

AGREEMENT
between
THE CITY OF COCONUT CREEK
and
BIG FUN, INC.
for
AMUSEMENT RIDES AND CONCESSIONS FOR SPECIAL EVENTS
RFP NO. 05-30-18-10

THIS AGREEMENT is made and entered into this _____ day of _____, 2019 by and between the City of Coconut Creek, a municipal corporation, with principal offices located at 4800 West Copans Road, Coconut Creek, FL 33063 (the "City") and Big Fun, Inc. with offices located at 3397 NE JEANNETTE DR JENSEN BEACH, FL 34956 (the "Vendor") to provide amusement rides and concessions for special events pursuant to RFP No. 05-30-18-10.

Now therefore, in consideration of the mutual covenants hereinafter set forth, the City and Vendor agree as follows:

1) The Contract Documents

The contract documents consist of this Agreement, conditions of the contract of RFP No. 05-30-18-10, all addenda issued prior to execution of this Agreement, and any subsequent properly executed amendments to any of the aforementioned documents. These contract documents form the Agreement, and all are as fully a part of the Agreement as if attached to this Agreement or repeated herein. In the event of a conflict between the aforementioned documents, this Agreement will control, followed by the Bid documents, and addenda, in that order.

2) The Work

The Vendor shall perform all work for the City required by the contract documents and as set forth below:

- a) Vendor shall furnish all labor, materials, and equipment necessary as indicated in the specifications herein.
- b) Vendor shall supervise the work force to ensure that all workers conduct themselves and perform their work in a safe and professional manner. Vendor shall comply with all OSHA safety rules and regulations in the operation of equipment and in the performance of the work. Vendor shall at all times have a competent supervisor on the job site to enforce these policies and procedures at the Vendor's expense.
- c) Contractor shall ensure that when its work is located at any park, playground, or other place where children regularly congregate it employs only properly screened and background-checked personnel on City property, as required by Chapter 435, Florida Statutes, and Section 943.04351, Florida Statutes.
- d) Vendor shall comply with any and all Federal, State, and local laws and regulations now in effect, or hereinafter enacted during the term of this Agreement, which are applicable to the Vendor, its employees, agents or subcontractors, if any, with respect to the work and services described herein. The Contractor further warrants that there has been no violation

of copyrights or patent rights either in the United State of America or in foreign countries in connection with the work of the contract.

3) Contract Price

The Agreement shall be performed in current funds pursuant to RFP No. 05-30-18-10. Pricing shall be as per Attachment "A" – Price List.

4) Contract Term

The initial Agreement period shall be for two (2) years commencing on the date written on the first page of this Agreement.

5) Contract Extension

The City reserves the right to extend the Agreement for three (3) additional one (1) year periods, provided both parties agree to the extension; all the terms, conditions and specifications remain the same; and such extension is approved by the City. Vendor shall give written notice to the City not less than ninety (90) days prior to renewal date of any adjustment in the initial Contract amount. Agreement renewal shall be based on satisfactory performance, mutual acceptance, and determination that the Contract is in the best interest of the City.

In the event services are scheduled to end because of the expiration of this contract, the Vendor shall continue the service upon the request of the Contract Administrator. The extension period shall not extend for more than ninety (90) days beyond the expiration date of the existing contract. The Vendor shall be compensated for the service at the rate(s) in effect when the City invokes this extension clause.

6) Independent Contractor

Vendor is an independent Contractor under this Agreement. Personal services provided by the Vendor shall be by employees of the Vendor and subject to supervision by the Contractor, and not as officers, employees, or agents of the City. Personnel policies, tax responsibilities, social security and health insurance, employee benefits, purchasing policies and other similar administrative procedures applicable to services rendered under this Agreement shall be those of the Vendor.

7) Assignment and Subcontracting

No assignment of this Agreement or any right occurring under this Agreement shall be made, in whole or in part, by the Contractor without the express written consent of the City which consent shall not be unreasonably withheld. In the event of any assignment, the assignee shall assume the rights, duties and responsibilities of the Contractor.

8) Notice

Whenever either party desires or is required under this Agreement to give notice to any other party, it must be given by written notice, sent by registered United States mail, with return receipt requested, addressed to the party for whom it is intended at the following addresses. Notice shall be deemed received by the party for whom it is intended after the USPS certified mail process is completed and/or hand delivery.

CITY

City Manager

City of Coconut Creek

4800 West Copans Road

Coconut Creek, FL 33063

With a copy to the City Attorney at the same address.

VENDOR

Michael Doolan, President
Big Fun, Inc.
P.O. Box 699
Jensen Beach, FL 34958
Phone: 772-285-2208
Email: mdoolan@bellsouth.net

9) Agreement Subject to Funding

This Agreement shall remain in full force and effect only as long as the expenditures provided for in the Agreement have been appropriated by the City Commission of the City of Coconut Creek in the annual budget for each fiscal year of this Agreement, and is subject to termination based on lack of funding.

10) Venue

The parties waive the privilege of venue and agree that all litigation between them in the state courts shall take place exclusively in the Seventeenth Judicial Circuit in and for Broward County, Florida and that all litigation between them in the federal courts shall take place exclusively in the Southern District in and for the State of Florida.

11) Signatory Authority

The Vendor shall provide the City with copies of requisite documentation evidencing that the signatory for Vendor has the authority to enter into this Agreement.

12) Severability; Waiver of Provisions

Any provision in this Agreement that is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof or affecting the validity or enforceability of such provisions in any other jurisdiction. The non-enforcement of any provision by either party shall not constitute a waiver of that provision nor shall it affect the enforceability of that provision or of the remainder of this Agreement.

13) Merger; Amendment

This Agreement constitutes the entire Agreement between the Vendor and the City, and negotiations and oral understandings between the parties are merged herein. This Agreement can be supplemented and/or amended only by a written document executed by both the Vendor and the City.

14) Termination

Termination for Cause: Immediate

In the event the Contractor defaults in or violates any of the terms, obligations, restrictions or conditions of this contract, the City may, upon written notice to the Contractor, terminate this contract effective immediately upon receipt of notice as provided in section 8, "Notice," above. The notice for immediate termination shall state the date of termination and Contractor shall discontinue all work under this contract on that date. In the event of immediate termination by the City shall have all legal and equitable remedies available to it, and may hold the Contractor liable for any and all damages sustained by the City arising out of such default, including but not limited to costs of procurement and cover.

Termination for Cause: Time to Correct

In the event the Contractor defaults in or violates any of the terms, obligations, restrictions or conditions of this contract, the City may, upon written notice to the Contractor consistent with

section 8, "Notice," above, set forth the reason(s) for said termination and state a reasonable time-frame, not to exceed five (5) calendar days, for the Contractor to correct the conditions to the satisfaction of the City. In the event the Contractor has failed to correct the conditions(s) of the default or the default is not remedied to the satisfaction and approval of the City within the time-frame prescribed, the City may terminate the contract effective immediately as provided above. If Contractor requests a hearing before the City Manager within the time-frame prescribed for correction, the City Manager may extend such time for correction to accommodate such hearing. Notwithstanding the above, the City shall have all legal and equitable remedies available to it, including, but not limited to termination of the Contract in which case the Contractor shall be liable for any and all damages arising from the default and breach of the contract.

Termination for Convenience of City

Upon thirty (30) calendar days written notice to the Contractor as provided in section 8, "Notice," above, the City may without cause and without prejudice to any other right or remedy, terminate the contract for the City's convenience whenever the City determines that such termination is in the best interest of the City. Where the contract is terminated for the convenience of the City the notice of termination to the Contractor must state that the contract is being terminated for the convenience of the City under the termination clause and the extent of termination. The Contractor shall discontinue all work on the appointed last day of service.

IN WITNESS WHEREOF, the parties have made and executed this Agreement on the respective dates under each signature. City of Coconut Creek, through its City Manager or designee and Big Fun, Inc. (Name of party with whom Agreement is made), signing by and through Michael Doolan, President duly authorized to execute same.

CITY OF COCONUT CREEK

ATTEST:

Mary C. Blasi, City Manager _____
Date

Leslie Wallace May _____
City Clerk Date

Approved as to form and legal sufficiency:

Terrill C. Pyburn, City Attorney _____
Date

VENDOR

ATTEST:

Company Name

(Corporate Secretary)

Signature of President/Owner

Date

Type/Print Name of Corporate Secy.

Type/Print Name of President/Owner

(CORPORATE SEAL)

CORPORATE ACKNOWLEDGEMENT

STATE OF FLORIDA:

:SS

COUNTY OF _____:

I HEREBY CERTIFY that on this day, before me, an Officer duly authorized in the State aforesaid and in the County aforesaid to take acknowledgments, personally appeared _____, of _____ a _____ Corporation, to me known to be the person(s) described in and who executed the foregoing instrument and acknowledged before me that he/she executed the same.

WITNESS my hand and official seal this _____ day of _____, 2018.

Signature of Notary Public
State of Florida at Large

Print, Type or Stamp
Name of Notary Public

- Personally known to me or
- Produced Identification

Type of I.D. Produced

- DID take an oath, or
- DID NOT take an oath.

EXHIBIT "A"

CITY OF COCONUT CREEK AMUSEMENT RIDES AND CONCESSIONS RFP NO. 05-30-18-10

PRICE LIST

Big Fun, Inc. P. O. Box 699, Jensen Beach, FL 34958 Phone (772) 285-2208 Fax (772) 225-0300

Additional Terms:

- A. All rides are priced individually.
- B. All rides may not be available for certain dates.
- C. City shall receive a minimum of two (2) generators (at no cost to City) and a five percent (5%) discount for every three (3) rides, up to a maximum of fifteen (15%) percent. Discount does not apply to inflatables.
- D. In exchange for the exclusive right to concessions, the City shall receive the following:
 - 1. \$1,500.00 credit
 - 2. 120 food vouchers
 - 3. Additional ride from one (1) of the Family, Major, or Kiddie ride categories at no cost
 - 4. Additional ride to be chosen by Big Fun, Inc. based on availability.
- E. If and when additional rides become available, an updated ride list will be provided.
- F. If a ride that is contracted is unavailable or must be replaced, it will be replaced with a ride of equal or greater value with no additional cost to the City.
- G. Big Fun, Inc. shall provide excess queue fence for the 2019 Butterfly Festival for a total cost of \$4,800, which shall be inclusive of delivery, set-up, removal, pickup and all labor costs pertaining to the handling of the fence.
- H. For the life of the contract, Big Fun, Inc. shall provide the City with an annual quote for excess queue fencing. The City reserves the right to reject the annual quote, without obligation and to obtain these services from other sources.

Categories / Ride Name	Cost
Spectaculars	
Rock Star	\$7,750.00
Pharaoh's Fury	\$7,750.00
Cliff Hanger	\$7,750.00
Zero Gravity	\$5,750.00
Gondola Wheel	\$13,500.00
Himalaya	\$12,000.00
Family	
Mouse Trap	\$6,500.00
Surf City	\$5,550.00
Barrel of Fun	\$3,550.00
Rockin Tug	\$3,750.00
Majors	
Swinger	\$4,250.00
Fun Slide	\$2,750.00
Scooter (Bumper Cars)	\$4,950.00
Kiddies	
Rio Grande Train	\$2,450.00
Cross Country Adventure	\$2,450.00
Kiddie Swing	\$2,450.00
Kiddie Cars	\$2,450.00
Carousel	\$5,550.00
Dragon Wagon	\$3,550.00
Inflatables	
Obstacle Course (large)	\$1,250.00
Obstacle Course (medium)	\$900.00
Bounce House	\$750.00

Note: Contract is not permitted to be piggybacked by other governmental agencies.