

## MASTER CONTRACTOR/SERVICES AGREEMENT

**THIS AGREEMENT** is made by and between the City of Delray Beach, a Florida municipal corporation (hereinafter referred to as "City"), whose address is 100 NW 1<sup>st</sup> Avenue, Delray Beach, FL 33403 and Rep Services, Inc., (herein after referred to as "Contractor") whose address is 165 W Jessup Ave, Longwood, FL 32750 is entered into this 4<sup>th</sup> day of February, 2021.

**WHEREAS**, the City desires to buy various equipment and amenities for parks and playgrounds with related services; and

**WHEREAS**, the City desires to acquire these products and services from Contractor, utilizing existing contract prices provided to Clay County, Florida pursuant to its Solicitation RFP No. 18/19-2; and

**WHEREAS**, in accordance with Solicitation RFP No. 18/19-2, Clay County, entered into a three (3) year agreement with Contractor effective June 3, 2019, with the option to renew for two (2) additional terms of (1) one-year; and

**WHEREAS**, the City desires to buy various equipment and amenities for parks and playgrounds with related products and services from Contractor on the same terms, conditions, and pricing provided under Solicitation RFP No. 18/19-2, subject to the terms and conditions of this Agreement, the City's Purchasing ordinance, and Florida law; and

**NOW, THEREFORE**, in consideration of the mutual promises contained herein and other good and valuable consideration of which the parties hereto acknowledge, the parties agree as follows:

1. The above recitals are true and correct and are incorporated herein by reference.
2. The Contractor shall provide equipment and amenities for parks and playgrounds with related services for the City, in accordance with and pursuant to the same terms, conditions, and pricing of Solicitation RFP No. 18/19-2 procured by Clay County.
3. This Agreement shall terminate on June 2, 2022, unless Solicitation RFP No. 18/19-2 is renewed by Clay County. This Agreement shall automatically renew if Clay County exercises its right to renew.
4. The City, at its sole discretion, reserves the right to terminate this Agreement with or without cause immediately upon providing written notice to Contractor. Upon receipt of such notice, the Contractor shall not incur any additional costs under the Agreement. The City shall be liable only for reasonable costs incurred by Contractor prior to the date of the notice of termination. The City shall be the sole judge of "reasonable costs."

5. The Contractor shall indemnify and hold harmless the City and its officers, employees, agents, and instrumentalities from any and all liability, losses or damages, including attorney's fees and costs of defense, which the City or its officers, employees, agents, or instrumentalities may incur as a result of claims, demands, suits, causes of actions, or proceedings of any kind or nature arising out of, relating to, or resulting from the performance of the agreement by the Contractor or its employees, agents, servants, partners, principals, or subcontractors. The Contractor shall pay all claims and losses in connection therewith, and shall investigate and defend all claims, suits, or actions of any kind or nature in the name of the City, where applicable, including appellate proceedings, and shall pay all costs, judgments, and attorney's fees which may be incurred thereon. The Contractor expressly understands and agrees that any insurance protection required by this Agreement or otherwise provided by the Contractor shall in no way limit the responsibility to indemnify, keep and save harmless, and defend the City or its officers, employees, agents, and instrumentalities as herein provided the obligations of this section shall survive the term of this Agreement.

6. Whenever either Party desires to give notice to the other, such notice must be in writing, sent by certified United States Mail, postage prepaid, return receipt requested, or sent by commercial express carrier with acknowledgement of delivery, or by hand delivery with a request for a written receipt of acknowledgment of delivery, addressed to the party for whom it is intended at the place last specified. The place for giving notice shall remain the same as set forth herein until changed in writing in the manner provided in this section. For the present, the Parties designate the following:

For CITY:

City of Delray Beach  
100 N.W. 1st Avenue  
Delray Beach, Florida 33444  
Attn: City Manager

For CONTRACTOR:

Rep Services, Inc.  
Attn: Nathan H. Almon, President  
165 W Jessup Ave,  
Longwood, FL 32750  
Email: [nathan@repervices.com](mailto:nathan@repervices.com)

7. Neither this Agreement nor any right or interest herein shall be assigned, transferred, or encumbered without the written consent of the other Party.

8. This Agreement shall be construed in accordance with the City of Delray Beach's Code of Ordinances and the laws of the State of Florida. Any dispute relating to this Agreement shall only be filed in a court of competent jurisdiction in Palm Beach County, Florida, and each of the parties to this Agreement submits itself to the jurisdiction of such court. It is hereby understood and agreed that in the event any lawsuit in the judicial system,



federal or state, is brought to enforce compliance with this contract or interpret same, or if any administrative proceeding is brought for the same purposes, each party shall pay their own attorney's fees and costs, including appellate fees and costs.

**9. IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT CITY OF DELRAY BEACH, CITY CLERK, 100 N.W. 1<sup>ST</sup> AVE., DELRAY BEACH FLORIDA. THE CITY CLERK'S OFFICE MAY BE CONTACTED BY PHONE AT 561-243-7050 OR VIA EMAIL AT [CITYCLERK@MYDELRAYBEACH.COM](mailto:CITYCLERK@MYDELRAYBEACH.COM).**

- a. Contractor shall comply with public records laws, specifically to:
  - i. Keep and maintain public records required by the City to perform the service.
  - ii. Upon request from the City's custodian of public records, provide the City with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Florida Statute or as otherwise provided by law.
  - iii. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the Agreement term and following completion of the Agreement if the Contractor does not transfer the records to the City.
  - iv. Upon completion of the Agreement, transfer, at no cost, to the City all public records in possession of the Contractor or keep and maintain public records required by the City to perform the service. If the Contractor transfers all public records to the City upon completion of the Agreement, the Contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Contractor keeps and maintains public records upon completion of the Agreement, the Contractor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the City, upon request from the City's custodian of public records, in a format that is compatible with the information technology systems of the City.
  - v. If the Contractor does not comply with this section, the City shall enforce the contract provisions in accordance with the contract and may unilaterally cancel this contract in accordance with state law.

10. Contractor is aware that the Inspector General of Palm Beach County has the authority to investigate and audit matters relating to the negotiation and performance of this contract, and may demand and obtain records and testimony from Contractor and its subcontractors and lower tier subcontractors. Contractor understands and agrees that in

addition to all other remedies and consequences provided by law, the failure of Contractor or its subcontractors and lower tier subcontractors to fully cooperate with the Inspector General when requested may be deemed by the City to be a material breach of this Agreement justifying its termination.

11. The continuation of this Agreement beyond the end of any fiscal year shall be subject to both the appropriation and the availability of funds in accordance with Florida law.

12. The documents listed below are a part of this Agreement and are hereby incorporated by reference. In the event of inconsistency between the documents, unless otherwise provided herein, the terms of the following documents will govern in the following order of precedence:

- a. Terms and conditions as contained in this Agreement.
- b. Terms and Conditions of Solicitation RFP No. 18/19-2.
- c. Contractor's response to Solicitation RFP No. 18/19-2 and any subsequent information submitted by Contractor during the evaluation.

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF, the City and the Contractor executed this Agreement as of the day and year first above written.

ATTEST:

Katerri Johnson  
Katerri Johnson, City Clerk

CITY OF DELRAY BEACH

By: Shelly Petrolia  
Shelly Petrolia, Mayor

Approved as to form and legal sufficiency:

Lynn Gelin  
Lynn Gelin, City Attorney

REP SERVICES, INC.

By: Nathan Almon

Print Name: Nathan Almon

Title: President

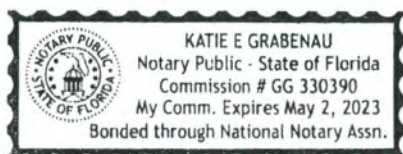
(SEAL)

STATE OF Florida  
COUNTY OF Seminole

The foregoing instrument was acknowledged before me by means of ☒ physical presence or ☐ online notarization, this 4th day of January, 2021, by Nathan Almon (name of person) as President (type of authority) for \_\_\_\_\_ (name of party on behalf of whom instrument was executed).

Personally known ☒ OR Produced Identification

Type of Identification Produced \_\_\_\_\_



Katie E Grabenau  
Notary Public – State of Florida



RESOLUTION NO. 32-21

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, APPROVING AN AGREEMENT WITH REP SERVICES, INC., FOR EQUIPMENT FOR PARKS AND PLAYGROUNDS, UTILIZING A CLAY COUNTY, FLORIDA AGREEMENT ENTERED INTO PURSUANT TO SOLICITATION NO. RFP 18/19-2; AUTHORIZING THE CITY MANAGER TO EXECUTE ANY AMENDMENTS AND TAKE ALL ACTIONS NECESSARY TO EFFECTUATE THIS AGREEMENT; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

WHEREAS, the City of Delray Beach ("City") is authorized to enter into agreements to provide services, programming and products in accordance with its Charter; and

WHEREAS, the City needs to procure various equipment for parks and playgrounds; and

WHEREAS, the City desires to obtain these products from Rep Services, Inc., utilizing an existing contract with Clay County, Florida entered into pursuant to Solicitation No. RFP 18/19-2; and

WHEREAS, the City Commission deems approval of this Resolution to be in the best interest of the health, safety, and welfare of the residents and citizens of the City of Delray Beach and the public at large.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, AS FOLLOWS:

Section 1. The foregoing recitals are hereby affirmed and ratified.

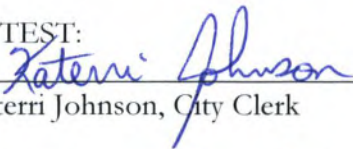
Section 2. The City Commission of the City of Delray Beach has reviewed and hereby approves the Agreement between the City and Rep Services Inc., attached hereto as Exhibit "A."

Section 3. The City Commission authorizes the City Manager to execute any amendments and take any other actions necessary to effectuate this Agreement.

Section 4. This Resolution shall become effective immediately upon adoption.

PASSED AND ADOPTED in regular session on this 4th day of February, 2021.

ATTEST:

  
Katerri Johnson, City Clerk

  
Shelly Petrolia, Mayor

Approved as to form and legal sufficiency:

  
Lynn Gelin, City Attorney

## CITY ATTORNEY OFFICE - LEGAL REVIEW CHECKLIST

Name of Agreement: Master Contractor/Services Agreement with REP Services, Inc.

Department: Purchasing

Contact person: Sydney Anelus

City Manager approval ☐

City Commission approval ☒

Agenda item #:

Agenda meeting date:

Resolution #:

Agreement Action:

New ☒

Renewal\* ☐

Amendment\* ☐

\*Renewal: Only change is the agreement term

\*Amendment: For changes other than/in addition to term

Does the Contractor require the City to sign first?: No

For City Attorney Use only:

### Agreement Terms:

### Comments/Specific Provision in Agreement

Term (Duration of Agreement)	4 years; 2 left on original term with 2 one-year renewal options
Termination Clause	P.4
Renewal Clause	P.3; automatically renews if Clay County renews its agreement
Insurance	City standard
Indemnification	City standard
Assignment	P.7; written consent required
Fiscal Funding Requirement	P.11
FL. Public Records Provision (2016)	P.9
Inspector General Provision	P.10
Governing Law	Florida
Venue	Palm Beach County
Attorney's fees	P.8; each bears own

### Business Principles:

### Comments

Fees: Total Value	\$179,000
Fees: Per Fiscal Year	N/A

### Other Issues:

### Comments

Non-Negotiable Issues/ Miscellaneous Issues/ Special Considerations	Contract to install new shade structures at public parks. This is a piggyback. There is no annual funding amount. The funding request is for the installation of two shade structures and other playground equipment; one at Anchor Park and one at Mike Machek Park.  WAITING ON CONFIRMATION FROM SYDNEY
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Consistent with applicable policies including, but not limited to, Procurement policies. Yes ☒

Attorney: William Bennett, Esq.

Reviewed and approved as to form and legal sufficiency only