

MEMORANDUM

DATE: January 15, 2013
TO: City Council
THROUGH: City Manager Judie Zimomra
FROM: Recreation Director Andrea Miller
RE: Proposed Playground

As directed by City Council, staff has worked closely with school administration to select a playground vendor and equipment for a shared use site located between The Sanibel School and the Sanibel Recreation Center.

The School Board of Lee County has completed installation and inspection of \$60,000 of playground equipment (see attached photo).

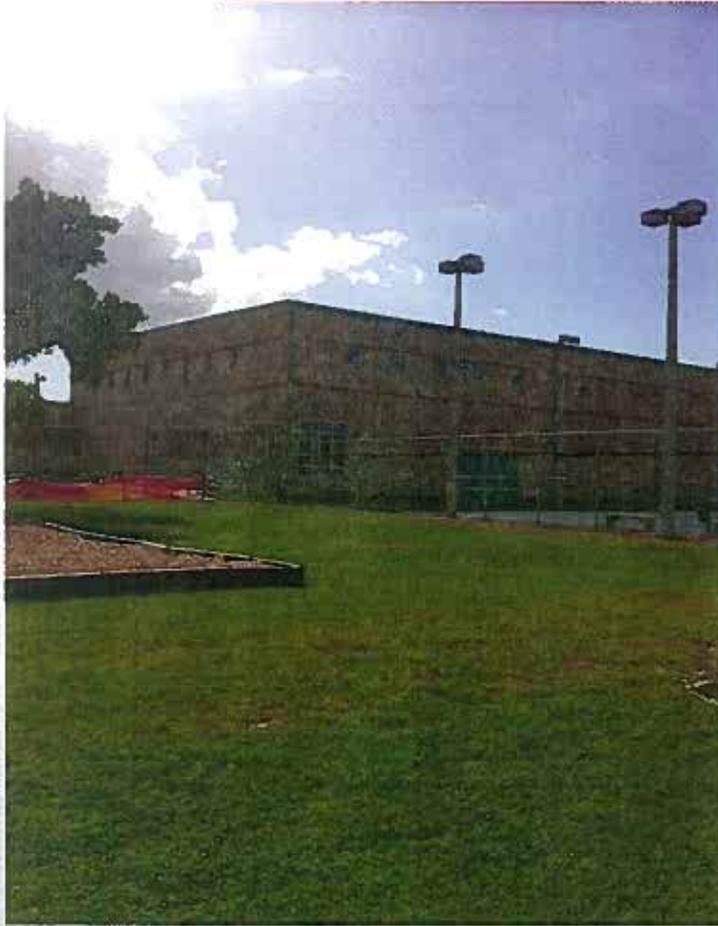
Please see attached for equipment information & certification, vendor sole source letter, payment schedule, and interlocal agreement with the School Board of Lee County.



**Sanibel
School Playground
Construction (September 2012)**



**Sanibel
School Playground
Construction (October 2012)**



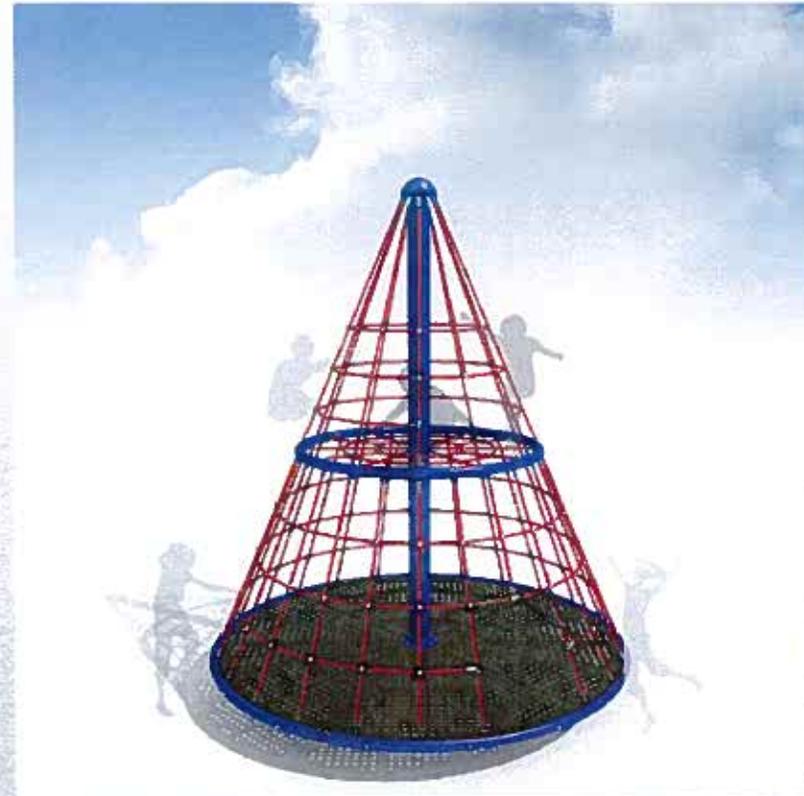
Site for remaining playground equipment



Biggo Swings



Apollo Rotating Climber



Proposed equipment

IPEMA Certificate of Compliance



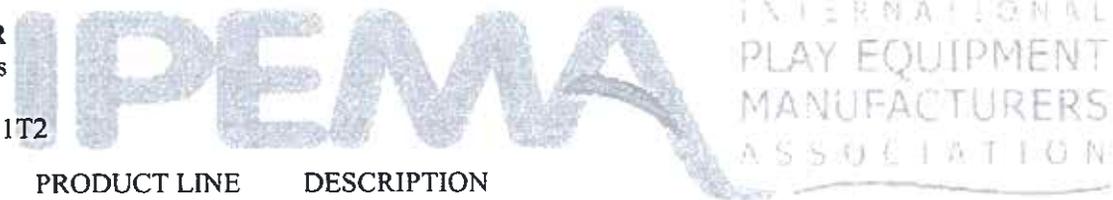
To verify product certification, visit www.ipema.org

ISSUE DATE: 11/19/12 - City of Sanibel

In the interest of public playground safety, IPEMA provides a third-party certification service whereby TÜV SÜD America validates a manufacturer's certification of conformance to the CAN/CSA-Z614-07(excluding clauses 9.8, 10, 11), Children Playspaces and Equipment.

The manufacturer listed below has received written validation from TÜV SÜD America that the products listed below conform with the requirements of CAN/CSA-Z614-07 (excluding clauses 9.8, 10, 11).

MANUFACTURER
Dynamo Playgrounds
5-733 Industrielle
Rockland, ON, K4K 1T2



PRODUCT NBR	PRODUCT LINE	DESCRIPTION
DX-2000F	Rotating Climbers	Mid Apollo w/Floor

You may verify this certificate by visiting IPEMA's website at <http://ipema.org>



IPEMA Certificate of Compliance



To verify product certification,
visit www.ipema.org

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MANUFACTURER
Dynamo Playgrounds
5-733 Industrielle
Rockland, ON, K4K 1T2



PRODUCT NBR	PRODUCT LINE	DESCRIPTION
DX-3300	Biggo Flyer	Biggo Flyer Trio

You may verify this certificate by visiting IPEMA's website at <http://ipema.org>





November 26, 2012

Andrea Miller
City of Sanibel
800 Dunlop Road
Sanibel, FL 33957

To Whom it May Concern :

This letter is to serve as confirmation that the Dynamo Biggo Swing and Dynamo Apollo are proprietary equipment, not available from other manufacturers, are IPEMA certified, and that Dynamo Industries are the sole source for these and all Dynamo playground equipment.

Please do not hesitate to contact me if I may be of further assistance.

Sincerely,

A handwritten signature in blue ink, appearing to read "Rob Lockhart", is positioned above the typed name.

Rob Lockhart
US Sales Director
Dynamo Industries

5-733 Industrielle St.
Rockland, ON K4K 1T2 Canada
(613) 446-0030 (800) 790-0034
(613) 446-0034 fax
www.dynamoindustries.com



5-733 Industrielle St.
 Rockland, ON K4K 1T2
 Canada
 P: (613) 446-0030
 F: (613) 446-0034

QUOTE

Quote No.: 1207389-USA-5
 Date: 11/22/2012
 Page: 1

Sold To:

City of Sanibel
 Andrea Miller
 800 Dunlop Rd.
 Sanibel, FL 33957
 USA

Ship To:

Sanibel School
 Sanibel, FL 33957

GST/HST No: 872335070

Item No.	Quantity	Unit	Description	Tax	Unit Price	Amount
DX-3300	1	Each	Biggo Trio --> Blue Paint on Post; Tan pain on Seats		0.00	0.00
DX-2100-F	1	Each	Apollo with floor --> Tan Paint, Blue Rope		0.00	0.00
SE-REND	1	Each	Supply, Install, Deliver: 2 Dynamo equipment pieces; geotextile, wood fiber surfacing, plastic border timbers, pins, etc (~53x73')		72,000.00	72,000.00
<p>* Customer must provide all location clearance certificates, must be valid and <30 days prior to installation * Quotation is for all work to take place concurrently * Freight quotation is for standard delivery only; any extras such as lift gate , limited access etc may require a surcharge * Freight rate not guaranteed more than 30 days * Any excavated soil to remain on site, no haul-away ** Payment terms: \$36,000 due at completion of installation; \$36,000 due October 1, 2013</p> <p>- No Tax</p> <p>Terms: 50% deposit required to process order.</p> <p>We submit this quotation as our offer to sell equipment to the buyer quoted above. This is not an acknowledgement and no goods will be produced until all requirements are met as stated herein, to the satisfaction of the seller. To accept this proposal, please sign, date and return with other materials required. Once signed and returned any changes must be submitted in writing and approved by the seller. No goods may be returned without prior written consent. Errors & Omissions excluded.</p>						
Comments					Freight	0.00
<p>* Reference Quote No: 1207389-USA-5 when placing order. * Please allow 8 to 10 weeks for delivery.</p>					Total Amount in USD	72,000.00

**INTERLOCAL AGREEMENT BETWEEN SCHOOL BOARD OF LEE COUNTY
AND THE CITY OF SANIBEL FOR CONSTRUCTION AND USE OF
PLAYGROUND AT THE SANIBEL SCHOOL**

This INTERLOCAL AGREEMENT is made and entered into this ___ day of _____ 2013, by and between the CITY OF SANIBEL, a Florida municipal corporation, acting by and through its City Council, the governing body thereof, hereafter referred to as "City", and the SCHOOL BOARD OF LEE COUNTY, FLORIDA, hereafter referred to as "School Board".

WITNESSETH:

WHEREAS, the School Board and the City Council both serve the people of the City of Sanibel; and

WHEREAS, the School Board has built a school within the City limits of Sanibel known as the Sanibel School ("School"); and

WHEREAS, the City Council and the School Board desire to construct a playground on the School campus, and share the expense of such construction; and

WHEREAS, both the School Board and the City are duly empowered pursuant to Florida Statutes, in particular Section 163.01, to enter into interlocal agreements for the sharing of certain governmental powers and obligations.

NOW, THEREFORE, in consideration of the foregoing, and of the mutual covenants and conditions hereinafter set forth, the School Board and the City, intending to be legally bound, hereby agree as follows:

SECTION I. PURPOSE

1. It is the purpose and intent of this Agreement to define the terms and conditions for construction of a playground (the "Playground") on the School property, the maintenance of same and the joint use of the Playground by the City and the School Board. All terms and conditions of this Agreement will be interpreted in a manner consistent with and in furtherance of the purpose as set forth in this Section.

2. The Recitals as set forth above are incorporated into the terms of this Agreement as if set out herein at length.

SECTION II: INSTALLATION

1. The School Board has constructed the Playground and related Playground equipment and improvements on the School property, at the location generally depicted on Exhibit "A" (attached hereto and incorporated herein), at a cost of \$60,000.

2. City will install additional playground equipment at the Playground on the School property, at the location generally depicted on Exhibit "A", as follows:

a. The City shall purchase one Dynamo "Biggo Flyer Trio" swing and one Dynamo "Apollo Rotating Climber", generally depicted on Exhibit "B" (attached hereto and incorporated herein) and contract for the installation of such Playground equipment at the Playground at a total cost of \$72,000. The City shall pay directly to the equipment vendor an amount of \$36,000 upon successful completion of equipment installation, which shall include ADA compliant mulch to be installed at the site of the equipment. The City shall pay the remaining \$36,000 invoice payment directly to the vendor on or before October 1, 2013.

3. All playground equipment installed on the School property will meet ASTM 1487 Standard Consumer Safety Performance Specifications for Playground Equipment for Public Use, ASTM F1292 Standard Specification for Impact Attenuation of Surface Systems Under and Around Playground Equipment and CPSC Consumer Product Safety Commission Handbook for Public Playground Safety. The City and School Board agree that the Playground equipment described above to be installed by the City meets such specifications and standards.

4. The School Board will install ADA compliant mulch once per year for the entire Playground.

SECTION III: MAINTENANCE

1. Once installed, the School Board will maintain the playground equipment installed by both the School Board and the City. In the event of any warranty claim during the warranty period relating to Playground equipment installed by the City, the City shall be responsible for arranging such warranty work after notice to the School Board. In the event of any warranty claim during the warranty period relating to Playground equipment installed by the School Board, the School Board shall be responsible for arranging such warranty work after notice to the City.

2. The City will contribute 50% to the cost of maintenance of the playground equipment installed by both the School Board and the City and 50% of the cost of the mulch that will be installed annually. Such contribution shall be due within 30 days of receipt of an invoice from the School Board for same. The School Board will not incur an expenditure for repair or replacement of equipment or maintenance in excess of \$750.00 without prior approval of City.

3. Once installed, the School Board will conduct annual inspections of both playgrounds. A copy of the results of each annual inspection shall be provided to the City within fifteen (15) calendar days after such inspection.

4. City will secure the playground and empty the playground trashcan in the evening. On weekdays when school is in session, the School Board will open the playground in the mornings. On all other days, the City will be responsible to open the playground as well as close it. The School Board shall be responsible for maintenance of all trees and vegetation and lawn care (including the mowing of any remaining grass) at and around the Playground area.

SECTION IV: USE OF FACILITY

1. The School Board will have exclusive use of the playground during regular school hours on days that school is in session and during any special events scheduled by the School Board.

2. The City will have use of the playground other than the times referenced above. However, the facilities should not be used prior to 6:30 AM on non-school days and later than 8:00 PM each day.

SECTION V: TERM

The initial term of this Agreement shall be for a period of fifteen (15) years. After the expiration of the initial term, this Agreement will renew annually unless either party elects to terminate the Agreement by providing ninety (90) days written notice.

SECTION VI: LIABILITY

1. The City agrees to exercise reasonable care in the conduct of its activities during the use of the playground as described in this Agreement. The City further agrees to repair, replace or reimburse School Board for any damages to the playground caused by the City, its employees or citizens who use the facility as a result of this Agreement.

2. a. Subject to the limitations as set out in Florida Statutes §768.28, the City shall defend, hold harmless and indemnify School Board from and against any and all claims, actions, damages, liability, cost and expense, including those arising from bodily injury, death and/or property damage or any other lawful expense, including, but not limited to, attorney's fees and court costs, brought by third parties arising from the act or omission of the City, its agents, employees, or contractors for the construction or maintenance of the Playground. The provisions of this paragraph are not intended to abrogate the sovereign immunity of City beyond that set forth in Section 768.28, Florida Statutes.

b. Subject to the limitations as set forth in Florida Statutes, §768.28, School Board shall defend, hold harmless and indemnify the City from and against any and all claims, actions, damages, liability, cost and expense, including those arising from bodily injury, death and/or property damage or any other lawful expense, including, but not limited to, attorney's fees and court costs, brought by third parties arising from

the acts or omissions of School Board, its agents, employees, and contractors for the construction or maintenance of the Playground. The provisions of this paragraph are not intended to abrogate the sovereign immunity of School Board beyond that set forth in Section 768.28, Florida Statutes.

2. This Agreement contains the entire agreement between the City and School Board with respect to the subject matter of this Interlocal Agreement (construction and use of Playground at Sanibel School), any verbal understanding, statements or prior writings or agreements to the contrary notwithstanding.

3. No change or modification to this Agreement shall be effective unless the same is in writing and signed by both parties.

SECTION VII: DEFAULT

If either party fails to fulfill its obligations under this Agreement that party will be considered to be in default. The other party to the Agreement shall provide written notice of the default and an opportunity to cure the default within 30 days of receipt of said notice. If the defaulting party fails to cure the default within said time period, the other party may terminate this Agreement for cause or breach. Failure of either party to exercise its rights in the event of any breach shall not constitute a waiver of such rights. Neither the City nor the School Board is deemed to have waived any failure to perform by the other party unless such waiver is in writing and signed by the waiving party.

SECTION VIII: CONTACT PERSON

The City Manager or designee, shall be the City's contact person with the School Board, and the Executive Director of School Support, or his designee, shall be the School Board's contact person with the City.

SECTION IX: DISPUTE RESOLUTION

As a condition precedent to a party bringing any suit for breach of this Agreement, that party must first notify the other party in writing of the nature of the purported breach and seek in good faith to resolve the dispute through negotiation. If the parties cannot resolve the dispute through negotiation, they may agree to a mutually acceptable method of non-binding alternative dispute resolution with a qualified third party acceptable to both parties. The existence of a dispute shall not excuse the parties from performance pursuant to this Agreement. This remedy is supplemental to any other remedies available at law. In the event of any dispute hereunder, the prevailing party shall be entitled to recover all costs and expenses incurred by it in connection with the enforcement of this Agreement, including all Attorneys' fees and costs in connection therewith.

SECTION X: ASSIGNMENT

No assignment, delegation, transfer, or novation of this Interlocal Agreement or part thereof, shall be made by either Party unless approved by both the School Board and the CITY.

IN WITNESS WHEREOF, the City and School Board hereto have set their hands and seals on the date and year indicated.

The School Board of Lee County, Florida

The City of Sanibel, a Florida Municipal Corp

By: _____
Joseph P. Burke, Ed.D.
Its: Superintendent

By: _____
Judith A. Zimomra
Its: City Manager

Date: _____

Date: _____

RATIFIED AND APPROVED:

By: _____

Its: Chairman

APPROVED AS TO FORM:

APPROVED AS TO FORM:

By: _____
Keith B. Martin, Esq.
School Board Attorney

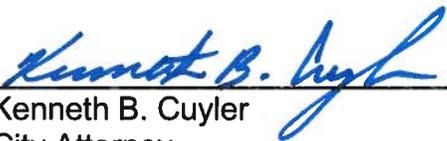
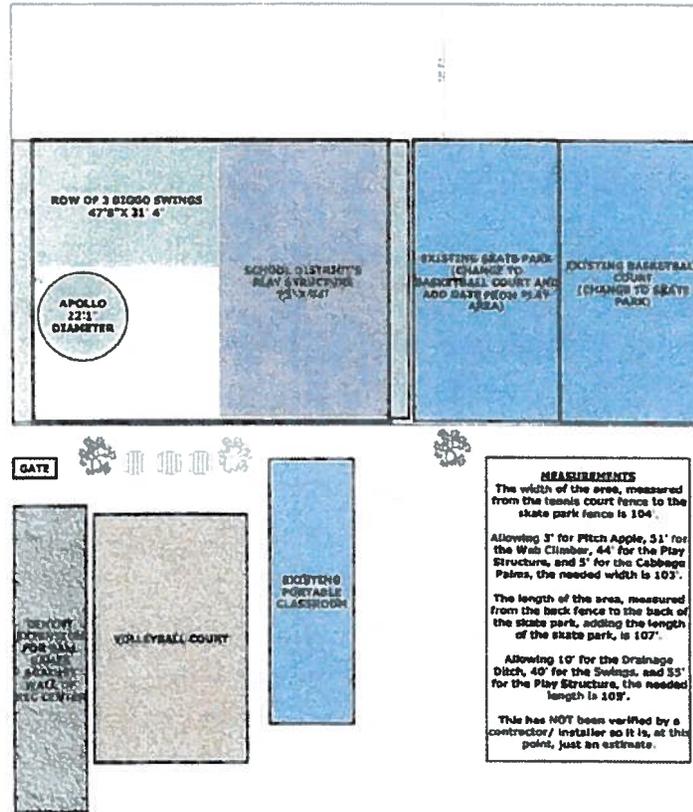
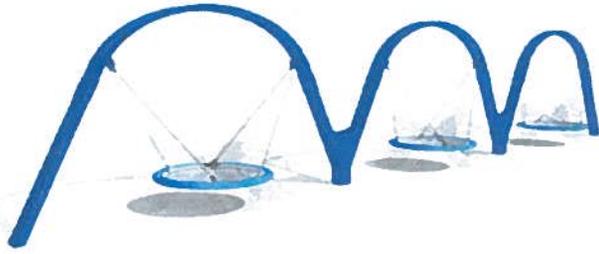
By:  _____
Kenneth B. Cuyler
City Attorney

EXHIBIT "A"



Playground Project Site



Biggo Swings

Apollo Rotating Climber

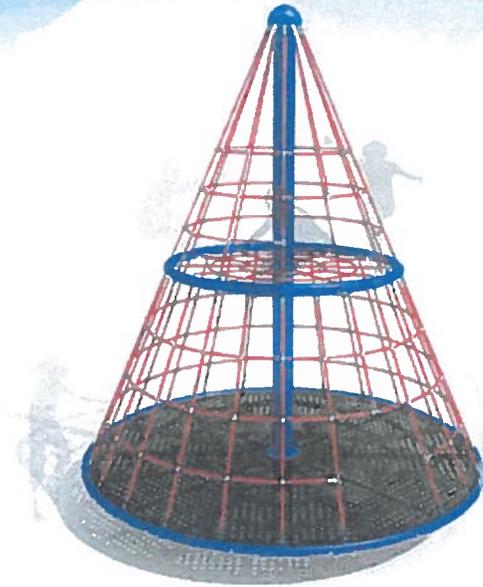
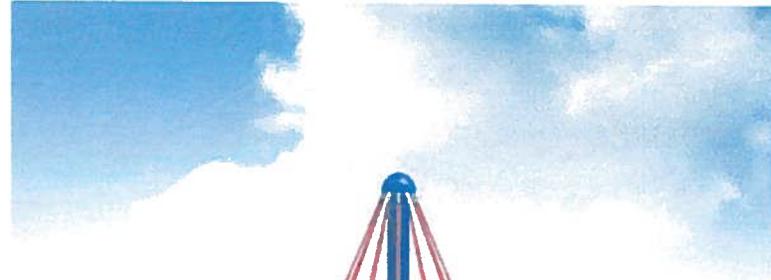


EXHIBIT "B"



Proposed equipment
