

**PROFESSIONAL SERVICES AGREEMENT BETWEEN
THE CITY OF DORAL
AND
REGAL CONTRACTORS, INC.
FOR
REINSTALLATION OF SHADE CANOPIES AT PARKS**

THIS AGREEMENT is made between **REGAL CONTRACTORS, INC.**, an active, for-profit Florida Corporation, validly engaging business in the state of Florida (hereinafter the "Provider"), and the **CITY OF DORAL, FLORIDA**, a Florida municipal corporation, (hereinafter the "City").

RECITALS

WHEREAS, the City of Doral (the "City") removed all shade canopies in parks as part of hurricane preparation for Hurricane Irma ; and

WHEREAS, the City of Doral has a need to reinstall all the shade canopies in its parks; and

WHEREAS, staff obtained several proposals from vendors for this work and found the proposal from Regal Contractors, Inc. to be in the best interest of the City; and

WHEREAS, the City desires to engage the Provider, and the Provider desires to be engaged, to provide professional services as specified herein ; and

AGREEMENT

NOW, THEREFORE, in consideration of the aforementioned recitals, which are incorporated herein and made a part hereof by this reference, the mutual covenants and conditions contained herein, and other good and valuable consideration, the sufficiency of which is acknowledged by the Parties, Provider and the City agree as follows.

1. **Scope of Services/Deliverables.**

1.1 The Provider shall furnish professional services for the reinstallation of shade canopies at parks shown in Exhibit A.

1.2 The "Scope of Services" includes a Project Schedule for the Project which includes a breakdown of tasks, timeline and deliverables to the City.

2. **Term/Commencement Date.**

2.1 This Agreement shall become effective upon execution by both parties. The work shall be completed within thirty (30) calendar days after the date specified in the Notice to Proceed. Continuation of the Agreement beyond the initial term, is a City prerogative, and not a right of the Provider.

2.2 Provider agrees that time is of the essence and Provider shall complete each deliverable for the Project within the timeframes set forth in the Project Schedule, unless extended by the City Manager.

3. **Compensation and Payment.**

3.1 The Provider shall be compensated in the following manner:

X An amount not to exceed EIGHTEEN THOUSAND SIX HUNDRED THIRTY DOLLARS AND NO CENTS (\$18,630.00) plus a 10% contingency for a total not to exceed amount of TWENTY THOUSAND FOUR HUNDRED NINETY THREE DOLLARS AND NO CENTS (\$20,493.00) regardless of the number of hours or length of time necessary for Provider to complete the Scope of Services. Use of contingency funds must be approved by the City. Provider shall not be entitled to any additional payment for any expenses incurred in completion of the Scope of Services. A breakdown of costs used to derive the lump sum amount, including but not limited to hourly rates, estimated travel expenses and other applicable rates, is specified in the Scope of Services. Upon completion of the work, Provider shall submit its bill[s] for payment in a form approved by the City. The bill[s] shall identify the services completed and the amount charged.

3.2 The City shall pay Provider in accordance with the Florida Prompt Payment Act.

3.3 If a dispute should occur regarding an invoice submitted, the City Manager may withhold payment of the disputed amount and may pay to the Provider the undisputed portion of the invoice. Upon written request of the Finance Director, the Provider shall provide written documentation to justify the invoice. Any compensation disputes shall be decided by the City Manager whose decision shall be final.

4. **Sub-Providers.**

4.1 The Provider shall be responsible for all payments to any subcontractors and shall maintain responsibility for all work related to the Project.

4.2 Any subcontractors used on the Project must have the prior written approval of the City Manager or his designee.

5. **City's Responsibilities.**

- 5.1 Furnish to Provider, at the Provider's written request, all available maps, plans, existing studies, reports and other data pertinent to the services to be provided by Provider, in possession of the City.
- 5.2 Arrange for access to and make all provisions for Provider to enter upon real property as required for Provider to perform services as may be requested in writing by the Provider (if applicable).

6. **Provider's Responsibilities.**

- 6.1 The Provider shall exercise the same degree of care, skill and diligence in the performance of the Project as is ordinarily provided by a provider under similar circumstances. If at any time during the term of this Agreement or within one year from the completion of the Project, it is determined that the Provider's deliverables are incorrect, defective or fail to conform to the Scope of Services of the Project, upon written notification from the City Manager, the Provider shall at Providers sole expense, immediately correct the work. The City in no way assumes or shares any responsibility or liability of the Provider or Sub Provider under this agreement.

7. **Conflict of Interest.**

- 7.1 To avoid any conflict of interest or any appearance thereof, Provider shall not, for the term of this Agreement, represent any private sector entities (developers, corporations, real estate investors, etc.), with regard to any City related matter.

8. **Termination.**

- 8.1 The City Manager may terminate this agreement immediately with cause or upon thirty (30) days written notice to the Provider, provided that the Provider has not commenced production of the materials needed for the Project. If production has commenced, the City Manager may not terminate this Agreement without cause. Cause shall not be defined as a failure on the part of Provider to: Follow the reasonable Project directives of the City; cure a breach of this Agreement within ten (10) days of receiving the notice of breach or five (5) days before the anticipated Project, whichever is less; and abide by local, state, and federal laws and regulations in performance of the duties provided herein.
- 8.2 In the event of termination by the City, the Provider shall be paid for all work accepted by the City Manager up to the date of termination, provided that the Provider has first complied with the provisions of Paragraph 8.4.
- 8.3 The Provider shall transfer all books, records, reports, working drafts, documents, maps, and data pertaining to the Project to the City, in a hard



copy and electronic format specified by the City within 14 days from the date of the written notice of termination or the date of expiration of this Agreement.

9. **Insurance.**

9.1 The Provider shall secure and maintain throughout the duration of this Agreement insurance of such type and in such amounts as required by Exhibit "B". The insurance carrier shall be qualified to do business in the State of Florida and have agents upon whom service of process may be made in the State of Florida.

9.2 Certificates of Insurance shall be provided to the City at the time of execution of this Agreement and certified copies provided if requested. Each policy certificate shall be endorsed with a provision that not less than thirty (30) calendar days' written notice shall be provided to the City before any policy or coverage is cancelled or restricted, or in accordance to policy provisions. The City further reserves the right to solicit additional coverage, or require higher limits of liability as needed, and depending on the nature of scope, or level of exposure.

10. **Nondiscrimination.**

10.1 During the term of this Agreement, Provider shall not discriminate against any of its employees or applicants for employment because of their race, color, religion, sex, or national origin, and to abide by all Federal and State laws regarding nondiscrimination

11. **Attorneys' Fees and Waiver of Jury Trial.**

11.1 In the event of any litigation arising out of this Agreement, each party shall be responsible for their attorneys' fees and costs, including the fees and expenses of any paralegals, law clerks and legal assistants, and including fees and expenses charged for representation at both the trial and appellate levels.

11.2 In the event of any litigation arising out of this Agreement, each party hereby knowingly, irrevocably, voluntarily and intentionally waives its right to trial by jury.

12. **Indemnification.**

12.1 Provider shall defend, indemnify, and hold harmless the City, its officers, agents and employees, from and against any and all demands, claims, losses,



suits, liabilities, causes of action, judgment or damages, arising out of, related to, or any way connected with Provider's performance or non-performance of any provision of this Agreement including, but not limited to, liabilities arising from Agreements between the Provider and third parties made pursuant to this Agreement. Provider shall reimburse the City for all its expenses including reasonable attorneys' fees and costs incurred in and about the defense of any such claim or investigation and for any judgment or damages arising out of, related to, or in any way connected with Provider's performance or non-performance of this Agreement. This section shall be interpreted and construed in a manner to comply with any applicable Florida Statutes, including without limitation Sections 725.06 and 725.08, Fla. Stat., if applicable.

12.2 The provisions of this section shall survive termination of this Agreement.

12.3 Ten dollars (\$10) of the payments made by the City constitute separate, distinct, and independent consideration for the granting of this indemnification, the receipt and sufficiency of which is voluntary and knowingly acknowledged by the Provider.

13. **Notices/Authorized Representatives.**

13.1 Any notices required by this Agreement shall be in writing and shall be deemed to have been properly given if transmitted by hand-delivery, by registered or certified mail with postage prepaid return receipt requested, or by a private postal service, addressed to the parties (or their successors) at the following addresses:

For the City: Edward Rojas
City Manager
City of Doral, Florida
8401 NW 53rd Terrace
Doral, Florida 33166

With a Copy to: Daniel A Espino, Esq.
City Attorney
Weiss Serota Helfman
Pastoriza Cole & Boniske, P.L.
2525 Ponce De Leon Boulevard, 7th Floor
Coral Gables, FL 33134

For The Provider: Regal Contractors, Inc.
P.O. Box 20075
West Palm Beach, FL 33416

14. **Governing Law.**

14.1 This Agreement shall be construed in accordance with and governed by the laws of the State of Florida. Exclusive venue for any litigation arising out of this Agreement shall be in Miami-Dade County, Florida, or the Southern District of Florida.

15. **Entire Agreement/Modification/Amendment.**

15.1 This writing contains the entire Agreement of the parties and supersedes any prior oral or written representations. No representations were made or relied upon by either party, other than those that are expressly set forth herein.

15.2 No agent, employee, or other representative of either party is empowered to modify or amend the terms of this Agreement, unless executed with the same formality as this document.

16. **Ownership and Access to Records and Audits.**

16.1 All records, books, documents, maps, data, deliverables, papers and financial information (the "Records") that result from the Provider providing services to the City under this Agreement shall be the property of the City.

16.2 The City Manager or his designee shall, during the term of this Agreement and for a period of three (3) years from the date of termination of this Agreement, have access to and the right to examine and audit any Records of the Provider involving transactions related to this Agreement.

16.3 The City may cancel this Agreement for refusal by the Provider to allow access by the City Manager or his designee to any Records pertaining to work performed under this Agreement that are subject to the provisions of Chapter 119, Florida Statutes.

16.4 In addition to other contract requirements provided by law, shall comply with public records laws, specifically to:

(a) Keep and maintain public records that ordinarily and necessarily would be required by the City in order to perform the service;

* (b) Provide the public with access to public records on the same terms and conditions that the City would provide the records and at a cost that does not exceed the cost provided in this chapter or as otherwise provided by law;



- (c) Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law; and
- (d) Meet all requirements for retaining public records and transfer, at no cost, to the City all public records in possession of the contractor upon termination of the contract and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All records stored electronically must be provided to the City in a format that is compatible with the information technology systems of the City.

17. **Nonassignability.**

17.1 This Agreement shall not be assignable by Provider unless such assignment is first approved by the City Manager. The City is relying upon the apparent qualifications and personal expertise of the Provider, and such firm's familiarity with the City's area, circumstances and desires.

18. **Severability.**

18.1 If any term or provision of this Agreement shall to any extent be held invalid or unenforceable, the remainder of this Agreement shall not be affected thereby, and each remaining term and provision of this Agreement shall be valid and be enforceable to the fullest extent permitted by law.

19. **Independent Contractor.**

19.1 The Provider and its employees, volunteers and agents shall be and remain independent contractor and not agents or employees of the City with respect to all of the acts and services performed by and under the terms of this Agreement. This Agreement shall not in any way be construed to create a partnership, association or any other kind of joint undertaking, enterprise or venture between the parties.

20. **Representations and Warranties of Provider.**

20.1 Provider hereby warrants and represents, at all times during the Term of this Agreement, inclusive of any renewals thereof, that:

20.1.1 Provider, and its employees and/or subcontractors, shall maintain in good standing all required licenses, certifications and permits required under federal, state and local laws necessary to perform the Services hereunder;

20.1.2 Provider is a corporation duly organized, validly existing and in good standing under the laws of the State of Florida and duly registered, validly doing business and in good standing under the laws of the State of Florida;

20.1.3 The execution, delivery and performance of this Agreement by Provider has been duly authorized and no consent of any other person or entity to such execution, delivery and performance is required to render this Agreement a valid and binding instrument enforceable against Provider in accordance with its terms; and

20.1.4 Provider has the required knowledge, expertise, and experience to perform the Services and carry out its obligations under this Agreement in a professional and first class manner.

21. **Compliance with Laws.**

21.1 The Provider shall comply with all applicable laws, ordinances, rules, regulations, and lawful orders of public authorities relating to the services.

22. **Non-collusion.**

22.1 Provider certifies that it has not divulged, discussed or compared his/her/its quote with other individuals and/or entities that provided quotes to the City for the Services and has not colluded with any other individual or entity whatsoever.

23. **Truth in Negotiating Certificate.**

23.1 Provider hereby certifies, covenants, and warrants that wage rates and other factual unit costs supporting the compensation for the Services that may be offered pursuant to this Agreement are accurate, complete, and current. Provider further agrees that the Fee provided shall be adjusted to exclude any significant sums by which the City determines the agreement price was increased due to inaccurate, incomplete, or non-current wage rates and other factual unit costs. All such agreement adjustments shall be made within one (1) year following the end of the Term or any Extension term.

24. **Waiver**

24.1 The failure of either party to this Agreement to object to or to take affirmative action with respect to any conduct of the other which is in violation of the terms of this Agreement shall not be construed as a waiver of the violation or breach, or of any future violation, breach or wrongful conduct.

25. **Survival of Provisions**

25.1 Any terms or conditions of either this Agreement that require acts beyond the date of the term of the Agreement, shall survive termination of the Agreement, shall remain in full force and effect unless and until the terms or conditions are completed and shall be fully enforceable by either party.

26. **Prohibition of Contingency Fees.**

26.1 The Provider warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the Provider, to solicit or secure this Agreement, and that it has not paid or agreed to pay any person(s), company, corporation, individual or firm, other than a bona fide employee working solely for the Provider, any fee, commission, percentage, gift, or any other consideration, contingent upon or resulting from the award or making of this Agreement.

27. **Force Majeure.**

27.1 It is understood that performance of any act by the City or Provider hereunder may be delayed or suspended at any time while, but only so long as, either party is hindered in or prevented from performance by acts of God, the elements, war, rebellion, strikes, lockouts or any cause beyond the reasonable control of such party, provided however, the City shall have the right to provide substitute service from third parties or City forces as may be necessary to meet City needs, and, in such event, the City shall withhold payment due Contractor for such period of time, if any. If the condition of force majeure exceeds a period of fourteen (14) days, the Town may, at its option and discretion, cancel or renegotiate the Agreement

28. **Counterparts**

28.1 This Agreement may be executed in several counterparts, each of which shall be deemed an original and such counterpart shall constitute one and the same instrument.

[THIS SPACE INTENTIONALLY LEFT BLANK. SIGNATURES TO FOLLOW.]




IN WITNESS WHEREOF, the parties execute this Agreement on the respective dates under each signature:

Attest:

CITY OF DORAL

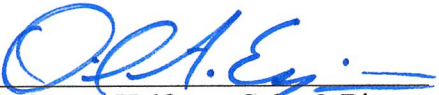


Connie Diaz, City Clerk

By: 

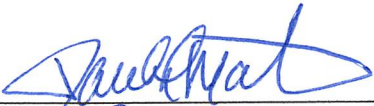
Edward Rojas, City Manager
Date: Jan. 29, 2018

Approved As To Form and Legal Sufficiency for the Use
And Reliance of the City of Doral Only:



Weiss Serota, Helfman, Cole, & Bierman, PL
City Attorney

REGAL CONSTRUCTORS, INC.

By: 

Its: PRESIDENT
Date: 1/19/2018

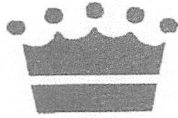




Exhibit "A"

Regal Contractors, Inc. Proposal

A handwritten signature or set of initials in the bottom right corner of the page, appearing to be 'DM' or similar.



Regal Contractors, Inc.

October 26, 2017

Mr. Lazaro Quintero
City of Doral
8401 N.W. 53 Terrace
Doral, FL. 33166

RE: Shade Reinstall after Hurricane IRMA

To Whom It May Concern:

Regal Contractors Inc., a state licensed general contractor, proposes to furnish the required labor, materials and equipment to complete the following scope of work in the aftermath of Hurricane IRMA. All work will be completed in a neat and first class manner and in a timely schedule.

SCOPE OF WORK

Reinstall fabric for shade structures at various parks as directed by city staff. Proper notice to proceed with the work from city staff will constitute such directive. All materials will be identified at each of the park facilities and delivered to Regal Contractors Inc. personnel by city staff

For 81 Shade Fabrics to reinstall the existing hardware and fabric the fee is \$230.00 each for a total of \$18,630.00

This proposal is compliant with the awarded Term Contract 15C-32B with the School District of Palm Beach County for Playground Equipment, Outdoor Fitness Equipment, Surfacing, Fitness Trails, and Fabric Shade Structures valid through August 19, 2020. Special pricing has been extended to the City of Doral for this one project. The discount is approx. 40% off list price. Terms are balance is due upon reinstallation.

Respectfully,

Paul L. Martin, CPSI RISC
President

Exhibit "B"

Insurance Requirements

A handwritten signature or set of initials, possibly "JW", written in black ink in the bottom right corner of the page.

INSURANCE REQUIREMENTS

I. Commercial General Liability

A. Limits of Liability

Bodily Injury & Property Damage Liability

Each Occurrence	\$1,000,000
Policy Aggregate	\$2,000,000
Personal & Advertising Injury	\$1,000,000
Products & Completed Operations	\$1,000,000

B. Endorsements Required

City of Doral listed as an additional insured
Contingent & Contractual Liability
Premises and Operations Liability
Primary Insurance Clause Endorsement
Explosion, Collapse & Underground Hazard

II. Business Automobile Liability

A. Limits of Liability

Bodily Injury and Property Damage

Combined Single Limit

Any Auto/Owned Autos or Scheduled Autos

Including hired and Non Owned Autos

Any One Accident	\$1,000,000
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B. Endorsements Required

City of Doral listed as an additional insured

III. **Workers Compensation**
Statutory- State of Florida

Employer's Liability

A. Limits of Liability

\$1,000,000 for bodily injury caused by an accident, each accident

\$1,000,000 for bodily injury caused by disease, each employee

\$1,000,000 for bodily injury caused by disease, policy limit

IV. **Umbrella/Excess Liability (Excess Follow Form)**

A. Limits of Liability

Each Occurrence \$1,000,000

Policy Aggregate \$1,000,000

City of Doral listed as an additional insured

V. **Owners & Contractor's Protective**

A. Limits of Liability

Each Occurrence \$1,000,000

Policy Aggregate \$1,000,000

City of Doral listed as the named insured

The above policies shall provide the City of Doral with written notice of cancellation or material change from the insurer in accordance to policy provisions.

Companies authorized to do business in the State of Florida with the following qualifications shall issue all insurance policies required above:

The Company must be rated no less than "A-" as to management, and no less than "Class V" as to financial strength, by the latest edition of Best Insurance Guide published by A.M. best Company, or its equivalent. All policies or certificates of insurance are subject to review and verification by Risk Management.

RESOLUTION No. 17-214

A RESOLUTION OF THE MAYOR AND THE CITY COUNCIL OF THE CITY OF DORAL, FLORIDA, RETROACTIVELY APPROVING THE EMERGENCY REINSTALLATION OF SHADE CANOPIES AT PARKS BY REGAL CONTRACTORS, INC. IN AN AMOUNT NOT TO EXCEED \$18,630.00 PLUS A 10% CONTINGENCY FOR A TOTAL NOT TO EXCEED AMOUNT OF \$20,493.00; PROVIDING FOR IMPLEMENTATION; AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, On September 5, 2017, the City of Doral (the "City") began its hurricane preparation in anticipation of the impact from Hurricane Irma, which included, in part, the removal of all of the shade canopies from its facilities by the Parks Department to ensure that the canopies were not damaged by the storm and that the infrastructure which holds the canopies were not damaged as well; and

WHEREAS, After Hurricane Irma cleared the South Florida area, and the City began its post hurricane recovery efforts, the Parks & Recreation Department began contacting vendors and working on obtaining proposals from them to reinstall the shade canopies back at park facilities. Staff obtained several proposals from vendors and found that the proposal from Regal Contractors, Inc. to be the lowest, most responsible, and responsive proposal; and

WHEREAS, Staff respectfully requests retroactive approval for the emergency reinstallation of shade canopies at parks by Regal Contractors, Inc. in an amount not to exceed \$18,630.00 plus a 10% contingency for a total not to exceed amount of \$20,493.00; and

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF DORAL, FLORIDA, AS FOLLOWS:

Section 1. Recitals. The above recitals are confirmed, adopted, and incorporated herein and made a part hereof by this reference.

Section 2. Approval & Authorization. The City Council hereby approves the emergency reinstallation of shade canopies at parks by Regal Contractor's Inc. in an amount not to exceed \$18,630.00 plus a 10% contingency for a total not to exceed amount of \$20,493.00.

Section 3. Implementation. The City Manager and the City Attorney are hereby authorized to take such action as may be necessary to implement the provisions of this Resolution.

Section 4. Effective Date. This resolution shall take effect immediately upon adoption.

The foregoing Resolution was offered by Councilmember Cabrera who moved its adoption. The motion was seconded by Councilmember Mariaca and upon being put to a vote, the vote was as follows:

Mayor Juan Carlos Bermudez	Yes
Vice Mayor Ana Maria Rodriguez	Not Present at Time of the Vote
Councilman Pete Cabrera	Yes
Councilwoman Christi Fraga	Not Present at Time of the Vote
Councilwoman Claudia Mariaca	Yes

PASSED AND ADOPTED this 13 day of December, 2017.



JUAN CARLOS BERMUDEZ, MAYOR

ATTEST:



CONNIE DIAZ, CMC
CITY CLERK

APPROVED AS TO FORM AND LEGAL SUFFICIENCY
FOR THE USE AND RELIANCE OF THE CITY OF DORAL ONLY:



WEISS, SEROTA, HELFMAN, COLE & BIERMAN, P.L.
CITY ATTORNEY