



CITY OF DELRAY BEACH
100 NW 1st AVENUE, DELRAY BEACH, FL 33444

PURCHASE AGREEMENT FOR
SOLICITATION NO. 2017-049
FOR MILLER PARK SHADE SYSTEM

SHADE SYSTEMS INC.

PURCHASE 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 N.W. 1st Avenue, Delray Beach, FL 33444 and Shade Systems, Inc. (hereinafter referred to as Supplier), A Florida corporation, whose address is 4150 SW 19 Street, Ocala, FL, this ____ day of ____, 20__.

WITNESSETH:

WHEREAS, the City issued ITB No. 2017-049 to provide installation of cantilevered shade system at City of Delray Beach Miller Park on March 13, 2017; and

WHEREAS, Supplier submitted a response to the ITB dated April 11, 2017; and

WHEREAS, the City desires to purchase products and services from Supplier subject to the terms and conditions of ITB No. 2017-049, Supplier's Bid response to ITB No. 2017-049, and Exhibit A, Pricing Schedule.

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

1. The above recitals are true and correct and are incorporated herein by reference.
2. The Supplier shall provide to the City services in accordance with and pursuant to the terms, conditions and pricing of ITB No. 2017-049.
3. 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
4. Supplier shall at all times hereafter indemnify, hold harmless and, at the City Attorney's option, defend or pay for an attorney selected by the City Attorney to defend City, its officers, agents, servants, and employees from and against any and all causes of action, demands, claims, losses, liabilities and expenditures of any kind, including attorney fees, court costs, and expenses, caused or alleged to be caused by any intentional, negligent, or reckless act of, or omission of, Supplier, its employees, agents, servants, or officers, or accruing, resulting from, or related to the subject matter of this Agreement including, without limitation, any and all claims, losses, liabilities, expenditures, demands or causes of action of any nature whatsoever resulting from injuries or damages sustained by any person or property. In the event any lawsuit or other proceeding is brought against City by reason of any such claim, cause of action, or demand, Supplier shall, upon written notice from City, resist and defend such lawsuit or proceeding by counsel satisfactory to City or, at City's option, pay for an attorney selected by City Attorney to defend City. The obligations of this section shall survive the expiration or earlier termination of this Agreement. To the extent considered necessary by the Contract Administrator and the City Attorney, any sums due Supplier under this Agreement may be retained by City until all of City's claims for indemnification pursuant to this Agreement have been settled or otherwise resolved. Any amount withheld shall not be subject to payment of interest by City.

5. 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.

6. Public Records

IF THE SUPPLIER HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE SUPPLIER'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. 1ST 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.

- a. Supplier 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 Supplier 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 Supplier or keep and maintain public records required by the City to perform the service. If the Supplier transfers all public records to the City upon completion of the Agreement, the Supplier shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Supplier keeps and maintains public records upon completion of the Agreement, the Supplier 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 Supplier 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.

7. 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 Ave.
Delray Beach, FL 33444
Attn: City Manager

With Copy To:

City of Delray Beach
200 N.W. 1st Ave.
Delray Beach, FL 33444
Attn: City Attorney

For Supplier:

Shade Systems, Inc.
4150 SW 1 Street
Ocala, FL 34474
Attn: Alan Bayman

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

9. Supplier 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 Supplier and its sub licensees and lower tier sub licensees. Supplier understands and agrees that in addition to all other remedies and consequences provided by law, the failure of Supplier or its sub licensee or lower tier sub licensees 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.

10. 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 the Purchase Order issued pursuant to this Agreement.

c. Terms and conditions of ITB No. 2017-049, Miller Park Shade System, and all its addenda;

d. Supplier's response to ITB No. 2017-049, Miller Park Shade System, and any subsequent information submitted by Supplier during the evaluation process.

[Remainder of page intentionally left blank]

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

ATTEST:

CITY OF DELRAY BEACH

Katerri Johnson, City Clerk

BY: _____
Cary D. Glickstein, Mayor

Approved as to form for legal sufficiency:

R. Max Lohman, City Attorney

SUPPLIER

By: _____

Printed Name

Title

(SEAL)

STATE OF FLORIDA
COUNTY OF MARION

The foregoing instrument was acknowledged before me this ____ day of _____, 2017, by _____, as _____ (name of officer or agent, title of officer or agent), of _____ (name of corporation acknowledging), a _____ (state or place of incorporation) corporation, on behalf of the corporation. He/She is personally known to me or has produced _____ (type of identification) as identification.

Notary Public – State of Florida

EXHIBIT A
PRICING SCHEDULE

A. PRICE

<i>ITEM</i>	<i>QTY</i>	<i>UOM</i>	<i>DESCRIPTION</i>	<i>UNIT PRICE</i>	<i>EXTENDED PRICE</i>
1	4	EA	Offset T-Cantilever (15x30x12)	\$5,606.60	\$22,426.40
2	1	EA	Engineered drawings and calculations	\$900.00	\$900.00
3	1	EA	Shipping to Delray Beach, FL	\$1,600.00	\$1,600.00
4	1	EA	Professional Installation	\$18,500.00	\$18,500.00
TOTAL BID PRICE					\$43,426.40

B. MANUFACTURER

<i>MANUFACTURER</i>	<i>MODEL</i>
Shade Systems, Inc.	OTC153012- Offset T-Cantilever