

**PROFESSIONAL SERVICES AGREEMENT BETWEEN
THE CITY OF DORAL
AND
BROWNING DAY MULLINS DIERDORF
FOR
DORAL MEADOW PARK SYNTHETIC TURF CONSTRUCTION DOCUMENTS**

THIS AGREEMENT is made between **BROWNING DAY MULLINS DIERDORF**, an active, for-profit Indiana Corporation, validly engaging business in the state of Florida (hereinafter the "Consultant"), and the **CITY OF DORAL, FLORIDA**, a Florida municipal corporation, (hereinafter the "City").

WHEREAS, the Consultant and City, through mutual negotiation, have agreed upon a scope of services, schedule, and fee for the development of construction documents for the replacement of the synthetic turf fields at Doral Meadow Park (the "Project"); and

WHEREAS, the City desires to engage the Consultant to perform the services specified below.

NOW, THEREFORE, in consideration of the mutual covenants and conditions contained herein, the Consultant and the City agree as follows.

1. Scope of Services/Deliverables.

1.1 The Consultant shall furnish professional services to the City as set forth in the Scope of Services found in Exhibit "A", which is attached to this Agreement and incorporated herein and made a part hereof by this reference.

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 and shall remain in effect through October 31st, 2017, unless earlier terminated in accordance with Paragraph 8. The City Manager may extend the term of this Agreement up to an additional 180 days by written notice to the Consultant

2.2 Consultant agrees that time is of the essence and Consultant 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 Consultant shall be compensated in the following manner:

 X A lump sum amount of SEVEN THOUSAND SEVENTY DOLLARS AND NO CENTS (\$7,070.00), regardless of the number of hours or length of time necessary for Consultant to complete the Scope of Services. Consultant 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, Consultant 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.

 On a time and material/expense basis to complete the Scope of Services, provided, however, that total payments to Consultant shall not exceed \$_____, without the prior written approval of the City. Consultant shall submit its bills in arrears upon the completion of each task or deliverable in accordance with the Project Schedule or on a monthly basis in a form approved by the City. The bills shall show or include: (i) the task(s) performed; (ii) the time devoted to the task(s); (iii) the hourly rate or rates of the persons performing the task(s); and (iv) copies of receipts for reimbursable materials/expenses, if any. Expenses not expressly authorized by the Agreement shall not be reimbursed.

3.2 The City shall pay Consultant 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 Consultant the undisputed portion of the invoice. Upon written request of the Finance Director, the Consultant shall provide written documentation to justify the invoice. Any compensation disputes shall be decided by the City Manager whose decision shall be final.

4. **Subconsultants.**

4.1 The Consultant shall be responsible for all payments to any sub-consultants and shall maintain responsibility for all work related to the Project.

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

6. **Consultant's Responsibilities.**

- 6.1 The Consultant shall exercise the same degree of care, skill and diligence in the performance of the Project as is ordinarily provided by a professional architect 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 Consultant'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 Consultant shall at Consultants sole expense, immediately correct the work. The City in no way assumes or shares any responsibility or liability of the Consultant or Sub Consultant under this agreement.

7. **Conflict of Interest.**

- 7.1 To avoid any conflict of interest or any appearance thereof, Consultant 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 without cause may terminate this Agreement upon thirty (30) days written notice to the Consultant, or immediately with cause.
- 8.2 Upon receipt of the City's written notice of termination, Consultant shall stop work on the Project.

8.3 In the event of termination by the City, the Consultant shall be paid for all work accepted by the City Manager up to the date of termination, provided that the Consultant has first complied with the provisions of Paragraph 8.4.

8.4 The Consultant 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 Consultant 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, Consultant 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 Consultant 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 Consultant's performance or non-performance of any provision of this Agreement including, but not limited to, liabilities arising from contracts between the Consultant and third parties made pursuant to this Agreement. Consultant 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 Consultant'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 Consultant.

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 A. 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
 Cole, & Bierman, PL

2525 Ponce De Leon Boulevard, 7th Floor
Coral Gables, FL 33134

For The Consultant: John M. Dierdorf CEO
Browning Day Mullins Dierdorf
626 North Illinois St.
Indianapolis, IN 46204

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.

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 Consultant 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 Consultant involving transactions related to this Agreement.

16.3 The City may cancel this Agreement for refusal by the Consultant 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.

17. **Nonassignability.**

17.1 This Agreement shall not be assignable by Consultant unless such assignment is first approved by the City Manager. The City is relying upon the apparent qualifications and personal expertise of the Consultant, 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 Consultant and its employees, volunteers and agents shall be and remain independent contractors 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. **Compliance with Laws.**

20.1 The Consultant shall comply with all applicable laws, ordinances, rules, regulations, and lawful orders of public authorities relating to the Project.

21. **Waiver**

21.1 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.

22. **Survival of Provisions**

22.1 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.

23. Prohibition of Contingency Fees.


23.1 The Consultant warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the Consultant, 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 Consultant, any fee, commission, percentage, gift, or any other consideration, contingent upon or resulting from the award or making of this Agreement.

24. Counterparts

24.1 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.

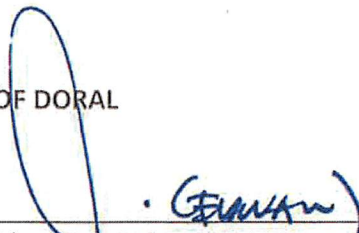
IN WITNESS WHEREOF, the parties execute this Agreement on the respective dates under each signature: The City, signing by and through its City Manager, attested to by its City Clerk, duly authorized to execute same and by Consultant by and through its CEO, whose representative has been duly authorized to execute same.

Attest:



Connie Diaz, City Clerk

CITY OF DORAL

By: 

Edward A. Rojas, City Manager


Date: 11.7.16

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

CONSULTANT

By:  JOHN M. DIERDORF

Its: CEO
Date: 11.9.16

Exhibit A

Browning Day Mullins Dierdorf Proposal

**BROWNING
DAY MULLINS
DIERDORF**
LEADERSHIP + DESIGN®

October 12, 2016

Ms. Barbara Hernandez
Director, City of Doral Parks and Recreation
Doral City Hall
8401 NW 53rd Terrace
Miami, Florida 33166

RE: Scope of Services for the Preparation of Bid Documents for the Replacement
of the Synthetic Turf Fields at Doral Meadow Park

Dear Barbara:

Thank you for thinking of us with regard to this effort. This proposal and fee are in response to your request that we assist you in developing a bid documents for the replacement of the synthetic turf surface at Doral Meadow Park. From our conversation, the scope of work will include the replacement of the turf and replacement of the current under field drainage system with a more traditional system composed of lateral piping and drainage sub-base.

A. SCOPE OF SERVICES SUMMARY:

The base proposal scope has three (3) key tasks:

- 1) Discovery
- 2) Documentation
- 3) Bid-Phase Services

A detailed scope with a description of associated deliverables can be found in Exhibit "A."

B. PROJECT SCHEDULE:

Browning Day is prepared to begin work on the project within one (1) week of receipt of an executed Work Order or Professional Services Agreement. Browning Day, in consultation with the Owner, shall perform its work in such a manner as to comply with an agreed upon schedule in working days. It is estimated that the effort described within this scope represents a two-week project delivery, dependent upon Owner schedule.

C. FEES:

For the work described within this scope, we propose a lump-sum fee of Seven Thousand, Seventy Dollars (\$7,070.00), inclusive of required expenses.

D. OPTIONAL ADDITIONAL SERVICES:

At the Owner's request, Browning Day is willing and capable of providing construction phase services as an additional service.

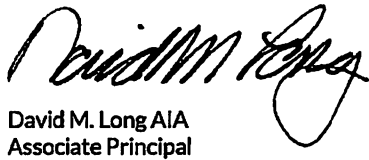
Letter of Agreement: October 12, 2016

Scope of Services for the Preparation of Bid Documents for the Replacement of the Synthetic Turf Fields at Doral Meadow Park

We look forward to the opportunity to work on this project and welcome any questions or feedback as they relate to this proposal.

BROWING DAY MULLINS DIERDORF


John M. Dierdorf AIA
Principal / CEO


David M. Long AIA
Associate Principal

cc: Drew Braley
Ryan Cambridge

Exhibit "A"

***Scope of Services for the Preparation of Bid Documents for the Replacement
of the Synthetic Turf Fields at Doral Meadow Park***

1. Task One: Discovery

Key components of this task would include:

- 1.1. **Review of Existing Documentation** – The Owner will provide Browning Day with all available plans, documents, and drawings associated with the project site for review. Browning Day will rely upon the accuracy of these documents and is not responsible for any deviations found in the field.
- 1.2. **Review of Morgan Levy Specifications with Owner:** Determine what revisions to turf system specifications and installation procedures should be done to increase bidding participation and field performance for football. This will include research on comparable systems from manufacturers to include in the specification, to reduce the number of requests for substitution during the bid period.

2. Task Two: Documentation

Browning Day will prepare a set of bid drawings and specifications that address the replacement of the field. This portion of the process will not involve any on-site meetings, but will involve coordination calls regarding specific desires and outcomes that should be incorporated within the specs/drawings.

The Owner will be responsible for providing Browning Day with their standard front-end terms and specifications to be included in the bid-package; specifications produced by Browning Day will only address the physical system components and their processes (turf, sub-base, installation, performance, drainage, etc.), which are addressed in this scope of services.

The Morgan Levy document set will be used as the base for the Doral Meadow Park document set. Revisions to the Morgan Levy base document set will include the following:

- New drainage plan and details to illustrate revised drainage system.
- Revise field grading plan to match Doral Meadow as-built.
- Revise overall field dimensions to match Doral Meadow as-built.
- Revise field layout plan for two football fields with one soccer overlay with dimensions, turf color variations at five yard lines, center logo, and endzone lettering requirements.
- Revise Egress Plan for Doral Meadow gate locations.
- New specification section for sub-grade drainage fill.
- New specification section for the drainage piping and fittings.
- Revised turf specification for the sand/rubber mix. This will include 'comparable' systems for each of the manufacturers allowed to bid on the Morgan Levy project.
- Revise field preparation specification for removal of existing drainage system and limerock base.
- Revise cover sheet, titleblock, and general notes that do not pertain to Doral Meadow Park fields.

3. Task Three: Bid-Phase Services

Browning Day will assist the Owner in the bidding process by attending one (1) pre-bid meeting in the City of Doral, respond to requests for information, review substitution requests, issue addenda as required, and review bid submission from the apparent low-bidder for compliance with the construction documents.

- 3.1. **Pre-Bid Meeting** – Browning Day will attend one (1) pre-bid meeting with potential bidders. Doral and Browning Day will determine a pre-bid time that works with the available flight schedules.
- 3.2. **Bid-Phase Requests for Information (RFI)** – Browning Day will review RFIs submitted to the Owner during the bidding phase of the project only (understood to be from the bid-letting date and the bid-

closing date as indicated on the RFP/RFQ document) and provide the Owner with a written response to each, via email, for the duration of the bidding period.

4. Optional Additional Services (Exclusions):

At the Owner's request, Browning Day is willing and capable of providing a wide range of planning and design additional services including, but not limited to, the following. If requested, each additional service shall be scoped to meet the specific needs and budget of the Owner.

4.1. Construction Phase Services

The base proposal does not include construction phase services.

4.2. Field Drainage Calculations and Exhibits – This proposal assumes that the existing storm drainage laterals will be used and the same strategy can be used with DERM as was used at Morgan Levy to get approval for the project. If there are issues with SFWMD permitting that would require the preparation of drainage calculations and exhibits for submission, the preparation of the calculations and exhibits will be an additional service.

4.3. Additional Meetings – Any meetings desired by the Owner, outside of those explicitly stated within Tasks 1-3 of this scope of services, can be accommodated through an additional service.

Exhibit B

Insurance Requirements

EXHIBIT B

**INSURANCE REQUIREMENTS- DORAL MEADOW PARK
SYNTHETIC TURF CONSTRUCTION**

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
------------------	-------------

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

All subcontractors are required to be covered by or carry equivalent insurance required.

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.