



## STAFF REPORT

**Meeting Date:** September 23, 2014  
**To:** Honorable Mayor & City Council  
**From:** Steven Zoet, Director of Community Services  
**Subject:** Donation of Roxbury Playground Equipment to Kids Around the World  
**Attachments:** 1. Letter from Ken Porter Auctions  
2. Release and Indemnification Agreement

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### INTRODUCTION

Due to the upcoming replacement of all existing Roxbury Park playground equipment, the Recreation and Parks Commission and staff propose donating the play structures to the Kids Around the World organization for placement and use of the surplus equipment elsewhere in the world.

Unless directed by City Council to the contrary, staff will work with the Kids Around the World organization to arrange for the removal of the existing Roxbury Park playground equipment so that it can be reused for and enjoyed by children elsewhere in the world.

### DISCUSSION

Former Recreation and Parks Commissioner Kathi Rothner requested the Recreation and Parks Commission support the concept of donating the existing Roxbury Park playground equipment to the Kids Around the World organization when it would be removed as part of the Roxbury Park restoration efforts. Kids Around the World is a certified and accredited non-profit organization based in Rockford, Illinois. Its function, amongst other services provided, is to repurpose play equipment that may otherwise be disposed of and place them in low income communities for the use and enjoyment of local children. Although some of the repurposed playgrounds are installed in the United States many are being placed in other locations around the world, including developing countries, where local means don't normally allow for such play opportunities to exist. As of now, it is the organization's intent to install one playground in Ecuador and one in the Philippines.

The City's Municipal Code provides that the Administrative Services Director "shall dispose of all city owned surplus and obsolete personal property by bid, auction, negotiated sale or exchange. The director shall attempt to obtain the best value for the property that can be reasonably obtained. (BHMC Section 3-3-401). In assessing any concerns with the city repurposing this equipment, the City Attorney's office requested that staff assess the current value of the play structures to see what the city could

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reasonably expect to receive for the equipment were it to pursue a sale. Ken Porter Auctions, the service typically utilized by the city to dispose of its surplus goods, evaluated the equipment and felt that the costs to disassemble, transport and sell would be greater than the value received. As a result, the City Attorney's office does not object to the city disposing of this equipment through the proposed means. The city will actually realize a savings through this donation by negating the contractor costs associated with the removal and disposal of the equipment.

The City Attorney's office also advised of the need to assure the indemnification of any future liability associated with the transport and reuse of the equipment. Proper release of liability and indemnification agreements have been mutually reviewed and agreed to by both parties and will be fully executed prior to the scheduled removal of the equipment on October 4<sup>th</sup>. The City's Risk Manager has also reviewed the organization's insurance coverage and has deemed the terms of their policy acceptable.

### **FISCAL IMPACT**

There are no additional costs that would be incurred by the City as a result of this action. The City would actually realize a savings to its project costs since the contractor would not incur expenses associated with its removal and disposal which would otherwise occur.

### **RECOMMENDATION**

This report is for informational purposes only.

Steve Zoet  
Approved By

A handwritten signature in black ink, appearing to be 'SZ', is written over a horizontal line that extends from the text 'Approved By' to the right.

# **Attachment 1**

**Ken Porter**  
**AUCTIONS**  
EST. 1962



February 4, 2014

Craig Crowder  
Fleet Manager  
City of Beverly Hills

Hi Craig

As per our conversation on the playground equipment I feel that if it was disassembled and pack correctly and moved to our location the cost would be greater than the value of the equipment if there is any further information needed please feel free to contact me.

Thank You

Gene Govoreau  
Ken Porter Auctions  
21140 S. Avalon Blvd.  
Carson, Ca 90745  
Office (310) 353-7140  
Cell (310) 613-9501  
Email [gene@kenporterauctions.com](mailto:gene@kenporterauctions.com)  
<http://www.kenporterauctions.com>

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**Phone: 310-353-7140 • Fax 310-353-5740**  
**[www.kenporterauctions.com](http://www.kenporterauctions.com) • E-mail: [infor@kenporterauctions.com](mailto:infor@kenporterauctions.com)**

# **Attachment 2**



**kids around the world**

**RELEASE AND INDEMNIFICATION AGREEMENT**

This release and indemnification is given this date by Kids Around The World, Inc., 2424 Charles St., Rockford, IL 61125 (hereinafter referred to as "KIDS").

KIDS, an Illinois not-for-profit corporation, registered in Illinois at the above address performing charitable programs including building playgrounds for children in underprivileged locations, desires to receive playground equipment ("Playground Equipment") from the City of Beverly Hills ("City") and as a condition for donating the Playground Equipment, City requires KIDS to release and indemnify City from any and all claims that may arise from the use or removal of the Playground Equipment being removed by KIDS at the site of the existing playground, from the time KIDS begins removal of the Playground Equipment, and into the future relating to the use of such Playground Equipment.

Therefore, KIDS hereby releases and forever discharges the City of Beverly Hills from any and all claims that may arise from the use or removal of the Playground Equipment being removed by KIDS at the site of the existing playground, from the time KIDS begins removal of the Playground Equipment, and into the future relating to the use of the Playground Equipment being donated by City to KIDS. This release does not apply to any claims that may occur at the site prior to the Playground Equipment being removed by KIDS.

KIDS understands and accepts that the City makes no express or implied warranties regarding the Playground Equipment, including performance and safety standards. KIDS shall not install or use the Playground Equipment anywhere within the United States of America.

KIDS agrees to indemnify, hold harmless and defend City, City Council and each member thereof, and every officer, employee and agent of City, from any liability or financial loss (including, without limitation, attorneys fees and costs) arising from any intentional, reckless, negligent, or otherwise wrongful acts, errors or omissions of KIDS or arising from and related to the use of the Playground Equipment donated by City to KIDS,

Daniel A. Liesik

\_\_\_\_\_  
Representative of KIDS AROUND THE WORLD, INC.  
Regional Director of RePlay

SEP 18, 2014  
\_\_\_\_\_  
DATE

\_\_\_\_\_  
CITY OF BEVERLY HILLS

\_\_\_\_\_  
DATE



kids around the world

## PLAYGROUND EQUIPMENT DONATION AGREEMENT

This agreement is entered this date between Kids Around The World, Inc., 2424 Charles St., Rockford, IL 61125 (hereinafter referred to as "KIDS") and the City of Beverly Hills (hereafter referred to as "Donating Organization").

KIDS, an Illinois not-for-profit corporation, registered in Illinois at the above address performing charitable programs including building playgrounds for children in underprivileged locations, desires to Acquire as a donation, the below identified used playground equipment from the Donating Organization (hereafter referred to as the "Equipment").

In consideration for the donation of the Equipment from the Donating Organization, KIDS agrees to the following:

**DISCLAIMER:** KIDS acknowledges and agrees that the Donating Organization is neither a manufacturer nor a vendor of the Equipment, that KIDS takes the Equipment and each part thereof "as-is" and that the Donating Organization has not made, and does not hereby make, any representation, warranty, or covenant, express or implied, with respect to compliance with any and all applicable guidelines or regulations, including, but not limited to ASTM and CPSC, the merchantability, condition, quality, durability, design, operation, fitness for use, or suitability of the Equipment in any respect whatsoever or in connection with or for the purposes and uses of KIDS, or as to the absence of latent or other defects whether or not discoverable, or as to the absence of any infringement of any patent, trademark or copyright, or as to any obligation based on strict liability in tort or any other representation, warranty, or covenant of any kind or character, express or implied, with respect thereto, it being agreed that all risks incident thereto are to be borne by KIDS and the Donating Organization shall not be obligated or liable for actual, incidental, consequential, or other damages of or to buyer or other person or entity arising out of or in connection with the use or performance of the Equipment and the maintenance thereof. KIDS acknowledges that KIDS has selected the Equipment KIDS is acquiring from the Donating Organization based on KIDS' own judgment and the Donating Organization hereby affirmatively disclaims reliance on any oral representation concerning the Equipment made to KIDS.

**INSURANCE REQUIREMENTS:** KIDS shall maintain insurance of the types and in the amounts listed below.

### A. Commercial General Liability Insurance

KIDS shall maintain commercial general liability (CGL) insurance with a limit of not less than \$1,000,000 each occurrence and a \$2,000,000 aggregate limit.

CGL insurance shall be written on Insurance Services Office (ISO) occurrence form CG 00 01 10 93, 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.

The City shall be included as an additional insured under the CGL insurance form.

**B. Business Auto Liability Insurance**

If applicable, KIDS shall maintain business auto 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.

**C. Workers Compensation Insurance**

Kids will maintain a worker's compensation insurance policy to cover all of the Kids employees with a minimum employer's liability limit of \$100,000 / \$500,000 / \$100,000.

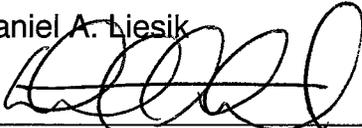
**D. General Insurance Provisions**

**1. Evidence of Insurance**

Prior to removal of the Equipment, KIDS shall furnish City with a certificate(s) of valid insurance meeting the above noted requirements.

The donated equipment included in this agreement includes: Roxbury Playgrounds (2), Swing Sets (4), Spring Toys (3), Plastic Climbers (3), Play Dining Booths (3)

Daniel A. Liesik



Representative of KIDS AROUND THE WORLD, INC.  
Regional Director of RePlay

SEP 18, 2014  
DATE

Representative of the DONATING ORGANIZATION

\_\_\_\_\_  
DATE