

MEMORANDUM**TO:** Board of Trustees**THROUGH:** Bobby Magee, District General Manager**FROM:** Shelia Leijon, Director of Parks & Recreation**SUBJECT:** Review Discuss and Approve the Agreement for Services for Floor Replacement in the Recreation Center Group Fitness Room - 2023/24 Capital Improvement Project; Fund: Community Services; Division: Recreation; Project # 4886LE001 - Fitness Equipment Floor Replacement; Vendor Croft Beck Group, LLC., in an Amount Not to Exceed \$36,619. (Requesting Staff Member: Director of Parks & Recreation Shelia Leijon)**RELATED FY 2023
STRATEGIC PLAN****BUDGET INITIATIVE(S):****LONG RANGE PRINCIPLE #5 – ASSETS AND
INFRASTRUCTURE**

The District will practice perpetual asset renewal, replacement and improvement to provide safe and superior long term utility services and recreation venues, facilities, and services.

**RELATED DISTRICT
POLICIES, PRACTICES,
RESOLUTIONS OR
ORDINANCES**

Capital Planning Multi-Year Capital Planning Policy 12.1.0; Purchasing Policy for Goods and Services 21.1.0

DATE: April 24, 2024**I. RECOMMENDATION**

That the Board of Trustees make a motion to:

1. Approve the Professional Services Agreement with Croft Beck Group, LLC., for floor replacement in the Recreation Center Group Fitness Room, CIP # 4886LE001 in the amount of \$36,619; and,
2. Direct the General Manager to sign and execute the Agreement.

II. BACKGROUND

The Group Fitness area, extensively utilized for fitness, dance, and personal training services within the Recreation Center programs over the past 13 years,

features Classic Exterra Wood flooring. However, due to heavy use, the flooring exhibits signs of wear and tear, with several planks showing warping, marring, and gaps, thereby posing potential trip hazards. Consequently, the existing flooring has been deemed irreparable and has reached the end of its useful life. Accordingly, replacement is scheduled as part of the approved FY 2023/24 Fitness Equipment Capital Improvement budget.

For the replacement flooring, the Robbins Forever Marley flooring has been chosen. This flooring system, tailored and biomechanically researched for performance, offers exceptional durability and comfort, surpassing traditional wooden sprung floors. Its superior characteristics include outstanding uniformity, vibration control, impact force reduction, and deflection, ensuring a safe and comfortable surface for all levels of activity. Moreover, its longevity is enhanced by the option for resurfacing, thereby extending its useful life.

The selection of the Durable Forever Marley Performance surface is based on several key factors:

1. Seamless, slip-resistant, non-reflective, and dimensionally stable performance.
2. Comfort and safety provided by a thick resilient pad, offering excellent force reduction, vibration damping, and deflection to soften landings.
3. Excellent acoustics facilitated by a continuous resilient subfloor, ensuring consistent sound and uniformity.
4. Uniform resilience achieved through a continuous subfloor, enhancing rolling load carrying ability.
5. Five-year limited warranty, providing assurance of quality and performance.

Repair of the floor will involve pouring a top layer of seamless polyurethane over the current surface. This proposed work aligns with the Board's Policy 12.1.0 regarding the maintenance of existing facilities. Additionally, it falls within the routine business of the District as per Board Policy 3.1.0, Subsection 0.4, and is included on the Consent Calendar. This inclusion reflects its alignment with the currently approved District's FY 2023/24 Carry-Forward Capital Improvements Expense Budget within the Facilities budget.

III. BID RESULTS

Staff solicited bids for this work in 2024 from three qualified sprung floor vendors. Two proposals were received: Croft – Beck Group LLC were the sole provider of Forever Marley flooring and installation/shipping of the flooring at \$36,619. O'Mara Flooring proposed a sprung wood flooring without installation and shipping at \$30,070 for materials only. Fitness Flooring Indianapolis did not respond to requests. The proposed Agreement with Croft – Beck Floors is included.

IV. FINANCIAL IMPACT AND BUDGET

At the Board of Trustees meeting on May 25, 2023 (Item G.7 and G.9), the FY 2023/24 budget was approved. This project has an approved budget of \$70,000. All unused funds will remain within the fund balance.

V. ALTERNATIVES

The Board of Trustees may defer or decide not to move forward with this recommendation and the flooring in the Recreation Center Group Fitness Room will remain in its current condition.

VI. COMMENTS

The Agreement between the District and Croft Beck Group LLC has been reviewed and approved by District Legal Counsel.

VII. BUSINESS IMPACT/BENEFIT

This item is not a "rule" within the meaning of Nevada Revised Statutes, Chapter 237, and does not require a Business Impact Statement.

VIII. ATTACHMENTS

- 1. Agreement - Rec Center Flooring Replacement
- 2. Flooring Images

IX. DECISION POINTS NEEDED FROM THE BOARD OF TRUSTEES

**SHORT FORM CONSTRUCTION CONTRACT
BETWEEN INCLINE VILLAGE GENERAL IMPROVEMENT DISTRICT
and
CROFT-BECK GROUP LLC
for
CONSTRUCTION INSTALLATION SERVICES**

1. PARTIES AND DATE.

This Contract is made and entered as of April 25, 2024 by and between the INCLINE VILLAGE GENERAL IMPROVEMENT DISTRICT, a Nevada general improvement district (“District”) and CROFT-BECK GROUP LLC, a Utah Limited Liability Company with its principal place of business at 2133 South 1260 West, Salt Lake City, UT 84119 (“Contractor”). District and Contractor are sometimes individually referred to as “Party” and collectively as “Parties” in this Contract.

2. RECITALS.

2.1 District. District is a general improvement district organized under the laws of the State of Nevada, with power to contract for services necessary to achieve its purpose.

2.2 Contractor. Contractor desires to perform and assume responsibility for the provision of certain construction services required by the District on the terms and conditions set forth in this Contract. Contractor represents that it is duly licensed and experienced in providing construction services relating to the work to furnish and install “Robbins Le Lena A Forever Marley” dance floor subfloor system of approx. 1,131 square feet at the Incline Village Recreation Center multipurpose room, that it and its employees or subcontractors have all necessary licenses and permits to perform the services in the State of Nevada, and that it is familiar with the plans of District.

2.3 Project. District desires to engage Contractor to render such services for the Multipurpose Room Flooring Replacement (“Project”) as set forth in this Contract.

2.4 Project Documents. Contractor has obtained, and delivers concurrently herewith, all insurance documentation, as required by the Contract. By reference herein, Contractor agrees to review and comply with the District’s Ordinances and *Standard Specification for Public Works Construction* (the “Orange Book”).

3. TERMS

3.1 Incorporation of Documents. This Contract includes and hereby incorporates in full by reference the following documents, including all exhibits, drawings, specifications and documents therein, and attachments and addenda thereto:

- Scope of Work (Exhibit A)
- Le Lena A Forever Marley Sell Sheet and Warranty (Exhibit B)
- Schedule of Charges (Exhibit C)

3.2 Contractor’s Basic Obligation; Scope of Work. Contractor promises and agrees, at its own cost and expense, to furnish to the District all labor, materials, tools, equipment, services, and incidental and customary work necessary to fully and adequately complete the

Project, including all structures and facilities necessary for the Project or described in the Contract (hereinafter sometimes referred to as the “Work”), for a Total Contract Price as specified in Section 3.7 of and pursuant to this Contract. All Work shall be subject to, and performed in accordance with the above referenced documents, as well as the exhibits attached hereto and incorporated herein by reference.

The Work is generally described as follows: Multipurpose Room Flooring Replacement at the District’s Recreation Center, located at 980 Incline Way, in Incline Village, Washoe County, Nevada.

3.2.1 Change in Scope of Work. Any change in the scope of the Work, method of performance, nature of materials or price thereof, or any other matter materially affecting the performance or nature of the Work shall not be paid for or accepted unless such change, addition or deletion is approved in writing by a valid change order executed by the District. Should Contractor request a change order due to unforeseen circumstances affecting the performance of the Work, such request shall be made within five (5) business days of the date such circumstances are discovered or shall waive its right to request a change order due to such circumstances. If the Parties cannot agree on any change in price required by such change in the Work, the District may direct the Contractor to proceed with the performance of the change on a time and materials basis.

3.3 Period of Performance.

3.3.1 Contract Time. Contractor shall perform and complete all Work under this Contract by June 28, 2024, which time may be extended as necessary to account for extended material delivery time as more clearly set forth in Exhibit A (“Contract Time”). Contractor shall perform its Work in strict accordance with any completion schedule, construction schedule or project milestones developed by the District. Contractor agrees that if such Work is not completed within the aforementioned Contract Time and/or pursuant to any such completion schedule, construction schedule or project milestones developed pursuant to provisions of the Contract, it is understood, acknowledged and agreed that the District will suffer damage.

3.3.2 Force Majeure. Neither District nor Contractor shall be considered in default of this Contract for delays in performance caused by circumstances beyond the reasonable control of the non-performing party. For purposes of this Contract, such circumstances include but are not limited to, abnormal weather conditions; floods; earthquakes; fire; pandemics or epidemics; war; riots and other civil disturbances; strikes, lockouts, work slowdowns, and other labor disturbances; sabotage or judicial restraint. Should such circumstances occur, the non-performing party shall, within a reasonable time of being prevented from performing, give written notice to the other party describing the circumstances preventing continued performance and the efforts being made to resume performance of this Contract. Contractor’s exclusive remedy in the event of delay covered under this section shall be a non-compensable extension of the Contract Time.

3.3.3 Liquidated Damages. Contractor and District recognize that time is of the essence, and that District will suffer financial and other losses if the Work is not completed in the Contract Time, as may be modified by mutual agreement of the parties. The parties also recognize the delays, expense, and difficulties involved in proving, in a legal or arbitration proceeding, the actual loss suffered by District if the Work is not completed on time. Accordingly, instead of requiring any such proof, District and Contractor agree that as liquidated damages for delay (but not as a penalty), Contractor shall pay to District Two Hundred Fifty dollars (\$250.00) for each

working day beyond the Contract Time that the Work is not completed, without an extension of time approved by the District in writing. If District recovers liquidated damages for a delay in completion by Contractor, such liquidated damages are District's sole and exclusive remedy for such delay, and District is precluded from recovering any other damages, whether actual, direct, excess, or consequential, for such delay, except for special damages (if any) specified in this Contract.

3.3.4 Hours of Work. Working hours, including equipment "warm up," shall occur between 8 a.m. and 7 p.m. Monday through Friday. Only emergency work may occur on Saturdays, with prior approval of District.

3.4 Standard of Performance; Performance of Employees.

3.4.1 Contractor shall perform all Work under this Contract in a skillful and workmanlike manner, and consistent with the Contract Documents and the standards generally recognized as being employed by professionals in the same discipline in the State of Nevada. Contractor represents and maintains that it is skilled in the professional calling necessary to perform the Work. Contractor warrants that all employees and subcontractors shall have sufficient skill and experience to perform the Work assigned to them. Finally, Contractor represents that it, its employees, and its subcontractors have all licenses, permits, qualifications and approvals of whatever nature that are legally required to perform the Work, including any required business license, and that such licenses and approvals shall be maintained throughout the term of this Contract. As provided for in the indemnification provisions of this Contract, Contractor shall perform, at its own cost and expense and without reimbursement from the District, any work necessary to correct errors or omissions which are caused by Contractor's failure to comply with the standard of care provided for herein. Any employee who is determined by the District to be uncooperative, incompetent, a threat to the safety of persons or the Work, or any employee who fails or refuses to perform the Work in a manner acceptable to the District, shall be promptly removed from the Project by Contractor and shall not be re-employed on the Work.

3.4.2 Contractor's warranty and guarantee hereunder excludes defects or damage caused by abuse, modification, or improper maintenance or operation by persons other than Contractor, Subcontractors, Suppliers, or any other individual or entity for whom Contractor is responsible; or normal wear and tear under normal usage.

3.4.3 Contractor's obligation to perform and complete the Work in accordance with the Contract Documents is absolute. None of the following will constitute an acceptance of work that is not in accordance with the Contract Documents or a release of Contractor's obligation to perform the work in accordance with the Contract Documents:

- a. Observations by District's representative;
- b. Recommendation by District's representative or payment by District of any progress or final payment;
- c. The issuance of a certificate of substantial completion by District's representative or any payment related thereto by District;
- d. Use or occupancy of the Project or any part thereof by District;

- e. Any review and approval of a shop drawing or sample submittal or the issuance of a notice of acceptability by District's representative;
- f. Any inspection, test, or approval by others; or
- g. Any correction of defective work by District.

3.5 Correction Period.

3.5.1 If, within one year after the date of substantial completion (or such longer period of time as may be prescribed by the terms of any applicable special guarantee required by the Contract Documents) or by any specific provision of the Contract Documents, any work is found to be defective, or if the repair of any damages to the land or areas made available for Contractor's use by District or permitted by laws and regulations is found to be defective, Contractor shall promptly, without cost to District and in accordance with District's written instructions:

- a. Repair such defective land or areas; or
- b. Correct such defective work; or
- c. If the defective work has been rejected by District, remove it from the Project and replace it with work that is not defective, and
- d. Satisfactorily correct or repair or remove and replace any damage to other work, to the work of others or other land or areas resulting therefrom.

3.5.2 If Contractor does not promptly comply with the terms of District's written instructions, or in an emergency where delay would cause serious risk of loss or damage, District may have the defective work corrected or repaired or may have the rejected work removed and replaced. All claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such correction or repair or such removal and replacement (including but not limited to all costs of repair or replacement of work of others) will be paid by Contractor.

3.5.3 In special circumstances where a particular item of equipment is placed in continuous service before substantial completion of all the Project, the correction period for that item may start to run from an earlier date if so provided in the Specifications.

3.5.4 Where defective work (and damage to other work resulting therefrom) has been corrected or removed and replaced under this Section 3.5, the correction period hereunder with respect to such work will be extended for an additional period of one year after such correction or removal and replacement has been satisfactorily completed.

3.5.5 Contractor's obligations under this Section 3.5 are in addition to any other obligation or warranty. The provisions of this Section 3.5 shall not be construed as a substitute for or a waiver of the provisions of any applicable statute of limitation or repose.

3.6 District's Basic Obligation. District agrees to engage and does hereby engage Contractor as an independent contractor to furnish all materials and to perform all Work according to the terms and conditions herein contained for the sum set forth above. Except as otherwise

provided in the Contract, the District shall pay to Contractor, as full consideration for the satisfactory performance by Contractor of the services and obligations required by this Contract, the below-referenced compensation in accordance with compensation provisions set forth in the Contract.

3.7 Compensation and Payment.

3.7.1 Amount of Compensation. For all Work, at the prices stated in Contractor's Proposal attached hereto as Exhibit A, and as consideration for the performance of the Work required herein, District Agrees to pay Contractor a lump sum of **Thirty-Six Thousand Six Hundred Nineteen Dollars (\$36,619.00)** ("Total Contract Price") as more fully set forth in Exhibit C, provided that such amount shall be subject to adjustment pursuant to the applicable terms of this Contract or written change orders approved and signed in advance by the District.

3.7.2 Payment of Compensation. On or before the fifth (5th) day of each month, Contractor shall submit to the District an itemized invoice indicating the amount of Work completed since commencement of the Work or since the last progress payment. The Contractor shall certify that the Work for which payment is requested has been done and that the materials listed are stored where indicated. Contractor may be required to furnish a detailed schedule of values upon request of the District and in such detail and form as the District shall request, showing the quantities, unit prices, overhead, profit, and all other expenses involved in order to provide a basis for determining the amount of progress payments. Invoices shall be sent to AP@ivgid.org.

3.8 Safety. Contractor shall execute and maintain its work so as to avoid injury or damage to any person or property. Contractor shall comply with the requirements of the specifications relating to safety measures applicable in particular operations or kinds of work. In carrying out its Work, Contractor shall at all times be in compliance with all applicable local, state and federal laws, rules and regulations, and shall exercise all necessary precautions for the safety of employees appropriate to the nature of the Work and the conditions under which the Work is to be performed. Safety precautions as applicable shall include, but shall not be limited to, adequate life protection and lifesaving equipment; adequate illumination for underground and night operations; instructions in accident prevention for all employees, such as machinery guards, safe walkways, scaffolds, ladders, bridges, gang planks, confined space procedures, trenching and shoring, fall protection and other safety devices, equipment and wearing apparel as are necessary or lawfully required to prevent accidents or injuries; and adequate facilities for the proper inspection and maintenance of all safety measures.

3.9 Laws and Regulations. Contractor shall keep itself fully informed of and in compliance with all local, state and federal laws, rules and regulations in any manner affecting the performance of the Contract or the Work, including all labor requirements, and shall give all notices required by law. Contractor shall be liable for all violations of such laws and regulations in connection with Work. If Contractor observes that the drawings or specifications are at variance with any law, rule or regulation, it shall promptly notify the District in writing. Any necessary changes shall be made by written change order. If Contractor performs any work knowing it to be contrary to such laws, rules and regulations and without giving written notice to the District, Contractor shall be solely responsible for all costs arising therefrom. District is a public entity of the State of Nevada subject to certain provisions of the NRS. It is stipulated and agreed that all provisions of the law applicable to the public contracts of a quasi-municipal corporation are a part of this Contract to the same extent as though set forth herein and will be complied with. Contractor shall defend, indemnify and hold District, its officials, officers, employees and agents free and

harmless, pursuant to the indemnification provisions of this Contract, from any claim or liability arising out of any failure or alleged failure to comply with such laws, rules or regulations.

3.9.1 By executing this Contract, Contractor acknowledges that it is aware of District's Ordinance 1, the Solid Waste Ordinance, and specifically Section 4.5. thereof, Dumpster Use, Location and Enclosure. Any construction dumpster on the job site that is not properly enclosed shall be a fully locking roll-top, and is to remain locked and secured at all times.

3.10 Permits and Licenses. Contractor shall be responsible for securing District permits and licenses necessary to perform the Work described herein, including, but not limited to, any required business license.

3.11 Completion of Work. When Contractor determines that it has completed the Work required herein, Contractor shall so notify District in writing and shall furnish all labor and material releases required by this Contract. District shall thereupon inspect the Work. If the Work is not acceptable to the District, the District shall indicate to Contractor in writing the specific portions or items of Work which are unsatisfactory or incomplete. Once Contractor determines that it has completed the incomplete or unsatisfactory Work, Contractor may request a re-inspection by the District. Once the Work is acceptable to District, District shall pay to Contractor the Total Contract Price remaining to be paid, less any amount which District may be authorized or directed by law to retain.

3.12 Dispute Resolution.

3.12.1 Contractor and District hereby agree to engage in alternate dispute resolution ("ADR") pursuant to NRS 338.150, under the prevailing Nevada law in the Second Judicial District Court of the State of Nevada in and for the County of Washoe. Any dispute arising under this contract will be sent to mediation. Any mediation shall occur in Incline Village, Washoe County, Nevada. The mediation shall be conducted through the American Arbitration Association (AAA) and be governed by the AAA's Mediation Procedures.

3.12.2 The mediator is authorized to conduct separate or ex parte meetings and other communications with the parties and/or their representatives, before, during and after any scheduled mediation conference. Such communications may be conducted via telephone, in writing, via email, online, in person or otherwise.

3.12.3 District and Contractor are encouraged to exchange all documents pertinent to the relief requested. The mediator may request the exchange of memorandum on all pertinent issues. The mediator does not have the authority to impose a settlement on the parties but such mediator will attempt to help District and Contractor reach a satisfactory resolution of their dispute. Subject to the discretion of the mediator, the mediator may make oral or written recommendations for settlement to a party privately, or if the parties agree, to all parties jointly.

3.12.4 District and Contractor shall participate in the mediation process in good faith. The mediation process shall be concluded within sixty (60) days of a mediator being assigned.

3.12.5 In the event that a complete settlement of all or some issues in dispute is not achieved within the scheduled mediation session(s), the mediator may continue to communicate with the parties, for a period of time, in an ongoing effort to facilitate a complete settlement. Any settlement agreed upon during mediation shall become binding if within thirty (30) days after the date that any settlement agreement is signed, either the District or Contractor

fails to object or withdraw from the agreement. If mediation shall be unsuccessful, either District or Contractor may then initiate judicial proceedings by filing suit. District and Contractor will share the cost of mediation equally unless agreed otherwise.

3.13 Loss and Damage. Except as may otherwise be limited by law, Contractor shall be responsible for all loss and damage which may arise out of the nature of the Work agreed to herein, or from the action of the elements, or from any unforeseen difficulties which may arise or be encountered in the prosecution of the Work until the same is fully completed and accepted by District.

3.14 Indemnification.

3.14.1 Scope of Indemnity. To the fullest extent permitted by law, Contractor shall defend, indemnify and hold the District, its officials, employees, agents and authorized volunteers free and harmless from any and all claims, demands, causes of action, suits, actions, proceedings, costs, expenses, liability, judgments, awards, decrees, settlements, loss, damage or injury of any kind, in law or equity, to property or persons, including wrongful death, (collectively, "Claims") in any manner arising out of, pertaining to, or incident to any alleged acts, errors or omissions, or willful misconduct of Contractor, its officials, officers, employees, subcontractors, consultants or agents in connection with the performance of the Contractor's services, the Project or this Contract, including without limitation the payment of all consequential damages, expert witness fees and attorneys' fees and other related costs and expenses. Notwithstanding the foregoing, Contractor's indemnity obligation shall not apply to liability for damages for death or bodily injury to persons, injury to property, or any other loss, damage or expense arising from the sole or active negligence or willful misconduct of the District or the District's agents, servants, or independent contractors who are directly responsible to the District, or for defects in design furnished by those persons.

3.14.2 Additional Indemnity Obligations. Contractor shall defend, with counsel of District's choosing and at Contractor's own cost, expense and risk, any and all Claims covered by this section that may be brought or instituted against District or its officials, employees, agents and authorized volunteers. In addition, Contractor shall pay and satisfy any judgment, award or decree that may be rendered against District or its officials, employees, agents and authorized volunteers as part of any such claim, suit, action or other proceeding. Contractor shall also reimburse District for the cost of any settlement paid by District or its officials, employees, agents and authorized volunteers as part of any such claim, suit, action or other proceeding. Such reimbursement shall include payment for District's attorney's fees and costs, including expert witness fees. Contractor shall reimburse District and its officials, employees, agents and authorized volunteers, for any and all legal expenses and costs incurred by each of them in connection therewith or in enforcing the indemnity herein provided. Contractor's obligation to indemnify shall not be restricted to insurance proceeds, if any, received by the District, its officials, employees, agents and authorized volunteers.

3.15 Insurance.

3.15.1 Time for Compliance. Contractor shall not commence Work under this Contract until it has provided evidence satisfactory to the District that it has secured all insurance required under this section. In addition, Contractor shall not allow any subcontractor to commence work on any subcontract until it has provided evidence satisfactory to the District that the subcontractor has secured all insurance required under this section. Failure to provide

and maintain all required insurance shall be grounds for the District to terminate this Contract for cause.

3.15.2 Minimum Requirements. Contractor shall, at its expense, procure and maintain for the duration of the Contract insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the Work hereunder by Contractor, its agents, representatives, employees or subcontractors. Contractor shall also require all of its subcontractors to procure and maintain the same insurance for the duration of the Contract. Such insurance shall meet at least the following minimum levels of coverage:

a. Minimum Scope of Insurance. Coverage shall be at least as broad as the latest version of the following: (1) *General Liability*: Insurance Services Office Commercial General Liability coverage (occurrence form CG 00 01) OR Insurance Services Office Owners and Contractors Protective Liability Coverage Form (CG 00 09 11 88) (coverage for operations of designated contractor); (2) *Automobile Liability*: Insurance Services Office Business Auto Coverage form number CA 00 01, code 1 (any auto); and (3) *Workers' Compensation and Employer's Liability*: Workers' Compensation insurance as required by the State of Nevada and Employer's Liability Insurance. Policies shall not contain exclusions contrary to this Contract.

b. Minimum Limits of Insurance. Contractor shall maintain limits no less than: (1) *General Liability*: \$2,000,000 per occurrence and \$4,000,000 aggregate for bodily injury, personal injury and property damage; (2) *Automobile Liability*: \$1,000,000 per accident for bodily injury and property damage; and (3) *Workers' Compensation and Employer's Liability*: Workers' compensation limits as required by the State of Nevada. Employer's Liability limits of \$1,000,000 each accident, policy limit bodily injury or disease, and each employee bodily injury or disease. Defense costs shall be available in addition to the limits. Notwithstanding the minimum limits specified herein, any available coverage shall be provided to the parties required to be named as additional insureds pursuant to this Contract.

3.15.3 Insurance Endorsements. The insurance policies shall contain the following provisions, or Contractor shall provide endorsements (amendments) on forms supplied or approved by the District to add the following provisions to the insurance policies:

a. General Liability. The commercial general liability policy shall be endorsed to provide the following: (1) the District, its directors, officials, officers, employees, agents and volunteers shall be covered as additional insureds; (2) the insurance coverage shall be primary insurance as respects the District, its directors, officials, officers, employees, agents and volunteers, or if excess, shall stand in an unbroken chain of coverage excess of the Contractor's scheduled underlying coverage. Any insurance or self-insurance maintained by the District, its directors, officials, officers, employees, agents and volunteers shall be excess of the Contractor's insurance and shall not be called upon to contribute with it in any way; and (3) the insurance coverage shall contain or be endorsed to provide waiver of subrogation in favor of the District, its directors, officials, officers, employees, agents and volunteers or shall specifically allow Contractor to waive its right of recovery prior to a loss. Contractor hereby waives its own right of recovery against District, and shall require similar written express waivers and insurance clauses from each of its subcontractors.

b. Automobile Liability. The automobile liability policy shall be endorsed to provide the following: (1) the District, its directors, officials, officers, employees, agents and volunteers shall be covered as additional insureds with respect to the ownership,

operation, maintenance, use, loading or unloading of any auto owned, leased, hired or borrowed by the Contractor or for which the Contractor is responsible; (2) the insurance coverage shall be primary insurance as respects the District, its directors, officials, officers, employees, agents and volunteers, or if excess, shall stand in an unbroken chain of coverage excess of the Contractor's scheduled underlying coverage. Any insurance or self-insurance maintained by the District, its directors, officials, officers, employees, agents and volunteers shall be excess of the Contractor's insurance and shall not be called upon to contribute with it in any way; and (3) the insurance coverage shall contain or be endorsed to provide waiver of subrogation in favor of the District, its directors, officials, officers, employees, agents and volunteers or shall specifically allow Contractor to waive its right of recovery prior to a loss. Contractor hereby waives its own right of recovery against District, and shall require similar written express waivers and insurance clauses from each of its subcontractors.

c. Workers' Compensation and Employer's Liability Coverage. The insurer shall agree to waive all rights of subrogation against the District, its officials, employees, agents and authorized volunteers for losses paid under the terms of the insurance policy which arise from work performed by Contractor.

d. All Coverages. Each insurance policy required by this Contract shall be endorsed to state that: (1) coverage shall not be suspended, voided, reduced or canceled except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the District; and (2) any failure to comply with reporting or other provisions of the policies, including breaches of warranties, shall not affect coverage provided to the District, its officials, employees, agents and authorized volunteers.

3.15.4 Separation of Insureds; No Special Limitations. All insurance required by this Section shall contain standard separation of insureds provisions. In addition, such insurance shall not contain any special limitations on the scope of protection afforded to the District, its officials, employees, agents and authorized volunteers.

3.15.5 Deductibles and Self-Insurance Retentions. Any deductibles or self-insured retentions must be declared to and approved by the District. Contractor shall guarantee that, at the option of the District, either: (1) the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the District, its officials, employees, agents and authorized volunteers; or (2) the Contractor shall procure a bond or other financial guarantee acceptable to the District guaranteeing payment of losses and related investigation costs, claims and administrative and defense expenses.

3.15.6 Acceptability of Insurers. Insurance is to be placed with insurers with a current A.M. Best's rating no less than A-VII, licensed to do business in Nevada, and satisfactory to the District. Exception may be made for the State Compensation Insurance Fund when not specifically rated.

3.15.7 Verification of Coverage. Contractor shall furnish District with original certificates of insurance and endorsements effecting coverage required by this Contract on forms satisfactory to the District. The certificates and endorsements for each insurance policy shall be signed by a person authorized by that insurer to bind coverage on its behalf, and shall be on forms supplied or approved by the District. All certificates and endorsements must be received and approved by the District before work commences. The District reserves the right to require complete, certified copies of all required insurance policies, at any time.

3.15.8 Subcontractors. All subcontractors shall meet the requirements of this Section before commencing Work. Contractor shall furnish separate certificates and endorsements for each subcontractor. Subcontractor policies of General Liability insurance shall name the District, its officials, employees, agents and authorized volunteers as additional insureds using form ISO 20 38 04 13 or endorsements providing the exact same coverage. All coverages for subcontractors shall be subject to all of the requirements stated herein except as otherwise agreed to by the District in writing.

3.15.9 Reporting of Claims. Contractor shall report to the District, in addition to Contractor's insurer, any and all insurance claims submitted by Contractor in connection with the Work under this Contract.

3.15.10 Compliance with Coverage Requirements. If at any time during the life of the Contract, any policy of insurance required under this Contract does not comply with these specifications or is canceled and not replaced, District has the right but not the duty to obtain the insurance it deems necessary and any premium paid by District will be promptly reimbursed by Contractor or District will withhold amounts sufficient to pay premium from Contractor payments. In the alternative, District may terminate this Contract for cause.

3.16 Bond Requirements.

3.16.1 Payment Bond. If required by law or otherwise specifically requested by District, Contractor shall execute and provide to District concurrently with this Contract a Payment Bond in an amount required by the District and in a form provided or approved by the District. If such bond is required, no payment will be made to Contractor until the bond has been received and approved by the District.

3.16.2 Performance Bond. If specifically requested by District, Contractor shall execute and provide to District concurrently with this Contract a Performance Bond in an amount required by the District and in a form provided or approved by the District. If such bond is required, no payment will be made to Contractor until the bond has been received and approved by the District.

3.16.3 Bond Provisions. Should, in District's sole opinion, any bond become insufficient or any surety be found to be unsatisfactory, Contractor shall renew or replace the affected bond within (ten) 10 days of receiving notice from District. In the event the surety or Contractor intends to reduce or cancel any required bond, at least thirty (30) days prior written notice shall be given to the District, and Contractor shall post acceptable replacement bonds at least ten (10) days prior to expiration of the original bonds. No further payments shall be deemed due or will be made under this Contract until any replacement bonds required by this Section are accepted by the District. To the extent, if any, that the Total Contract Price is increased in accordance with the Contract, Contractor shall, upon request of the District, cause the amount of the bond to be increased accordingly and shall promptly deliver satisfactory evidence of such increase to the District. If Contractor fails to furnish any required bond, the District may terminate the Contract for cause.

3.17 Employee/Labor Certifications.

3.17.1 Equal Opportunity Employment. Contractor represents that it is an equal opportunity employer and that it shall not discriminate against any employee or applicant for employment because of race, religion, color, national origin, ancestry, sex, age or other interests

protected by the State or Federal Constitutions. Such non-discrimination shall include, but not be limited to, all activities related to initial employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff or termination.

3.17.2 Verification of Employment Eligibility. By executing this Contract, Contractor verifies that it fully complies with all requirements and restrictions of state and federal law respecting the employment of undocumented aliens, including, but not limited to, the Immigration Reform and Control Act of 1986, as may be amended from time to time, and shall require all subcontractors and sub-subcontractors to comply with the same.

3.18 General Provisions.

3.18.1 District's Representative. The District hereby designates Interim Director of Public Works Kate Nelson, P.E. or her designee, to act as its representative for the performance of this Contract ("District's Representative"). District's Representative shall have the power to act on behalf of the District for all purposes under this Contract. Contractor shall not accept direction or orders from any person other than the District's Representative or her designee.

3.18.2 Contractor's Representative. Before starting the Work, Contractor shall submit in writing the name, qualifications and experience of its proposed representative who shall be subject to the review and approval of the District ("Contractor's Representative"). Following approval by the District, Contractor's Representative shall have full authority to represent and act on behalf of Contractor for all purposes under this Contract. Contractor's Representative shall supervise and direct the Work, using his best skill and attention, and shall be responsible for all construction means, methods, techniques, sequences and procedures and for the satisfactory coordination of all portions of the Work under this Contract. Contractor's Representative shall devote full time to the Project and either he or his designee, who shall be acceptable to the District, shall be present at the Work site at all times that any Work is in progress and at any time that any employee or subcontractor of Contractor is present at the Work site. Arrangements for responsible supervision, acceptable to the District, shall be made for emergency Work which may be required. Should Contractor desire to change its Contractor's Representative, Contractor shall provide the information specified above and obtain the District's written approval.

3.18.3 Termination. This Contract may be terminated by District at any time, either with or without cause, by giving Contractor three (3) days' advance written notice. In the event of termination by District for any reason other than the fault of Contractor, District shall pay Contractor for all Work performed up to that time as provided herein. In the event of breach of the Contract by Contractor, District may terminate the Contract immediately without notice, may reduce payment to Contractor in the amount necessary to offset District's resulting damages, and may pursue any other available recourse against Contractor. Contractor may not terminate this Contract except for cause. In the event this Contract is terminated in whole or in part as provided, District may procure, upon such terms and in such manner as it may determine appropriate, services similar to those terminated. Further, if this Contract is terminated as provided, District may require Contractor to provide all finished or unfinished documents, data, diagrams, drawings, materials or other matter prepared or built by Contractor in connection with its performance of this Contract. District shall not be liable for any costs other than the charges or portions thereof which are specified herein. Contractor shall not be entitled to payment for unperformed Work including, without limitation, any overhead and profit on the portion of the Work that is terminated and shall not be entitled to damages or compensation of any kind or nature for termination of Work.

3.18.4 Contract Interpretation. Should any question arise regarding the meaning or import of any of the provisions of this Contract or written or oral instructions from District, the matter shall be referred to District's Representative, whose decision shall be binding upon Contractor.

3.18.5 Notices. All notices hereunder and communications regarding interpretation of the terms of the Contract or changes thereto shall be provided by the mailing thereof by registered or certified mail, return receipt requested, postage prepaid and addressed as follows:

CONTRACTOR: Croft-Beck Group LLC, dba Croft-Beck Floors
2133 South 1260 West
Salt Lake City, UT 84119
Attn: Carl Newland and Crystal Dial

DISTRICT: Incline Village General Improvement District
893 Southwood Blvd.
Incline Village, Nevada 89451
Attn: Kate Nelson, P. E.

Any notice so given shall be considered received by the other Party three (3) days after deposit in the U.S. Mail as stated above and addressed to the Party at the above address. Actual notice shall be deemed adequate notice on the date actual notice occurred, regardless of the method of service.

3.18.6 Assignment Forbidden. Contractor shall not, either voluntarily or by action of law, assign or transfer this Contract or any obligation, right, title or interest assumed by Contractor herein without the prior written consent of District. If Contractor attempts an assignment or transfer of this Contract or any obligation, right, title or interest herein, District may, at its option, terminate and revoke the Contract and shall thereupon be relieved from any and all obligations to Contractor or its assignee or transferee.

3.18.7 No Third Party Beneficiaries. There are no intended third party beneficiaries of any right or obligation assumed by the Parties.

3.18.8 Controlling Law. This Contract shall be interpreted in accordance with the laws of the State of Nevada.

3.18.9 Counterparts. This Contract may be executed in counterparts, each of which shall constitute an original.

3.18.10 Successors. The Parties do for themselves, their heirs, executors, administrators, successors, and assigns agree to the full performance of all of the provisions contained in this Contract.

3.18.11 Conflict of Interest. Contractor maintains and warrants that it has not employed nor retained any company or person, other than a bona fide employee working solely for Contractor, to solicit or secure this Contract. Further, Contractor warrants that it has not paid nor has it agreed to pay any company or person, other than a bona fide employee working solely for Contractor, any fee, commission, percentage, brokerage fee, gift or other consideration contingent upon or resulting from the award or making of this Contract. For breach or violation of this warranty, District shall have the right to rescind this Contract without liability. For the term of

this Contract, no official, officer or employee of District, during the term of his or her service with District, shall have any direct interest in this Contract, or obtain any present or anticipated material benefit arising therefrom.

3.18.12 Certification of License. Contractor certifies that as of the date of execution of this Contract, Contractor has a current contractor's license of the classification indicated below under Contractor's signature.

3.18.13 Authority to Enter Contract. Each Party warrants that the individuals who have signed this Contract have the legal power, right and authority to make this Contract and bind each respective Party.

3.18.14 Entire Contract; Modification. This Contract contains the entire agreement of the Parties with respect to the subject matter hereof, and supersedes all prior negotiations, understandings or agreements. This Contract may only be modified by a writing signed by both Parties.

3.18.15 Non-Waiver. None of the provisions of this Contract shall be considered waived by either party, unless such waiver is specifically specified in writing.

3.18.16 District's Right to Employ Other Contractors. District reserves right to employ other contractors in connection with this Project or other projects.

[SIGNATURES ON NEXT PAGE]

**SIGNATURE PAGE FOR CONSTRUCTION CONTRACT
BETWEEN CROFT-BECK GROUP LLC AND INCLINE VILLAGE GENERAL
IMPROVEMENT DISTRICT**

IN WITNESS WHEREOF, the Parties have entered into this Contract as of the day and date of the year first set forth above.

**OWNER:
INCLINE VILLAGE G. I. D.
Agreed to:**

By: _____

Bobby Magee
General Manager

Date

Reviewed as to Form:

Sergio Rudin
District General Counsel

Date

**CONTRACTOR:
Croft-Beck Group, LLC
Agreed to:**

By: _____



Signature of Authorized Agent

Carl Newland Owner

Print or Type Name and Title

4-15-2024

Date

If Contractor is a corporation, attach evidence of authority to sign.

EXHIBIT A

Scope of Work

Contractor's services will include:

Furnish and install Robbins Le Lena A dance floor subfloor system of approx. 1,131 sq.ft. in the Multipurpose Room on the above project. Our proposal includes: the installation of 1 layer 6 ml polyethylene vapor barrier, 2 layers of resilient pad, 1 layer of 15/32" CDX Plywood, one layer 15/32" AC Grade plywood, Robbins Sport Surfaces **Forever Marley**. The perimeter walls will be trimmed with 3" x 4" black vent cove base. We will also sand and refinish existing wood ramps in the doorways.

The following exclusions and Project clarifications will apply:

1. Electrical power service, lighting, HVAC and heating to be provided by owner.
2. Jobsite security to prevent unauthorized entry into work area during the process is to be provided by others.
3. Grinding and or filling of concrete slab to achieve specified tolerance is to be done by others.
4. The Robbins Manufacturer has informed us that there will be a 6-14 week lead time from the date of order if material is not in stock.

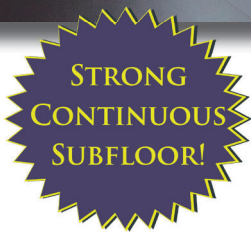
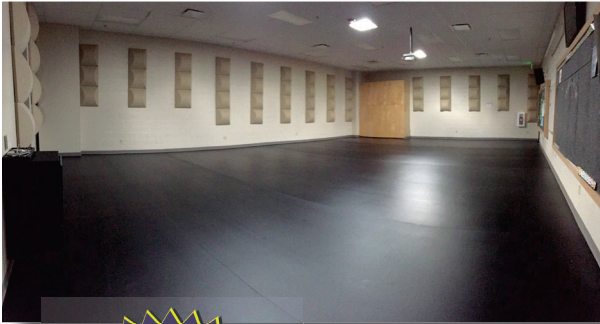
EXHIBIT B

Le Lena A Forever Marley Sell Sheet and Warranty

Le Lena A

Forever™ Marley

Robbins' Performing Arts Flooring System



FLOOR TYPE:

Sprung Floor: Floating

FLOOR SURFACE:

Forever Marley

FLOOR SYSTEM THICKNESS:

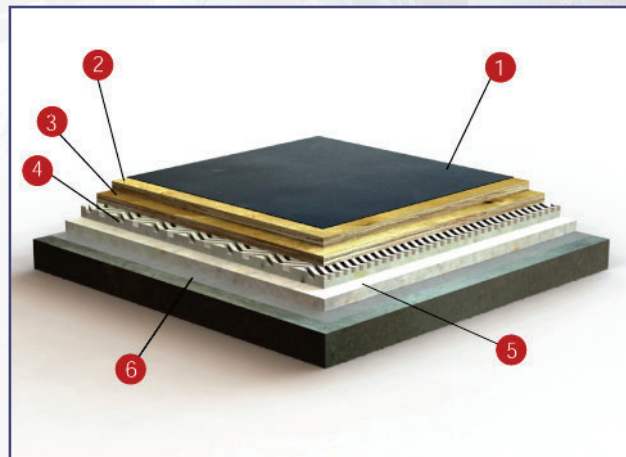
2" (51mm)

APPLICATIONS:

Classical, Ballet, Multi-Functional, Modern, Contemporary, Hip Hop, Swing, Belly Dancing, Percussive, Tap, Irish, Flamenco

FLOOR BUILD-UP

1. Seamless polyurethane dance surface.
2. High Grade Semi-Flexible Upper Load Distribution Sheathing Layer.
3. Semi-Flexible Lower Load Distribution Sheathing Layer.
4. Dual Density, Recycled, Open Celled Resilient Polyurethane Pad layer.
5. Recycled, Open Celled Resilient Polyurethane Pad layer.
6. 6 mil Polyethylene vapor retarder.



FEATURES

- **Durable Forever Marley Performance Surface:** *seamless, slip resistant, non-reflective & dimensionally stable*
- **Comfort & Safety:** *thick resilient pad for great force reduction, vibration damping, and deflection to soften landing*
- **Excellent Acoustics:** *continuous resilient subfloor for consistent sound and uniformity*
- **Uniform Resilience:** *continuous subfloor for uniformity and rolling load carrying ability*

**FSC® Materials Available for Purchase*

LE LENA has been tested per the ANSI E1.26 Standard

PERFORMING ARTS & THEATER

Robbins most advanced professional sprung floor systems are designed & biomechanically researched, specifically for performers with dancer input to create the world's most comfortable and highest performing surfaces. Robbins unique dance floor designs clearly unites legendary performance with all the qualities necessary to withstand the rigors of even the most demanding venues, delivering long-lasting, superior performance characteristics that traditional sprung floors cannot. Outstanding uniformity, vibration control, impact force reduction, and deflection allow performers of all levels to concentrate on their art, *not* the fear of falling or potential injury.

Characteristics of a Superior Dance Floor System Includes:*

- Significant enhancements to dancer “comfort”.
- Provides unparalleled uniformity in feel and performance
- Tightly controls magnitude and timing of deformation for proper energy return
- Damps vibration, quickly limiting effect on neighboring performers
- **Minimizes** floor system vibration in general and specifically in the natural frequency range of soft tissue packages, providing comfort and reducing fatigue
- **Separates** the input vibration frequency (i.e., the skeletal deceleration (frequency) from the natural frequency of soft tissue packages
- Induces small Electromyography (EMG) muscle activity response
- Limits the amount of flooring set into motion upon impact through excellent deformation control
- Provides outstanding acoustics - control of audible vibration
- Eliminates excessive rebound e.g., “trampoline effect”
- Prevents “**hard & soft spots**” through uniform suspension across the entire floor
- Uniformity, vibration control, and force reduction working together in unison to dramatically enhance performance, while also increasing comfort and safety.
- Provides excellent stability under theatrical loading.

**defined by Dr. Benno Nigg, The Human Performance Lab, University of Calgary*



Recent Robbins Performing Arts Installations:

EDGE Performing Arts Center (*Los Angeles, CA*)
 Reed College (*Portland, OR*)
 Kentucky Center for the Arts (*Louisville, KY*)
 The Banff Centre (*Banff, Alberta, CA*)
 Choate Rosemary Hall (*Wallingford, CT*)
 Tracey Anderson Manhattan Studio (*New York, NY*)
 Carleton College (*Northfield, MN*)
 Buckley School (*New York, NY*)



Forever™ Marley

5 – Year Limited Material Warranty

Thank you for choosing Robbins *Forever Marley*, our premier performing arts/ dance surface. Forever Marley's design and stringent manufacturing standards assure its longevity and performance. In the unlikely event, you encounter a problem with your purchase contact your installing contractor and or Robbins for guidance. Please keep this document for reference.

This Limited Material Warranty applies exclusively to Robbins *Forever Marley* (the "Product") purchased on or after January 1, 2019 for dance and performing arts applications only. This warranty does not apply to commercial use.

5 – Year Guarantee on Structural Integrity and Workmanship

Robbins Inc. warrants to the original owner (the "Customer") purchasing the Product, that the Product will be free from manufacturing defects. This non-transferrable warranty commences upon your purchase of the Product. Installing Robbins authorized flooring contractor to warrant deficiencies in workmanship.

This Limited Warranty does not cover damage to the Product caused in whole or in part by accident, circumstances beyond Robbins control, neglect, negligence, ordinary wear and tear, abuse, excessive point and/or rolling loads, use for which the Product is not designed, faulty construction of the facility, faulty installation of the Material, failure to comply with recommended maintenance instructions, repair or alteration of the Product by anyone other than an Authorized Robbins Flooring Contractor, settlement of the facilities walls, slab or structure, failure of other contractors to adhere to specifications, mechanical failure, excessive dryness, or excessive moisture from humidity, spillage, migration through the slab or walls, or any other source (the "Excluded Conditions").

THIS LIMITED WARRANTY IS IN LIEU OF ALL OTHER WARRANTIES, WHETHER ORAL, WRITTEN, EXPRESSED, IMPLIED OR STATUTORY, INCLUDING BUT NOT LIMITED TO ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, AND OF ANY OTHER OBLIGATION ON THE PART OF Robbins Inc. Robbins Inc. makes no warranty or representation that the Product complies with the requirements of federal, state and local laws and/or industrial codes, or any other warranty or representation, express or implied, not specified herein. Any and all representations or warranties by Robbins Inc. or any other party that differ in any manner from the terms of this written Limited Warranty shall be of no force or effect.

This Limited Warranty completely and exclusively states the obligations of Robbins Inc. for any breach of this Limited Warranty. If this Limited Warranty is breached, Robbins Inc. liability for such breach shall be limited to either, at Robbins Inc. option, repairing the defective Product, replacing the defective Product, or returning the sales price of the Product received by Robbins Inc. In no event shall any breach of this Limited Warranty render Robbins Inc. liable for any other damages of any kind, whether special, direct, indirect, incidental, consequential, or of any other sort, associated with the use of or in the inability to use the defective Product. In no event shall Robbins Inc. be obligated to pay for or otherwise assume the responsibility for repair work ordered or performed by the Customer without the prior written consent of Robbins Inc. Robbins Inc. obligation under this Limited Warranty shall be contingent upon the receipt by Robbins Inc. before the end of the warranty period of a written notice of a claimed defect from the Customer, and proof to Robbins Inc. satisfaction that the Product is defective in manufacture and was not subjected to any of the Excluded Conditions. If Robbins Inc. shall elect to replace Product proven to be defective, it shall not be responsible for any labor charges of any kind either in the reinstallation of the Product or in the dismantling of the defective Product; rather, the obligation of Robbins Inc. shall be limited to delivering replacement Product to the Customer. In no event shall Robbins Inc. have any liability to any party other than Customer. Some States do not allow the exclusion or limitation of incidental or consequential damages, so the above limitation may or may not apply to you.

Owner's Responsibility

In order to receive the limited warranty protection described above, you must do the following:

- 1) Save your original receipt.
- 2) Inspect all flooring immediately after installation, and if you are not 100% satisfied with it, contact Robbins Technical Department within 30 days.
- 3) Only use the floor for its intended purpose. Do not push, pull or drag anything across the floor. Do not place objects with a heavy point load on the floor.
- 4) Allow Robbins Inc. a reasonable number of attempts to repair or replace any claimed defect.
- 5) Maintain the flooring correctly using the Recommended Maintenance Program listed below

Floor Care Maintenance Program

- 1) Position walk off mats at all doorways to help eliminate introducing dirt and grit onto finished floor.
- 2) Sweep or vacuum your floor at least once a week (more frequently in high traffic areas). Do not use vacuums with beater bars or hard heads. Using a quality dust mop to eliminate fine grit and other abrasive dirt is highly recommended daily.
- 3) As needed, damp mop floor with a high quality neutral pH non-abrasive general-purpose floor cleaner designed for urethane based floor systems.
- 4) Clean up spills immediately.
- 5) Never apply a wax or sealer coatings.
- 6) Follow Forever Marley recommended maintenance procedures.

Note: An auto scrubber with a red pad can be used when the surface becomes extremely dirty or slippery.

Warranty does not cover:

- ξ Expansion and contraction of flooring due to excessive changes in temperature and/or humidity.
- ξ Changes in color due to maintenance or spillage.
- ξ Damage caused by heavy point loads like high heels, chairs, tables, pianos, casters, etc.
- ξ Damage caused by fire, flood, leaking or broken pipes, leaking/open windows during storm events or other natural disaster.
- ξ Damage caused by sharp objects.
- ξ Reduction in gloss, scratches, or indentations due to: sand, grit, or other abrasives, pets, insects, construction traffic, vacuums with beater bars, etc.
- ξ Color variations, shade variation, gloss variation or texture variation between samples or printed color photography used in marketing materials such as literature.
- ξ Damage caused by deficiencies in the building's structure or sub-floor.
- ξ Damage caused by faulty installation including but not limited to violation of applicable state or local building codes.

While Robbins Inc. will do its best to repair the Product or provide replacement Product that closely matches your original floor, due to the nature of the flooring, age and condition of the remaining existing floor, changes in manufacturing processes, and other conditions beyond Robbins Inc. control, Robbins Inc. will not guarantee exact matches in color, texture, gloss, etc.

Filing a Claim

Robbins Inc. wants you to be satisfied with your purchase, if you are not, first contact your flooring contractor where you purchased your Product. In many cases, they can answer your question and resolve your issue. Should it be necessary to file a claim, your contractor can begin that process for you.

If you have further questions, please contact us at:

Robbins Performing Arts
4777 Eastern Avenue
Cincinnati, OH 45226
800-831-8987

EXHIBIT C

Schedule of Charges

Materials:	\$18,075.69
Estimated Freight:	\$1,000.00
Labor:	\$12,050.46
Overhead & Profit:	\$5,492.85
TOTAL:	<u>\$36,619.00</u>

Fitness Room Flooring

April 15, 2024



Gaps between floor boards.



Marred floor with all floor boards separating.



Separating floor boards and damaged wood.



Damaged wood.



Warped wood.