from pollution, explosion, collapse, or underground property damage.

**B. Continuing Completed Operations Liability Insurance**

Contractor shall maintain commercial general liability (CGL) and, if necessary, commercial umbrella liability insurance with a limit of not less than \$1,000,000 each occurrence for at least three years following Substantial Completion of the Work.

Continuing CGL insurance shall be written on ISO occurrence form CG 00 01 04 13, or substitute form providing equivalent coverage, and shall, at minimum, cover liability arising from products-completed operations and liability assumed under an insured contract.

Continuing CGL insurance shall have a products-completed operations aggregate of at least two times its each occurrence limit.

Continuing commercial umbrella coverage, if any, shall include liability coverage for damage to the insured's completed work equivalent to that provided under ISO form CG 00 01.

**C. Business Auto and Umbrella Liability Insurance**

Contractor shall maintain business auto liability and, if necessary, commercial umbrella liability insurance with a limit of not less than \$1,000,000 each accident. Such insurance shall cover liability arising out of any auto including owned, hired and non-owned autos.

Business auto insurance shall be written Insurance Services Office (ISO) form CA 00 01, CA 00 05, CA 00 12, CA 00 20, or a substitute form providing equivalent liability coverage. If necessary, the policy shall be endorsed to provide contractual liability coverage equivalent to that provided in the 1990 and later editions of CA 00 01.

**D. Workers Compensation Insurance**

Contractor shall maintain workers compensation as required by statute and employers liability insurance. The commercial umbrella and/or employers liability limits shall not be less than \$1,000,000 each accident for bodily injury by accident of \$1,000,000 each employee for bodily injury by disease.

If Owner has not been included as an insured under the CGL using ISO additional insured endorsement CG 20 10 under the Commercial General and Umbrella Liability Insurance required in this Contract, the Contractor waives all rights against Owner and its officers, officials, employees, volunteers and agents for recovery of damages arising out of or incident to the Contractor's Work.

Contractor shall provide a waiver of subrogation on its workers compensation policy in favor of Owner and shall waive any limitation of its or its subcontractors' liability notwithstanding the limitation set forth in *Kotecki v. Cyclops Welding Corp.*, 146 Ill.2d 155 (1991).

#### **E. General Insurance Provisions**

##### **1. Evidence of Insurance**

Prior to beginning work, Contractor shall furnish Owner with a certificate(s) of insurance and applicable policy endorsement(s), executed by a duly authorized representative of each insurer, showing compliance with the insurance requirements set forth above.

All certificates shall provide for 30 days' written notice to Owner prior to the cancellation or material change of any insurance referred to therein. Written notice to Owner shall be by certified mail, return receipt requested.

Failure of Owner to demand such certificate, endorsement or other evidence of full compliance with these insurance requirements or failure of Owner to identify a deficiency from evidence that is provided shall not be construed as a waiver of Contractor's obligation to maintain such insurance.

Owner shall have the right, but not the obligation, of prohibiting Contractor or any Subcontractor from entering the Project site until such certificates or other evidence that insurance has been placed in complete compliance with these requirements is received and approved by Owner.

Failure to maintain the required insurance may result in termination of the Contract at Owner's option.

With respect to insurance maintained after final payment in compliance with a requirement above, an additional certificate(s) evidencing such coverage shall be promptly provided to Owner whenever requested.

Contractor shall provide certified copies of all insurance policies required above within 10 days of Owner's written request for said copies.

##### **2. Acceptability of Insurers**

For insurance companies that obtain a rating from A.M. Best, that rating should be no less than A VII using the most recent edition of the A.M. Best's Key Rating Guide. If the Best's rating is less than A VII or a Best's rating is not obtained, the Owner has the right to reject insurance written by an insurer it deems unacceptable.

### **3. Cross-Liability Coverage**

If Contractor's liability policies do not contain the standard ISO separation of insured's provision, or a substantially similar clause, they shall be endorsed to provide cross-liability coverage.

### **4. Deductibles and Self-Insured Retentions**

Any deductibles or self-insured retentions must be declared to the Owner. At the option of the Owner, the Contractor may be asked to eliminate such deductibles or self-insured retentions as respects the Owner, its officers, officials, employees, volunteers and agents or required to procure a bond guaranteeing payment of losses and other related costs including but not limited to investigations, claim administration and defense expenses.

### **5. Subcontractors**

Contractor shall cause each Subcontractor employed by Contractor to purchase and maintain insurance of the type specified above. When requested by the Owner, Contractor shall furnish copies of certificates of insurance evidencing coverage for each Subcontractor.

## **2. INDEMNIFICATION**

The Contractor shall indemnify the Owner and others as required in the Purchase Agreement.

## **SPECIAL CONDITIONS**

The Special Conditions of the Contract are:

1. Time is of the essence to the Contract. Should the Contractor fail to complete the Work 17 weeks from the notice to proceed from the Owner or within such extended time as may be have been allowed, the Contractor shall be liable and shall pay to the Owner the sum of \$100.00 per calendar day, not as a penalty but as a liquidated damages for each day of overrun in the Contract Time or such extended time as may have been allowed. The liquidated damages for failure to complete the Contract on time are approximate, due to the impracticality of calculating and proving actual delay costs. The costs of delay represented by the liquidated damage amount are understood to be a fair and reasonable estimate of the costs that will be borne by the Owner during extended and delayed performance by the Contractor for the Work. The liquidated damage amount specified will accrue and be assessed until final completion of the total physical Work of the Contract even though the Work may be substantially complete. The Owner will deduct these liquidated damages from any monies due or to become due to the Contractor from the Owner.

## **SCOPE OF WORK**

**PROJECT:** MEMORIAL PARK BANDSHELL SEATING PROJECT

**BID DUE DATE:** **Wednesday December 18, 2019 at 10:00 a.m.**

**STARTING DATE:** Upon approval by the Wheaton Park District Board of Park Commissioners and receipt of an executed Contract and the appropriate bonds and certificate of insurance naming the Wheaton Park District as the certificate holder and additional insured as provided in these Bid Documents.

**DELIVERY TO WPD :** Within 17 weeks of notice to proceed from the Owner

## **GENERAL**

### **BID**

- Furnish (334) matrix type seats. Refer to: SPECIFICATIONS FOR REMOVABLE BANDSHELL SEATING & CUPHOLDERS.
- Furnish (334) rear mounted cupholders that are designed to be mounted on back of matrix type seats. Refer to: SPECIFICATIONS FOR REMOVABLE BANDSHELL SEATING & CUPHOLDERS
- Furnish storage trolleys for storage and transporting all (334) seats.
- Seats, cupholders and storage trolleys are to be delivered to 1000 Manchester Rd., Wheaton, IL 60187
- Seating, trolley's and cupholders shall be delivered no later than 17 weeks of contract execution.
- Seating, trolley's and cupholders shall have been manufactured within the last 12 months and be unused with the exception of any testing.
- Seating, trolley's and cupholders shall have a minimum (2) year warranty on seating, trolley's and cupholders

*See attached specifications and plans.*

## SPECIFICATIONS FOR REMOVABLE BANDSHELL SEATING & CUPHOLDERS

### PART 1

#### 1.01 Work Included

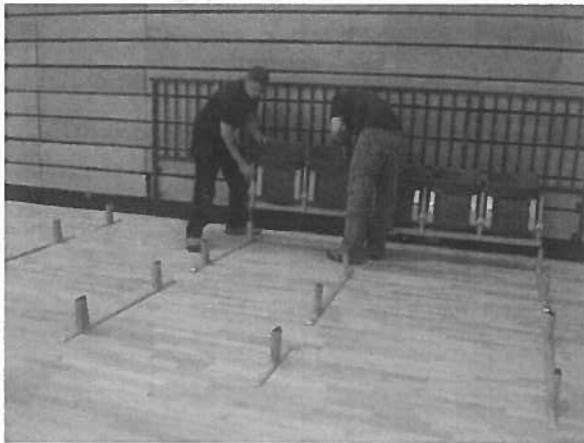
Manufacture and deliver chairs with self-lifting seats which rise automatically to a uniform fold position. Chairs will be supplied in groups of 2 or 3 chairs mounted on a beam with spigots. The spigots can be slotted into floorbars. The whole system forms a "matrix" of seating which creates straight rows of seating with a minimum seatway of 21 1/2". No fixings should be used to attach chairs or floorbars in place. Chairs will be manufactured and installed in accordance with applicable codes, the following specifications and approved drawings. The basis of design is Audience Systems Limited.

#### 1.02 System Description

A. The Matrix system shall be groups of 2 or 3 removable chairs mounted on beams with attached spigots, and floor bars which run perpendicular to the chair rows when in place, spanning 2-3 rows.

B. Floor bars must be laid out with no fixings, eliminating the risk of trip points on the venue floor when the seating is not in place. Systems requiring fixing points to be created in the floor are not acceptable.

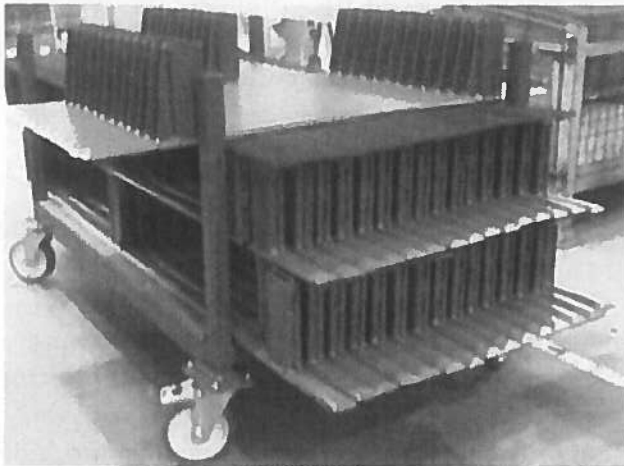
**Matrix Chairs Positioned**



**Matrix Chairs installed**



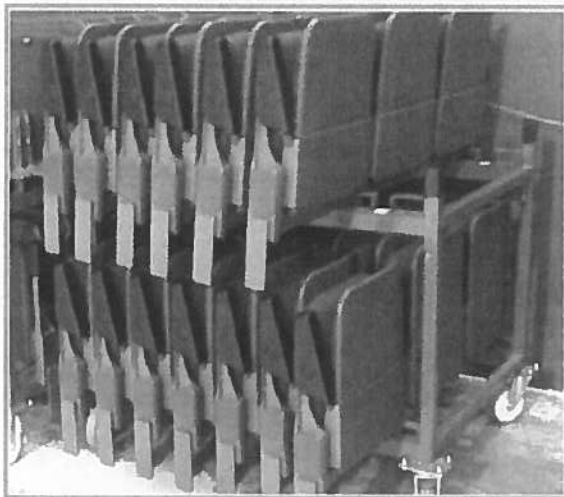
C. Portable storage dollies for chairs and floorbars are required. See Examples Below.



*Floorbar trolley*



*"Fishbone" trolley*



*"Standard" trolley*

### **1.03 Quality Assurance**

- A. NFPA Standard: Comply with requirements of NFPA 102, "Standard for Assembly Seating, Tents and Membrane Structures", and specifically with Chapter 5, "Folding and Telescopic Seating", except where other requirements are indicated. IBC Standard: Comply with ICC 300 – 2007 and American Disabilities Act.
- B. Manufacturer: Company specializing in seating with a minimum of ten years' experience in manufacturing seating.
- C. Engineer Qualifications: Manufacturer to employ a registered licensed professional engineer to certify that the equipment to be supplied meets or exceeds the design criteria of this specification.
- D. Product Liability: Certification of insurance coverage for the life of the product.
- E. Welding Processes: To be performed by certified professional welding contractors in accordance with AWS D1.1.
- F. Product Improvements: Equipment provided shall incorporate manufacturer's design improvements and materials current at time of shipment, provided that such improvements and materials are consistent with the intent of these specifications.

### **1.04 Submittals**

- A. Bid Submittals
  - 1. Manufacturer's specifications.
  - 2. Plan View and Section Drawings providing full system details including but not limited to, row rise, row width, section dimensions, seating capacities, section types.
- B. Job Submittals
  - 1. Shop drawings showing all equipment to be furnished with details of accessories to be supplied including necessary electrical services to be provided by others.
  - 2. Samples of material and color finish as requested by Owner, potentially including a complete chair.
  - 3. Warranty, operation and maintenance instructions to the owner upon completion.

### **1.05 Design Criteria**

- A. Chairs
  - 1. Seats shall be cantilevered, self-centering, automatic lift, maximizing seatway upon seat lift for ease of passage and janitorial access.
  - 2. Seats shall be tested and certified to support and withstand an evenly distributed load of 600 lbs. (272kg.).
  - 3. Seats shall be tested and certified to ASTM Designation F851-87 Test Method for Self-Rising Mechanism.
- B. Material Flammability: Shall satisfy applicable test, codes, standards, of requirements as follows:

1. Polyethylene or polypropylene materials shall meet the Federal Motor Vehicles Safety Standard No. 302 which specifies a burning rate of less than 4" per minute.
2. Upholstery materials meet Class 1 requirements of U.S. Department of Commerce, CS 191-52, as required by the State of California Home Furnishings bulletin 117.
3. Cushioning and padding meet California Bulletin 117, Resilient Cellular Materials Section A & D dated February 1975 when tested in accordance with Federal Test Method Standard 191, Method 5903.2

**1.06 Warranty**

- A. The manufacturer shall warrant all work performed under these specifications to be free of defects for a period of **two years**.
- B. Any materials found to be defective within this period will be replaced at **no cost** to the owner. This warranty shall not include replacements required by Acts of God, war, vandalism, flood, fire, calamity or deliberate abuse or misuse of the equipment.

**PART 2**

**2.01 Manufacturers**

Where products are named by manufacturers, it is intended to establish a level of quality and performance which all bidders shall **meet or exceed**. The specification requirements are based on those of Audience Systems Ltd.

**2.02 Materials**

- A. Seating Area:
  1. Row lengths, number of rows, row spacing and other applicable dimensions are per plans. Dimensions must be strictly adhered to. Note: No exceptions and / or substitution will be permitted.
- B. Accessories:
  1. Wheelchair integration: System to be configured and supplied to include ADA Wheelchair positions per plan.
  2. Storage carts: Provide heavy duty mobile handling carts for storage and transportation of chairs and floorbars.

**2.03 Fabrication**

- A. Floor Bars: 2" x ½" feather edge half round mild steel bar and 2"x1"x16swg mild steel tube.
- B. Spigots: ¾" thick mild steel flat. Grade 43A.
- C. Finish: 4-stage iron phosphate pre-treatment and epoxy polyester powder coat in RAL 7043 gray or RAL 9005 black.
- D. Chair Type: Matrix
  1. Chair (without arms or padding or upholstery) shall be Audience Systems Zenith telescopic platform with double skinned blow molded UV stabilized high density polyethylene seat and back. Chair shall have a

spring tip mechanism for automatically lifting the seat to uniform folded position.

Beam mounted design, consisting of beam and chair assemblies.

a. Beam: 2" x 2" x 1/8" mild steel tube to facilitate chair position and join chairs into groups of two or three.

b. Chair Assemblies: Comprising standard assembly, seat, backrest.

i. Standard assembly: when mounted to the transverse beam, these will properly support the seat and backrest.

ii. Blow molded seat and back. Seat and back shall be contoured double skinned blow molded UV stabilized high density polyethylene, with lightly textured finish.

2. Seat numbers: Seat number plates shall be located on underside of seat and shall have etched aluminum finish with black numbers and letters.

Signage poles: 2"x 1" 16swg ERW mild steel tube assembly complete with numbered plastic four-sided board. Signage space 7 1/8" x 7 1/8".

E. Chair Sizes:

Chairs shall be available in the following widths: - Chair width, for bid purposes, needs to be a minimum of 500mm (19 1/2") between seat centers.

F. Chair Dimensions

1. Seat up envelope: 9 5/8"

2. Seat down envelope: 20 5/8"

3. Seat height: 17 1/8"

4. Back height: 30 1/4"

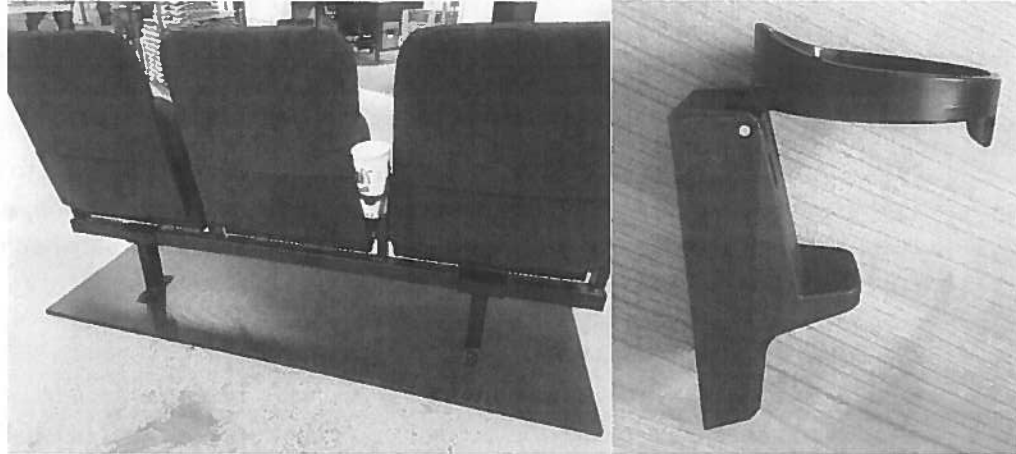
G. Finish

Metal parts- Epoxy polyester powder coat finish in RAL 9006 silver gray.

Plastic parts – Seat and back to be from manufactures standard color range.

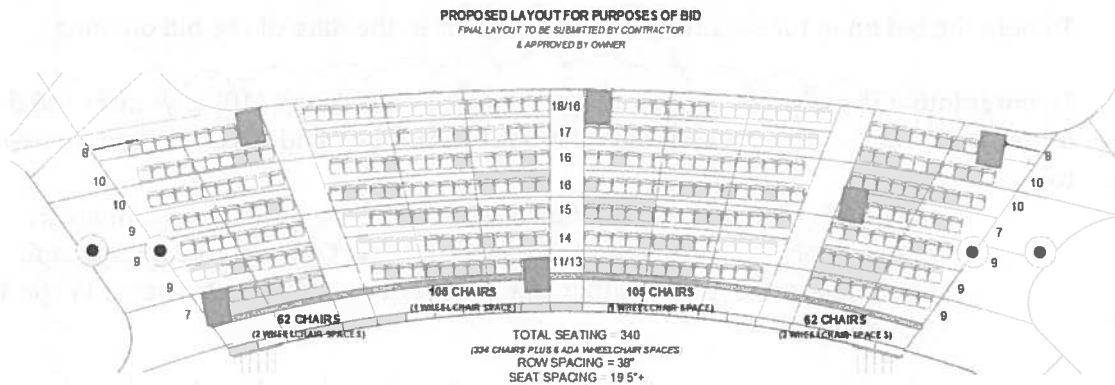
#### H. Cupholders

Due to owner specifying chairs without arms, cupholders need to be mounted on rear of chair in front of person seated.



#### 2.04 Drawing

See architects drawing for approximation of seating layout.



PROPOSAL TO THE WHEATON PARK DISTRICT  
BOARD OF PARK COMMISSIONERS  
FOR THE PROVISION AND INSTALLATION OF  
MEMORIAL PARK BANDSHELL SEATING PROJECT

By submission of its bid, the Bidder acknowledges, agrees, represents, declares and warrants:

- A. That he has carefully examined the written Specifications and Drawings and is thoroughly familiar therewith, and that he has visited the site of the proposed Work to arrive at a clear understanding of the conditions under which the Work is to be done, and that he has compared the site with the Drawings and Specifications and has satisfied himself as to all conditions affecting the execution of the Work;
- B. That all modifications have been submitted with this bid;
- C. That he has checked carefully the bid figures and understands that he shall be responsible for any errors or omissions based on these Specifications and alternates as submitted on the Bid Proposal Form;
- D. That it is understood and agreed that the Wheaton Park District reserves the right to accept or reject any or all bids, or to combine or separate any section or work, and to waive any technicalities;
- E. To hold the bid open for sixty (60) days subsequent to the date of the bid opening;
- F. To enter into and execute a Contract with the Owner within ten (10) days after the date of the Notice of Award, if awarded on the basis of this bid, and in connection therewith to:
  - (a) Furnish all bonds and insurance required by the Contract Documents;
  - (b) Accomplish the Work in accordance with the Contract Documents; and
  - (c) Complete the Work within the time requirements as set forth in the Bid Documents.
- G. That if this bid is accepted, the Bidder is to provide all of the necessary equipment, tools, apparatus, labor, and other means of construction, and to do all of the Work and to furnish all of the materials specified in the Bid Documents in the manner and at the time therein prescribed, and in accordance with the requirements set forth;
- H. To furnish a Bid Bond in accordance with the Instructions to Bidders;
- I. To commence Work as specified in the Instructions to Bidders, and to prosecute the Work in such a manner, and with sufficient materials, equipment and labor as will ensure its completion within reasonable time, it being understood and agreed that the completion within such reasonable time is an essential part of this Contract;

- J. That the Bidder shall have full responsibility for coordinating, expediting, and managing payment requests, and administering the Project and subcontractors;
- K. That the Bidder has submitted, in order to be considered eligible for this job, a list of at least five projects of similar size and scope within the past three years; and
- L. That Bidder has submitted an executed Contractor Compliance and Certification Attachment.

Submitted this 16 day of December, 2019.

Name: Walter Dalla Riva  
 By: \_\_\_\_\_  
 Signature: Walter Dalla Riva  
 Title: President

SUBSCRIBED AND SWORN TO before me  
 this 16<sup>th</sup> day of December 2019.

Ravinderjit K Singh  
 Notary Public

NY  
 STATE OF ~~ILLINOIS~~ )  
Niagara )  
 COUNTY OF ~~DUPAGE~~ )

RAVINDERJIT K. SINGH  
 No. 01SI6205395  
 Notary Public, State of New York  
 Qualified in Niagara County  
 My Commission Expires May 11, 2021



PROPOSAL TO THE WHEATON PARK DISTRICT  
BOARD OF PARK COMMISSIONERS  
FOR THE PROVISION AND INSTALLATION OF  
MEMORIAL PARK BANDSHELL SEATING PROJECT

The undersigned Bidder agrees that should this bid be accepted by the Owner, the undersigned will be bound to the Wheaton Park District Board of Park Commissioners to furnish and deliver all materials, tools and equipment, and perform all work necessary for the Wheaton Park District to complete the construction of all items detailed in the written Specifications for the amounts set forth as follows: (Please complete in ink or type):

**BASE BID PROPOSAL**

(Please complete in ink, and print or type)

Base Bid	Amount
Furnish (334) Seats, (334) Cupholders & Trolleys for all Transporting all 334 seats	\$ 84,885.00

Are options to rent back chairs during the off-season available? ☐ Yes ☒ No

If yes, then attached details.

Addendum # \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, have been received and acknowledged.

<b>COMPANY NAME:</b>	<i>Titan Carter Platform Systems Inc.</i>
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The Bidder further certifies that the official name or title and the business address of the Bidder to be considered as of the making of this bid is as follows:

<b>COMPANY NAME:</b>	Titan Carter Platform Systems Inc.				
<b>NAME OF BIDDER</b> (please print):	Walter Dalla Riva				
<b>TITLE:</b>	Owner/President				
<b>ADDRESS OF BIDDER:</b>	5820 South 4050 West				
<b>CITY, STATE and ZIP:</b>	Roy, Utah 84067	<b>FAX NUMBER:</b>			
<b>PHONE NUMBER:</b>	207-652-2864	<b>E-MAIL:</b>	wdallariva@titancarter.com		
<b>CELL PHONE NUMBER:</b>	905-301-6712				
<b>DATED THIS</b>	16	<b>DAY OF</b>	December	<b>2019</b>	
<b>SIGNATURE:</b>	Walter Dalla Riva				

**PROJECT: MEMORIAL PARK BANDSHELL SEATING PROJECT**

**This is a lump sum bid.** The quantities provided by Owner in the Bid Form are estimated and provisional, and are given for the Bidder's convenience as well as provide a common basis for bidding. **The Bidder is responsible for verifying all estimated quantities and/or perform his or her own quantity take off of work items.**

UNIT PRICE: ***Per Chair Cost: If final layout needs to be adjusted from the 334 chairs in the base bid, the following unit cost will allow for the contract to be adjusted accordingly.***

(Please complete in ink, and print or type)

Unit Price	Amount
<b><i>Per Chair Cost</i></b>	\$254.15

ALTERNATES: ***NONE***

(Please complete in ink, and print or type)

Alternate Bid	Amount
<b><i>NONE</i></b>	\$

<b>COMPANY NAME:</b>	Titan Carter Platform Systems Inc.
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The Bidder further certifies that the official name or title and the business address of the Bidder to be considered as of the making of this bid is as follows:

<b>COMPANY NAME:</b>	Titan Carter Platform Systems Inc.
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**REFERENCES - MUST SUBMIT FIVE (Within the past three 3 years)**

1.	Project Name/Address:	Ravinia Festival. 201 St. Johns Avenue, Highland Park, IL 60035		
	Date:	June 4 <sup>th</sup> 2019	Phone:	630-417-2629
	Owner Contact:	Jim Schmitz		
	Description of Project	79 Audience Systems Espace 628.01 Matrix Chairs		
2.	Project Name/Address:	Eastside Preparatory School. 10613 NE 38 <sup>th</sup> Place, Kirkland, WA 98033		
	Date:	September 9 <sup>th</sup> 2018	Phone:	425-822-5668
	Owner Contact:	Bob Baldwin		
	Description of Project	2-Audience Systems TX Telescopic Platforms with 466 Espace 628.01 Chairs/159 Espace 628.01 Matrix Chairs		
3.	Project Name/Address:	King's Christian Collegiate. 528 Burnamthorpe Road West, Oakville Ontario Canada, L6M 4K6		
	Date:	March 30 <sup>th</sup> 2019	Phone:	905-645-4617
	Owner Contact:	Jim Vanderkooy		
	Description of Project	264 Audience System Espace 628.01 Matrix Chairs		
4.	Project Name/Address:	Edmundston Civic Centre. 85, rue du 15 aout, Edmundston New Brunswick Canada, E3V 0G4		
	Date:	October 30 <sup>th</sup> 2017	Phone:	506-739-2090
	Owner Contact:	Alain Bélanger		
	Description of Project	1912 Audience Systems Zenith Chairs with Upholstered Onserts		
5.	Project Name/Address:	East Carolina University. E 5th Street, Greenville, NC 27858		
	Date:	May 5 <sup>th</sup> 2019	Phone:	919-440-5029
	Owner Contact:	Justin Spears		

	Description of Project	Audience Systems TX Telescopic Platforms with 213 Espace 628.01 Chairs/38 Espace 628.01 Matrix Chairs
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**PROJECT: MEMORIAL PARK BANDSHELL SEATING PROJECT**

**CONTRACTOR COMPLIANCE AND CERTIFICATIONS ATTACHMENT**

**Note: The following certifications form an integral part of the Agreement between the Owner and Contractor. Breach by Contractor of any of the certifications may result in immediate termination of the Contractor's services by Owner.**

THE UNDERSIGNED CONTRACTOR HEREBY ACKNOWLEDGES, CERTIFIES, AFFIRMS AND AGREES AS FOLLOWS:

- A. Contractor has carefully read and understands the contents, purpose and legal effect of this document as stated above and hereafter in this document. The certifications contained herein are true, complete and correct in all respects.
- B. Contractor shall abide by and comply with, and in contracts which it has with all persons providing any of the services or Work on this Project on its behalf shall require compliance with, all applicable Federal, State and local laws and rules and regulations including without limitation those relating to 1) fair employment practices, affirmative action and prohibiting discrimination in employment; 2) workers' compensation; 3) workplace safety; 4) wages and claims of laborers, mechanics and other workers, agents, or servants in any manner employed in connection with contracts involving public funds or the development or construction of public works, buildings or facilities; and 5) steel products procurement.
- C. Omitted.
- D. To the best of Contractor's knowledge, no officer or employee of Contractor has been convicted of bribery or attempting to bribe an officer or employee of the State of Illinois, or any unit of local government, nor has any officer or employee made an admission of guilt of such conduct which is a matter of record.
- E. Contractor is not barred from bidding on or entering into public contracts due to having been convicted of bid-rigging or bid rotating under paragraphs 33E-3 or 33E-4 of the Illinois Criminal Code. Contractor also certifies that no officers or employees of the Contractor have been so convicted and that Contractor is not the successor company or a new company created by the officers or owners of one so convicted. Contractor further certifies that any such conviction occurring after the date of this certification will be reported to the Owner, immediately in writing, if it occurs during the bidding process, or otherwise prior to entering into the Contract therewith.

- F. Pursuant to the Illinois Human Rights Act (775 ILCS 5/2-105), Contractor has a written sexual harassment policy that includes, at a minimum, the following information: (i) a statement on the illegality of sexual harassment; (ii) the definition of sexual harassment under State law; (iii) a description of sexual harassment utilizing examples; (iv) the Contractor's internal complaint process including penalties; (v) the legal recourse, investigative and complaint process available through the Illinois Department of Human Rights and the Human Rights Commission and directions on how to contact both; and (vi) protection against retaliation as provided by Section 6-101 of the Illinois Human Rights Act. Contractor further certifies that such policy shall remain in full force and effect. A copy of the policy shall be provided to the Illinois Department of Human Rights upon request.
- G. (i) Contractor's bid proposal was made without any connection or common interest in the profits anticipated to be derived from the Contract by Contractor with any other persons submitting any bid or proposal for the Contract; (ii) the Contract terms are in all respects fair and the Contract will be entered into by Contractor without collusion or fraud; (iii) no official, officer or employee of the Owner has any direct or indirect financial interest in Contractor's bid proposal or in Contractor, (iv) the Contractor has not directly or indirectly provided, and shall not directly or indirectly provide, funds or other consideration to any person or entity (including, but not limited to, the Owner and the Owner's employees and agents), to procure improperly special or unusual treatment with respect to this Agreement or for the purpose of otherwise improperly influencing the relationship between the Owner and the Contractor. Additionally, the Contractor shall cause all of its officers, directors, employees, (as the case may be) to comply with the restrictions contained in the preceding sentence.
- H. Contractor knows and understands the Equal Employment Opportunity Clause administrated by the Illinois Department of Human Rights, which is incorporated herein by this reference, and agrees to comply with the provisions thereof. Contractor further certifies that Contractor is an "equal opportunity employer" as defined by Section 2000 (e) of Chapter 21, Title 42 of the United States Code Annotated and Executive Orders #11246 and #11375 as amended, which are incorporated herein by this reference.
- I. Neither Contractor nor any substantially owned affiliated company is participating or shall participate in an international boycott in violation of the provisions of the U.S. Export Administration Act of 1979 or the regulations of the U.S. Department of Commerce promulgated under that Act.
- J. Contractor is not barred from contracting with the Owner because of any delinquency in the payment of any tax administrated by the Illinois Department of Revenue, unless it is being contested. Contractor further certifies that it understands that making a false statement regarding delinquency in taxes is a Class A misdemeanor and, in addition, voids the Contract and allows the Owner, a municipal entity, to recover in a civil action all amounts paid to the Contractor.

- K. If Contractor has 25 or more employees at the time of letting of the Contract, Contractor knows, understands and acknowledges its obligations under the Illinois Drug Free Workplace Act (30 ILCS 580/1 *et seq.*) and certifies that it will provide a drug-free workplace by taking the actions required under, and otherwise implementing on a continuing basis, Section 3 of the Drug Free Workplace Act. Contractor further certifies that it has not been debarred and is not ineligible for award of this Contract as the result of a violation of the Illinois Drug Free Workplace Act.
- L. Contractor knows, understands and acknowledges its obligations under the Substance Abuse Prevention on Public Works Act, 820 ILCS 265/1 *et seq.* A true and complete copy of Contractor's Substance Abuse Prevention Program Certification is attached to and made a part of this Contractor Compliance and Certification Attachment.
- M. The Contractor shall comply with the requirements and provisions of the Freedom of Information Act (5 ILCS 140/1 *et seq.*) and, upon request of the Wheaton Park District's designated Freedom of Information Act Officer (FOIA Officer), Contractor shall within two (2) business days of said request, turn over to the FOIA Officer any record in the possession of the Contractor that is deemed a public record under FOIA.

CONTRACTOR

By: Titan Carter Platform Systems Inc.  
Its: Walter Dalla Riva

STATE OF NY )  
 )SS  
COUNTY OF Niagara )

I, the undersigned, a notary public in and for the State and County, aforesaid, hereby certify that Walter Dalla Riva appeared before me this day and, being first duly sworn on oath, acknowledged that he/she executed the foregoing instrument as his/her free act and deed and as the act and deed of the Contractor.

Dated: 12/16/2019

Ravinderjit K Singh  
(Notary Public)

(SEAL) RAVINDERJIT K. SINGH  
INo: 01SI6205395  
Notary Public, State of New York  
Qualified in Niagara County  
My Commission Expires May 11, 2021

764 - Lewiston  
Lewiston, New York

**OFFICIAL CHECK**

Customer Copy

029322540

Date 12/16/2019

Remitter TITAN CARTER PLATFORM SYSTEMS INC

Pay To The  
Order Of

WHEATON PARK DISTRICT

\$ 8,485.50 \*\*\*

Drawer: KeyBank

**TERMS**

KEEP THIS COPY FOR YOUR RECORD OF THE TRANSACTION. TO REPORT A LOSS OR FOR ANY OTHER INFORMATION ABOUT THE INSTRUMENT, CONTACT THE INSTITUTION FROM WHICH YOU RECEIVED THE INSTRUMENT.

FORM NO. 80 0811-T21 (4/08)

VERIFY THE AUTHENTICITY OF THIS MULTI-TONE SECURITY DOCUMENT.

CHECK BACKGROUND AREA CHANGES COLOR GRADUALLY FROM TOP TO BOTTOM.

**OFFICIAL CHECK**

029322540

62-20  
311

Date 12/16/2019

764 - Lewiston  
Lewiston, New York

Remitter TITAN CARTER PLATFORM SYSTEMS INC

\$ 8,485.50 \*\*\*

Pay To The  
Order Of

WHEATON PARK DISTRICT

Pay: EIGHT THOUSAND FOUR HUNDRED EIGHTY FIVE DOLLARS AND 50 CENTS

Drawer: KeyBank

Issued by: Citibank N.A. One Penn's Way, New Castle, DE 19720  
For information about this instrument, call: 1-888-556-5142

*Dennis A. Devine*  
AUTHORIZED SIGNATURE

⑈029322540⑈ ⑆031100209⑆

38774212⑈

## **EXHIBIT B INSURANCE REQUIREMENTS**

### **A. Commercial General and Umbrella Liability Insurance**

Contractor shall maintain commercial general liability (CGL) and, if necessary, commercial umbrella insurance with a limit of not less than \$1,000,000 each occurrence. If such CGL insurance contains a general aggregate limit, it shall apply separately to this project/location.

CGL insurance shall be written on Insurance Services Office (ISO) occurrence form CG 00 01 10 93, or at Owner's sole option on a more current ISO form or a substitute form providing at least equivalent coverage, and shall cover liability arising from premises, operations, independent contractors, products-completed operations, personal injury and advertising injury, and liability assumed under an insured contract (including the tort liability of another assumed in a business contract).

Owner shall be included as an insured under the CGL, using ISO additional insured endorsement CG 20 10 or a substitute providing at least equivalent coverage, and under the commercial umbrella, if any. This insurance shall apply as primary insurance with respect to any other insurance or self-insurance afforded to Owner. If the additional insured have other insurance which is applicable to the loss, such other insurance shall be on an excess or contingent basis. The amount of the Contractor's liability under this insurance policy shall not be reduced by the existence of such other insurance.

There shall be no endorsement or modification of the CGL limiting the scope of coverage for liability arising from pollution, explosion, collapse, or underground property damage.

### **B. Business Auto and Umbrella Liability Insurance**

Contractor shall maintain business auto liability and, if necessary, commercial umbrella liability insurance with a limit of not less than \$1,000,000 each accident. Such insurance shall cover liability arising out of any auto including owned, hired and non-owned autos.

Business auto insurance shall be written on Insurance Services Office (ISO) form CA 00 01, CA 00 05, CA 00 12, CA 00 20, or a substitute form providing at least equivalent liability coverage. If necessary, the policy shall be endorsed to provide contractual liability coverage at least equivalent to that provided in the 1990 and later editions of CA 00 01.

### **C. Workers Compensation Insurance**

Contractor shall maintain workers compensation as required by statute and employers liability insurance. The commercial umbrella and/or employers liability limits shall not be less than \$1,000,000 each accident for bodily injury by accident or \$1,000,000 each employee for bodily injury by disease.

If Owner has not been included as an insured under the CGL using ISO additional insured endorsement CG 20 10 or a substitute endorsement acceptable to Owner under the Commercial General and Umbrella Liability Insurance required in this Agreement, the Contractor waives all rights

against Owner and its officers, officials, employees, volunteers and agents for recovery of damages arising out of or incident to the Contractor's and Architect's work.

Contractor shall provide a waiver of subrogation on its workers compensation policy in favor of Owner and shall waive any limitation of its or its subcontractors' liability notwithstanding the limitation set forth in *Kotecki v. Cyclops Welding Corp.*, 146 Ill.2d 155 (1991).

#### **D. General Insurance Provisions**

##### **1. Evidence of Insurance**

Prior to beginning work, Contractor shall furnish Owner with a certificate(s) of insurance and applicable policy endorsement(s), executed by a duly authorized representative of each insurer, and such other evidence of insurance as shall be requested by Owner, showing compliance with the insurance requirements set forth above.

All certificates shall provide for 30 days' written notice to Owner prior to the cancellation or material change of any insurance referred to therein. Written notice to Owner shall be by certified mail, return receipt requested. Failure of Owner to demand such certificate, endorsement or other evidence of full compliance with these insurance requirements or failure of Owner to identify a deficiency from evidence that is provided shall not be construed as a waiver of Contractor's obligation to maintain such insurance.

Owner shall have the right, but not the obligation, of prohibiting Contractor or any subcontractor from entering the Contract site until such certificates or other evidence that insurance has been placed in complete compliance with these requirements is received and approved by Owner.

Failure to maintain the required insurance may result in termination of this Agreement at Owner's option. With respect to insurance maintained after final payment in compliance with a requirement above, an additional certificate(s) evidencing such coverage shall be promptly provided to Owner whenever requested. Contractor shall provide certified copies of all insurance policies required above within 10 days of Owner's written request for said copies.

##### **2. Acceptability of Insurers**

For insurance companies which obtain a rating from A.M. Best, that rating should be no less than A VII using the most recent edition of the A.M. Best's Key Rating Guide. If the Best's rating is less than A VII or a Best's rating is not obtained, the Owner has the right to reject insurance written by an insurer it deems unacceptable.

##### **3. Cross-Liability Coverage**

If Contractor's liability policies do not contain the standard ISO separation of insureds provision, or a substantially similar clause, they shall be endorsed to provide cross-liability coverage.

##### **4. Deductibles and Self-Insured Retentions**

Any deductibles or self-insured retentions must be declared to the Owner. At the option of the Owner, the Contractor may be asked to eliminate such deductibles or self-insured retentions as respects the Owner, its officers, officials, employees, volunteers and agents or required to procure a bond guaranteeing payment of losses and other related costs including but not limited to investigations, claim administration and defense expenses.

## **5. Subcontractors**

Contractor shall cause each subcontractor employed by Contractor to purchase and maintain insurance of the type specified above. When requested by the Owner, Contractor shall furnish copies of certificates of insurance evidencing coverage for each subcontractor.

**EXHIBIT C**  
**CONTRACTOR COMPLIANCE AND CERTIFICATIONS ATTACHMENT**

**Note: The following certifications form an integral part of the Agreement between the Park District and Contractor. Breach by Contractor of any of the certifications may result in immediate termination of the Contractor's services by the Park District.**

THE UNDERSIGNED CONTRACTOR HEREBY ACKNOWLEDGES, CERTIFIES, AFFIRMS AND AGREES AS FOLLOWS:

- A. Contractor has carefully read and understands the contents, purpose and legal effect of this document as stated above and hereafter in this document. The certifications contained herein are true, complete and correct in all respects.
- B. Contractor shall abide by and comply with, and in contracts which it has with all persons providing any of the services or Work on this project on its behalf shall require compliance with, all applicable Federal, State and local laws and rules and regulations including without limitation those relating to 1) fair employment practices, affirmative action and prohibiting discrimination in employment; 2) workers' compensation; 3) workplace safety; and 4) wages and claims of laborers, mechanics and other workers, agents, or servants in any manner employed in connection with contracts involving public funds.
- C. To the best of Contractor's knowledge, no officer or employee of Contractor has been convicted of bribery or attempting to bribe an officer or employee of the State of Illinois, or any unit of local government, nor has any officer or employee made an admission of guilt of such conduct which is a matter of record.
- E. Contractor is not barred from bidding on or entering into public contracts due to having been convicted of bid-rigging or bid rotating under paragraphs 33E-3 or 33E-4 of the Illinois Criminal Code. Contractor also certifies that no officers or employees of the Contractor have been so convicted and that Contractor is not the successor company or a new company created by the officers of one so convicted. Contractor further certifies that any such conviction occurring after the date of this certification will be reported to the Park District, immediately in writing, if it occurs prior to entering into the Contract therewith.
- F. Pursuant to the Illinois Human Rights Act (775 ILCS 5/2-105), Contractor has a written sexual harassment policy that includes, at a minimum, the following information: (i) a statement on the illegality of sexual harassment; (ii) the definition of sexual harassment under State law; (iii) a description of sexual harassment utilizing examples; (iv) the Contractor's internal complaint process including penalties; (v) the legal recourse, investigative and complaint process available through the Illinois Department of Human Rights and the Human Rights Commission and directions on how to contact both; and

(vi) protection against retaliation as provided by Section 6-101 of the Illinois Human Rights Act. Contractor further certifies that such policy shall remain in full force and effect. A copy of the policy shall be provided to the Illinois Department of Human Rights upon request.

- G. (i) Contractor's proposal was made without any connection or common interest in the profits anticipated to be derived from the Contract by Contractor with any other persons submitting any proposal for the Contract; (ii) the Contract terms are in all respects fair and the Contract will be entered into by Contractor without collusion or fraud; (iii) no official, officer or employee of the Park District has any direct or indirect financial interest in Contractor's bid proposal or in Contractor, (iv) the Contractor has not directly or indirectly provided, and shall not directly or indirectly provide, funds or other consideration to any person or entity (including, but not limited to, the Park District and the Park District's employees and agents), to procure improperly special or unusual treatment with respect to this Agreement or for the purpose of otherwise improperly influencing the relationship between the Park District and the Contractor. Additionally, the Contractor shall cause all of its officers, directors, employees, (as the case may be) to comply with the restrictions contained in the preceding sentence.
- I. Contractor knows and understands the Equal Employment Opportunity Clause administrated by the Illinois Department of Human Rights, which is incorporated herein by this reference, and agrees to comply with the provisions thereof. Contractor further certifies that Contractor is an "equal opportunity employer" as defined by Section 2000 (e) of Chapter 21, Title 42 of the United States Code Annotated and Executive Orders #11246 and #11375 as amended, which are incorporated herein by this reference.
- K. Contractor is not barred from contracting with the Park District because of any delinquency in the payment of any tax administrated by the Illinois Department of Revenue, unless it is being contested. Contractor further certifies that it understands that making a false statement regarding delinquency in taxes is a Class A misdemeanor and, in addition, voids the Contract and allows the Park District, a municipal entity, to recover in a civil action all amounts paid to the Contractor.
- L. If Contractor has 25 or more employees at the time of letting of the Contract, Contractor knows, understands and acknowledges its obligations under the Illinois Drug Free Workplace Act (30 ILCS 580/1 *et seq.*) and certifies that it will provide a drug-free workplace by taking the actions required under, and otherwise implementing on a continuing basis, Section 3 of the Drug Free Workplace Act. Contractor further certifies that it has not been debarred and is not ineligible for award of this Contract as the result of a violation of the Illinois Drug Free Workplace Act.
- M. Contractor shall comply with the requirements and provisions of the Freedom of Information Act (5 ILCS 140/1 *et. seq.*) and, upon request of the Wheaton Park District's designated Freedom of Information Act Officer (FOIA Officer), Contractor shall within

CONTRACTOR

STATE OF \_\_\_\_\_ )  
 )ss  
COUNTY OF \_\_\_\_\_ )

Dated: \_\_\_\_\_

(SEAL)