

Agreement

THIS AGREEMENT ("Agreement") is made by and between Accessible Play, Inc. ("Accessible Play"), a Missouri non-profit corporation and the City of Florissant, Missouri, a municipal corporation ("City") as of this ____ day of _____, 2011.

WHEREAS, Accessible Play is a nonprofit organization formed by a volunteer group of citizens to design and build an all inclusive playground for children regardless of their physical abilities, and

WHEREAS, no salaries are paid to any participant member or any member of the Board of Directors of Accessible Play and all proceeds received from donations, fund raisers or any other means of income will be used solely for the benefit of designing and building an all inclusive playground, and

WHEREAS, it is the intent of Accessible Play to construct a playground, restroom facilities parking lot and a private pavilion in Manion Park with private funds (hereinafter referred to as the "Project") with no public funding of any kind being used toward the Project.

In consideration of the mutual terms and conditions set forth herein, Accessible Play and City agree as follows:

Section 1. Design of Project.

As of the date of this Agreement, the design of the Project includes a play area of approximately 15,000 square feet with an improved soft surface on an asphalt/concrete base, a lighted parking area of approximately 34,320 square feet with 93 spaces for automobiles and two bus parking spaces, restroom facilities and a private pavilion. The concept for the Project includes a teaching curriculum for advanced learning and a walking path surrounding the play area for adults.

Section 2. Manion Park.

Through the assistance and cooperation of Mayor Robert G. Lowery Sr., Manion Park has been identified as the site for the Project. A copy of a site plan depicting the location and general layout of Project in Manion Park is attached hereto as Exhibit A and is incorporated by reference. As noted on the site plan, the existing pavilion in Manion Park will remain and will continue to be used for general public and private activities. The Florissant Public Works Department agrees to continue to provide the services of the City Engineer to assist the design committee of Accessible Play with the refinement of the site plan for Manion Park.

Section 3. City Council Approval.

Accessible Play understands that the use of Manion Park for this Project must receive the approval of the City Council, and through the execution of this Agreement the City Council adopts Mayor Lowery's suggestion and herein approves Manion Park as the designated site for the construction of this Project.

Section 4. Funding and Construction Responsibility.

Accessible Play shall be responsible for all funding necessary for the design and construction of the Project, and shall provide sufficient evidence to the City that adequate funding exists before construction of the Project shall commence. It is also agreed and understood that Accessible Play shall be fully responsible to pay any and all construction costs and shall make the decisions regarding the construction of the Project, including, but not limited to, the selection of all subcontractors and materials used on the Project, subject to the terms and conditions set forth herein.

Section 5. Conformance to Code and Industry Standards.

The Project shall be constructed in accordance with all applicable building codes of the City of Florissant and St. Louis County, and all applicable industry standards. Accessible Play agrees that the City shall have the right to oversee the construction and has the final authority over the construction process to ensure compliance with all applicable codes and standards in the industry.

Section 6. Transfer of Playground to City.

Upon completion of the construction of the Project and acceptance of the Project by the City, Accessible Play shall transfer all ownership interests in the Project to the City. Documentation will be given to the City to ensure that all financial liabilities incurred by Accessible Play have been paid in full and that the Project has been built in accordance with applicable design and industry standards. Following the transfer of the Project, the City will assume all responsibility and liability for the physical maintenance of the Project and the City shall be entitled to assess and collect rental fees from the playground pavilion if the City determines to do so.

Section 7. Failure to Complete Construction.

In the event that Accessible Play fails to fully and adequately complete construction of the Project within 18 months from the commencement of construction, the City shall, in its sole discretion, exercise the right and authority to complete the construction of the Project or remove the Project from Manion Park without any accountability, responsibility or liability to Accessible Play or any third party.

Section 8. Name of Playground.

It is agreed and understood that the playground will be named Angie's Playground at Manion Park in perpetuity.

Section 9. Maintenance.

Following the acceptance of the Project by the City, the City shall be responsible for maintenance of the Project. However, it is the intention of Accessible Play to continue to operate and collect donations and establish an endowment to be used to reimburse the City for maintenance costs and to provide a source of funding for possible future expansion of the playground area of the Project.

Section 10. Use of Playground.

It is agreed and understood that the playground will be open to any and all who wish to visit and enjoy this site regardless of residency. However, this provision does not preclude the City from establishing restrictions on the use of the Pavilions.

Section 11. Entire Agreement

This Agreement constitutes the entire understanding between the parties with respect to the subject hereof and neither has been induced to make or enter into this Agreement by reason of any oral or written agreement or representation other than as contained herein.

ACCESSIBLE PLAY INC.

By _____

CITY OF FLORISSANT

By _____
Mayor Robert G. Lowery, Sr.