

MASTER AGREEMENT # 6484

EXHIBIT A

FORM PARTICIPATING ADDENDUM

NASPO ValuePoint
PARTICIPATING ADDENDUM



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ValuePoint

**PARKS & RECREATION EQUIPMENT
AND RELATED SERVICES**

Lead by the State of Oregon

Master Agreement #: 6484

Contractor: **LANDSCAPE STRUCTURES INC. (Contractor)**

Participating Entity: **STATE OF NORTH DAKOTA**

The following Goods or services are included in this Addendum:

- *All Goods and accessories listed on the Contractor page of the NASPO ValuePoint website.*
- *Product Installation, Site Work, and Repair Services –*

Eligible user may determine if they want to use installation, site work, or repair services as part of this agreement through an authorized service provider. The dealer must meet all requirements given by the manufacturer for installation and other services. Before services are performed the eligible user will submit a detailed scope of work for the services required. After reviewing the scope of work the authorized dealer must provide a quote to the end user detailing all costs. The eligible user must approve cost and timeline before any services are provided. Charges for services are not to exceed 38% of the cost of the equipment.

Master Agreement Terms and Conditions:

1. **Scope:** This addendum covers the **Parks & Recreation Equipment and Related Services** led by the State of Oregon for use by state agencies and other entities located in the Participating State *North Dakota* authorized by that State's statutes to utilize State contracts with the prior approval of the State's Chief Procurement Official.
2. **Participation:** This NASPO ValuePoint Master Agreement may be used by all state agencies, institutions of higher institution, political subdivisions and other entities authorized to use statewide contracts in the State of *North Dakota*. Issues of Interpretation and eligibility for participation are solely within the authority of the State Chief Procurement Official.
3. **Primary Contacts:** The primary contact individuals for this Participating Addendum are as follows (or their named successors):

Contractor

Name:	Elaine Harkess, Contract Administrator
Address:	601 7 th Street S.; Delano, MN 55328
Telephone:	763-972-5243
Fax:	763-972-3185
Email:	elaineharkess@playisi.com

Participating Entity

Name:	Chad Keech
Address:	14 Floor Capitol Tower, 600 E. Boulevard Ave. Dept 012
Telephone:	701-328-2767
Fax:	701-328-1615
Email:	ckeech@nd.gov

4. PARTICIPATING ENTITY MODIFICATIONS OR ADDITIONS TO THE MASTER AGREEMENT

These modifications or additions apply only to actions and relationships within the Participating Entity.

Participating Entity must check one of the boxes below.

No changes to the terms and conditions of the Master Agreement are required.

The following changes are modifying or supplementing the Master Agreement terms and conditions.

1. **Coterminous.** The term of this participating addendum shall be coterminous with the State of Oregon Contract Number 6484.

1. **Confidentiality:** CONTRACTOR shall not use or disclose any information it receives from STATE under this contract that STATE has previously identified as confidential or exempt from mandatory public disclosure except from mandatory public disclosure except as necessary to carry out the purposes of this contract or as authorized in advance by STATE. STATE shall not disclose any information it receives from CONTRACTOR that CONTRACTOR has previously identified as confidential and that STATE determines in its sole discretion is protected from mandatory public disclosure under a specific exception to the North Dakota open records law, N.D.C.C ch. 44-04. The duty of STATE and CONTRACTOR to maintain confidentiality of information under this section continues beyond the term of this contract.

2. Compliance with public records laws: CONTRACTOR understands that, except for disclosures prohibited in this Contract, STATE must disclose to the public upon request any records it receives from CONTRACTOR. CONTRACTOR further understands that any records obtained or generated by CONTRACTOR under this Contract, except for records that are confidential under this Contract, may, under certain circumstances, be open to the public upon request under the North Dakota public records law. CONTRACTOR agrees to contact STATE as soon as reasonably possible upon receiving a request for information under the public records law and to comply with STATE's instructions on how to respond to the request.

3. Spoliation: CONTRACTOR shall notify State of all potential claims that CONTRACTOR is aware of that arise as a result of CONTRACTOR'S performance under this contract. CONTRACTOR shall also take all reasonable steps to preserve all physical evidence and information that may be relevant to the circumstances surrounding a potential claim, while maintaining public safety, and grants to State the opportunity to review and inspect the evidence, including the scene of an accident.

4. Cooperative Purchasing Contract: This contract is a cooperative purchasing contract established pursuant to North Dakota Century Code (N.D.C.C.) § 54-44.4-13. This contract is made available to state entities, institutions under the jurisdiction of the State Board of Higher Education, other government entities (including counties, cities, townships, public primary and secondary educational entities, governmental boards and commissions), nonprofit entities established on behalf of public entities, tribal agencies, transportation providers under N.D.C.C ch. 39-04.2, and the International Peace Garden. Participation in this open-ended contract is not mandated; therefore, the estimated volume of this contract is not known.

5. Governing Law and Venue: This Contract is governed by and construed in accordance with the laws of the State of North Dakota. Any action to enforce this Contract must be adjudicated exclusively in the state District Court of Burleigh County, North Dakota. Each party consents to the exclusive jurisdiction of such court and waives any claim of lack of jurisdiction or *forum non conveniens*.

6. Indemnification. In addition to any indemnity obligations found within the Master Agreement, CONTRACTOR agrees that any attorney appointed to represent the STATE must first qualify as and be appointed by the North Dakota Attorney General as a Special Assistant Attorney General as required under N.D.C.C. § 54-12-08.

7. Alternative dispute resolution - jury trial
STATE does not agree to any form of binding arbitration, mediation, or other forms of mandatory alternative dispute resolution. The parties have the right to enforce

their rights and remedies in judicial proceedings. STATE does not waive any right to a jury trial.

8. Attorney fees

In the event a lawsuit is instituted by STATE to obtain performance due under this Contract, and STATE is the prevailing party, CONTRACTOR shall, except when prohibited by N.D.C.C. § 28-26-04, pay STATE'S reasonable attorney fees and costs in connection with the lawsuit.

9. **Lease Agreements:** *[If applicable, insert a statement about whether or not equipment lease agreement terms and conditions included in the Master Agreement have been approved for use by the Participating State and any restrictions or requirements for the use of the lease agreement language in the Master Agreement. If not applicable, mark Section 4 as "Reserved".]*

10. **Subcontractors:** All contactors, dealers, and resellers authorized in the State of *North Dakota* as shown on the dedicated Contractor (cooperative contract) website, are approved to provide sales and service support to participants in the NASPO ValuePoint Master Agreement. The contractor's dealer participation will be in accordance with the terms and conditions set forth in the aforementioned Master Agreement.

11. **Orders:** Any order placed by a Participating Entity or Purchasing Entity for a product and/or service available from this Master Agreement shall be deemed to be a sale under (and governed by the prices and other terms and conditions) of the Master Agreement unless the parties to the order agree in writing that another contract or agreement applies to such order.

IN WITNESS WHEREOF, the parties have executed this Addendum as of the date of execution by both parties below.

Participating Entity: <i>North Dakota State Procurement Office</i>	Contractor: Landscape Structures Inc.
Signature: 	Signature: 
Name: <i>Chad Keech</i>	Name: Elaine Harkess
Title: <i>Procurement Officer II</i>	Title: Contract Administrator
Date: <i>5/2/17</i>	Date: <i>5/2/17</i>

[Additional signatures may be added if required by the Participating Entity]

For questions on executing a participating addendum, please contact:

NASPO ValuePoint

Cooperative Development Coordinator:	Tim Hay
Telephone:	503-428-5705
Email:	thay@naspovaluepoint.org

***[Please email fully executed PDF copy of this document to
PA@naspovaluepoint.org
to support documentation of participation and posting in appropriate data bases.]***