USASHADE
& Fabric Structures®

Sun Ports
A Brand of Shade Structures, Inc.

COVER SHEET

PROPOSAL FOR SHADE STRUCTURES

CORPORATE OFFICE

Dallas
8505-A Chancellor Row
Dallas, TX 75247
800-966-5005 Phone
214-905-9514 Fax

REGIONAL OFFICES

Arizona
2628-B W. Birchwood Cir.
Mesa, AZ 85202
480-446-0066 Phone
480-446-8679 Fax

Austin
1508-A Ferguson Lane
Austin, TX 78754
512-836-5500 Phone
512-836-5600 Fax

California
1085 N. Main Street, Suite C
Orange, CA 92867
714-427-6981 Phone
714-538-2440 Fax

927 Enterprise Way
Suite A
Napa, CA 94558
707-257-7296 Phone
707-257-7297 Fax

Las Vegas
6225 S. Valley View Blvd.
Suite I
Las Vegas, NV 89118
702-227-5273 Phone
702-227-5132 Fax

Date: 6/22/2015

To: Brett Bergeron

Fax:

Phone: (972) 292-6516

Pages including this cover page: 9

Project Name: **Fairway Greens Park – Shade Project**

Quote Number: **A1E112179**

COMMENTS: Price reflects Buy Board Contract 423-13

Attached is quotation for shade structures as we discussed. Refer to the above quote number with any questions or comments.

When you are ready to place your order, please initial all pages of the proposal and sign the last page.

Do not hesitate to call me for further assistance.

Sincerely,

Andy Enright

Andy Enright
Regional Manager
Phone: (972) 354-6556

Note: This message is intended only for the use of the individual to whom it is addressed, and contains information that is privileged, confidential and exempt from disclosure under applicable law. If you are not the intended recipient, or the employee or agent responsible for delivering this message to the intended recipient, you are hereby notified that any unauthorized disclosure, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please notify us immediately by phone and return the original message to the above address.

PROPOSAL

Corporate Mailing Address:
P.O. Box 560168
Dallas, TX 75356-0168
(800) 966-5005

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Remittance address:
Shade Structures, Inc
P.O. Box 204691
Dallas, TX 75320-4691

This is a legal agreement – Please read carefully. Complete and initial all pages

Purchaser:	City of Frisco Parks & Recreation Department	**Date:**	6/22/2015	**Sales Rep:**	Andy Enright
Contact:	Brett Bergeron	**PO Number:**		**Phone:**	(972) 354-6556
Phone:	Senior Park Planner	**Quote No.:**	**A1E112179**	**Email:**	andy@usa-shade.com

Billing Information:	**Shipping Information:**	**Jobsite Information (including site name):**
City of Frisco 6101 Frisco Square Blvd Frisco, TX 75034		Fairway Greens Park 1710 Buena Park Drive Frisco, TX 75034
Contact: Brett Bergeron	Contact:	Contact: Brett Bergeron
Phone: (972) 292-6516	Phone:	Phone: (972) 292-6516
Fax:	Fax:	Fax:
Email: BBergeron@friscotexas.gov	Email:	Email: BBergeron@friscotexas.gov

STRUCTURE PRICING

QTY	DESCRIPTION	DETAILS		PRICE
1	**30'x 30'** **4 Point Hypar** 	Structure Size Number of Posts Number of Fabric Tops Fabric Type Fabric Color Steel Color Post Attachment Method Entry Height Wind load Snow load Notes:	30'x30' 4 1 eXtreme 32 ™ **TBD** **TBD** **Drilled / Recessed** TBD 90MPH 5Lbs/Sft	$23,264.04 **Buy Board Price** Price Includes: New structure, old structure removal, installation, engineering, shipping and handling Buy Board Contract 423-13 Price includes estimated 2% payment bond
1	**60'x40'** **Joined Custom Hypar**	Structure Size Number of Posts Number of Fabric Tops Fabric Type Fabric Color Steel Color Post Attachment Method Entry Height Wind load Snow load Notes:	60'x40' 6 2 eXtreme 32™ **TBD** **TBD** **Drilled/Recessed** TBD 90MPH 5Lbs/Sft	$50,690.04 **Buy Board Price** Price Includes: New structure, old structure removal, installation, engineering, shipping and handling Buy Board Contract 423-13 Price includes estimated 2% payment bond

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PRICING DETAILS

Accessories / Miscellaneous

QTY	ITEM	DETAILS	COST
		Total for Access/Misc Items:	**$**

Unit Total		See Above
Accessories/Miscellaneous		NA
Shipping/Handling		Included
SUBTOTAL		**See Above**
Sales Tax	%	Exempt
Assembly/Installation		Included
Engineering		Included
TOTAL PRICE		**$73,954.08**

PAYMENT TERMS:

(1) Upon execution of the Agreement (Deposit)		
(2) Upon delivery of Sun Port(s)		
(3) Upon completion of assembly/installation		
(4) Other (specify):		Net 30

NOTES:

Price reflects Buy Board Contract 423-13
Price excludes Permit and Permitting fees
Price includes estimated 2% Payment Bond

GENERAL SCOPE OF WORK

PERMIT REQUIREMENTS

YES	NO	
☒	☐	Purchaser is responsible for Permit Submittal
☐	☐	

ENGINEERING REQUIREMENTS

Building Code	
Type of drawings	
# of sealed drawings	
Calculations Required	
Notes:	

PRICING INCLUDES

YES	NO	
☒	☐	Assembly/Installation (based on a single mobilization)
☒	☐	Shipping and Handling
☒	☐	Engineered Drawings
☐	☒	Sales Tax
☐	☒	Permit Submittal
☐	☒	Permit fees
☐	☒	Accessories
☐	☒	Coastal Primer
☒	☐	Payment and Performance Bonds
☐	☒	

ASSEMBLY REQUIREMENTS

YES	NO	
☐	☒	Underground obstacles
☒	☐	Dirt Removal
☐	☒	Soil Tests
☒	☐	Concrete Cutting
☒	☐	Concrete Truck Access
☐	☒	Fencing
☐	☒	Special Inspection
☒	☐	Permits (see Permit Requirements)
☐	☒	Prevailing Wages & Certified Payroll
☐	☒	Union Wages
☒	☐	Removal of existing structure or poles
☐	☒	Curb Repair
☐	☒	Landscaping Repair
☐	☒	Electrical hook-up or trenching
☐	☒	Site Plan Approval
☒	☐	Site Survey
☒	☐	Bobcat Access
☐	☒	Liquidated Damages
☐	☒	Other special conditions (noted below):
☒	☐	Anchor Bolts Included

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GENERAL TERMS AND CONDITIONS AND WARRANTY

1) **Proposal:** The above proposal is valid for **30** days from the date first set forth above. After 30 days we reserve the right to increase prices due to the rise in costs of raw material, fuel or other cost increases. When applicable, Shade Structures, Inc. reserves the right to implement a surcharge for significant increases in raw materials, including the following, but not limited to; fuel, steel and concrete. Due to the duration of time between proposals, contracts and final installation, Shade Structures, Inc. reserves the right to implement this surcharge when applicable.

2) **Purchase:** By executing this proposal, or submitting a purchase order pursuant to this proposal (which shall incorporate the terms of this agreement specifically by reference) which is accepted by the SA Shade & Fabric Structures (the "Company"), the purchaser identified above ("you" or the "Purchaser") agrees to purchase the Sun Ports brand shade structures ("Structures") and the services to be provided by the Company, as detailed in the "Structure Pricing" and "General Scope of the Work" sections of this agreement, above, or in the relevant purchase order accepted by the Company, for use by Purchaser or for installation by Company or Purchaser on behalf of a third-party who will be the ultimate owner of the Structures (the ultimate owner of a Structure, whether Purchaser or a third-party, being the "Owner").

3) **Short Ship Claims:** Purchaser has 15 days from receipt of the Structures to file a short ship report in writing to its sales representative. Company will not honor claims made after this time.

4) **Standard Exclusions:** Unless specifically included under "General Scope of the Work" section above, this agreement does not include, and Company will not provide Services, labor or materials for any of the following work: (a) removal and disposal of any materials containing asbestos or any hazardous materials as defined by the EPA; (b) moving Owner's property around the installation site; (c) repair or replacement of any Purchaser or Owner-supplied materials; (d) repair of concealed underground utilities not located on prints, supplied to Company by Owner during the bidding process, or physically staked out by Owner, and which are damaged during construction; or (e) repair of damage to existing surfaces that could occur when construction equipment and vehicles are being used in the normal course of construction.

5) **Bonding Guidelines:** If Purchaser will use or provide the Structures and Services for an Owner other than Purchaser (including, without limitation, as a subcontractor of Purchaser), Purchaser will include the following statement in Purchaser's contract with Owner:

   "The manufacturer's warranty for the Sun Ports brand shade structures is a separate document between Shade Structures, Inc. and the ultimate owner of the Sun Ports brand shade structures, which will be provided to the ultimate owner at the time of completion of the installation and other services to be provided by Shade Structures, Inc.. Due to surety requirements, any performance and/or payment bond will cover only the first year of Shade Structures, Inc. warranty."

6) **Insurance Requirements:** Company is not required to provide any insurance coverage in excess of Company's standard insurance. A copy of the Company's standard insurance is available for your review prior to acceptance of the Company's quote.

7) **Payment:** Terms of payment are defined in the "Pricing Details" section and are specific to this contract. For purposes of this agreement, "Completion" is defined as being the point at which the Structure is suitable for its intended use, the issue of an occupancy consent, or a final building department approval is issued, whichever occurs first. In any event where Completion cannot be effected due to delays or postponements caused by the Purchaser or Owner, final payment (less 10% retainage) is due within 30 days of the date when Completion was scheduled, had the delay not occurred. All payments must be made to USA Shade & Fabric Structure, Department 41349, P.O. Box 650823, Dallas TX 75265. If the Purchaser or Owner fails or delays in making any scheduled milestone payments, the Company may suspend the fulfillment of its obligations hereunder until such payments are made, or Company may be relieved of its obligations hereunder if payment is more than 60 days past due. Company may use all remedies available to it under current laws, including but not limited to filing of liens against the property and using a collection agency or the courts to secure the collection of the outstanding debt.

8) **Lien Releases:** Upon request by Owner, Company will issue appropriate partial lien releases as corresponding payments are received from Purchaser, but prior to receiving final payment from Purchaser or Owner. Company will provide a full release of liens upon receipt of final payment. In accordance with state laws, Company reserves the right to place a lien on the property if final payment has not been received 10 days prior to the filing deadline for liens.

9) **Site-plan Approval, Permit/s, Permit Fees, Plans, Engineering Drawings and Surveying:** Site-plan approval, permits, permit fees, plans, engineering drawings and surveying are specifically excluded from this agreement and the Services unless specified under the "General Scope of Work". The Company does not in any way warrant or represent that a permit or site plan approval for construction will be obtained. Sealed engineered drawings that are required but not included in the "General Scope of Work" will result in an additional cost to Purchaser.

10) **Manufacturing & Delivery:** Manufacturing lead-time from Company's receipt of the "Notice To Proceed" is approximately 6 to 8 weeks for standard Structures, and 8 to 12 weeks for custom Structures. Delivery is approximately 1 week thereafter. Delivery of Structures may be prior to or at start of assembly.

11) **Returned Product, Deposits and/or Cancelled Order:** Within the first 45 days after shipment from our facility, all returned product(s) and cancelled orders are subject to a 50% restocking fee. No returns are available following this 45 day period. All deposits are nonrefundable. All expenses incurred (engineering, site surveys, shipping and handling, etc) are the responsibility of the purchaser, up to notice of cancellation.

12) **Concealed Conditions:** "Concealed conditions" include, without limitation, water, gas, sprinkler, electrical and sewage lines, post tension cables, and steel rebar. This agreement is based solely on observations Company was able to make either by visual inspection or by drawings and / or plans submitted by Owner at the time this agreement was bid. If additional Concealed Conditions are discovered once work has commenced which were not visible at the time this proposal was bid, Company will stop work and point out these unforeseen Concealed Conditions to Purchaser or Owner so that Purchaser and Company can execute a change order for any additional work. In any event, any damage caused by or to unforeseen Concealed Conditions is the sole responsibility of the Purchaser and Company shall not be held liable for any such damage. Soil conditions are assumed to be soil that does not contain any water, hard rock (such as limestone, caliche, etc.), rocks bigger than 4 inches in diameter or any other condition that will require additional labor, equipment and / or materials not specified by the Purchaser or Owner in the bidding process. Any condition requiring additional labor, equipment and / or materials to complete the drilling or concrete operations will require a change order before Company will complete the process. Price quotes are based on a drill pier footing. Any variation will incur additional charges (i.e. spread footings, concrete mat, sand, water, landfill, etc.). Costs for footing and installation do not include any allowance for extending below frost lines (the additional costs for which vary by geographical region).

13) **Changes in the Work:** During the course of this project, Purchaser may order changes in the work (both additions and deletions). The cost of these changes will be determined by the Company, and a change order form must be completed and signed by both the Purchaser and the Company, which will detail the "General Scope of the Change Order". Should any change order be essential to the completion of the project, and the Purchaser refuses to authorize such change order, then Company will be deemed to have performed its part of the project, and the project and Services will be terminated. Upon such termination, Company will submit a final billing to Purchaser for payment, less a labor allowance for work not performed but including additional charges incurred due to the stoppage. No credit will be allowed for materials sold and supplied, which will remain the property of the Purchaser.

14) **Warranty; Limitations of Liability:**

- Company warrants that all Company-supplied labor and Services will be performed in a good and workmanlike manner.
- The warranty set forth in this Section 14 will be the Purchaser's sole and exclusive warranty.
- The warranty set forth in this Section 14 will run from the date of performance of the service by the Company, and any warranty claims brought by Purchaser must be brought within 30 days of the date of performance of the Service giving rise to the claim.
- Purchaser's sole remedy for a breach of the warranty set forth in this Section 14 will be the re-performance of the Services, or if that is not possible or practical, the refund of the price of the Services that breached the warranty.
- Purchaser shall notify Company in writing detailing any defects in Service for which a warranty claim is being made.
- **COMPANY SHALL NOT IN ANY EVENT BE LIABLE FOR INDIRECT, SPECIAL, CONSEQUENTIAL, INCIDENTAL PUNITIVE OR LIQUIDATED DAMAGES IN ANY ACTION ARISING FROM OR RELATED TO THIS AGREEMENT, WHETHER BASED IN CONTRACT, TORT (INCLUDING NEGLIGENCE), INTENDED CONDUCT OR OTHERWISE, INCLUDING WITHOUT LIMITATION, DAMAGES RELATING TO THE LOSS OF PROFITS, INCOME OR GOODWILL, REGARDLESS OF WHETHER COMPANY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.**
- **IN NO EVENT WILL COMPANY'S LIABILITY FOR MONETARY DAMAGES UNDER THIS AGREEMENT EXCEED THE FEES PAID OR DUE AND PAYABLE FOR THE SERVICES UNDER THIS AGREEMENT (OR THE RELEVANT PURCHASE ORDER).**
- **EXCEPT FOR THE WARRANTIES EXPRESSLY SET FORTH IN THIS AGREEMENT, COMPANY MAKES, AND PURCHASER RECEIVES, NO WARRANTIES OF ANY KIND, EXPRESS, IMPLIED OR STATUTORY, ARISING OUT OF, RELATED TO, OR UNDER THIS AGREEMENT, AND SPECIFICALLY DENIES THE IMPLIED WARRANTIES OF FITNESS FOR A PARTICULAR PURPOSE AND MERCHANTABILITY. FURTHER, EXCEPT AS EXPRESSLY SET FORTH HEREIN, COMPANY ACKNOWLEDGES THAT THE SERVICES AND STRUCTURES PROVIDED HEREIN ARE PROVIDED "AS IS" WITHOUT WARRANTY OF ANY KIND. COMPANY DOES NOT WARRANT THAT THE SERVICES OR STRUCTURES WILL MEET YOUR REQUIREMENTS OR THOSE OF THE OWNER.**

- For all Structures installed by the Company, Purchaser must sign and return the "Customer Checklist and Sign-off" form to the Company within 10 business days from the construction completion date, or Company will not be held responsible for any warranties under this Section 14 or any damage to the Structure.
- The warranties for the Structures are contained in a separate document between Company and the ultimate Owner of the Structures, which will be provided to Owner at the time of completion of the work.

15) **Indemnification:** To the fullest extent permitted by law, Purchaser shall indemnify, defend and hold harmless the Company and its consultants, agents and employees or any of them from and against claims, damages, losses and expenses, including but not limited to attorneys' fees, related to the installation of the Structure or performance of the Services, provided that such claim, damage, loss or expense is attributable to bodily injury to, sickness, disease or death of a person or to injury to or destruction of tangible property, but only to the extent caused by the negligent acts or omissions of the Purchaser or its agents, employees, or subcontractors or anyone directly or indirectly employed by them or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss or expense is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge or reduce other rights or obligations of indemnity that would otherwise exist as to a party or person described in this Section 15.

16) **Warranty:**

- USA SHADE provides a limited warranty on all USA SHADE-supplied labor and materials. No other warranty is implied.
- The warranty set forth shall be the purchaser's sole and exclusive warranty, and is void if structures are not paid for in full.
- The warranty is void if any changes, modifications, additions or attachments are made to the structures without the prior written consent of USA SHADE.
- The warranty is void if the structures are not assembled in strict compliance with USA SHADE specifications.
- The warranty will be void if regular maintenance is not performed. This is particularly critical in regions where dirt/sand may cause abrasion of fabric.
- The warranties below are effective from the date of sale, or, if assembled by USA SHADE, the date of construction completion.
- USA SHADE reserves the right to repair or replace any item covered by this warranty.
- Purchaser shall notify USA SHADE in writing, detailing any defects for which a warranty claim is being made.
- USA SHADE shall not in any event be liable for indirect, special, consequential, or liquidated damages.
- USA SHADE specifically denies the implied warranties of fitness for a particular purpose and merchantability.
- No signs, objects, fans, light fixtures, etc., may be hung from the structures, unless specifically engineered by USA SHADE. These items may interfere with the fabric, voiding the warranty.
- The warranty shall be void if damage to the steel frame or fabric top is caused by misuse, willful or intentional damage, vandalism, any Act of God (i.e. hurricane, tornado, micro/macroburst), including, but not limited to, ice, snow, or wind in excess of applicable building code parameters.
- For all units assembled by USA SHADE the "Customer Checklist and Sign-off" form must be signed and returned to USA SHADE within 10 business days from the date of construction completion, or USA SHADE will not be held responsible for any damage to the structures. The warranty will also be considered null and void until this checklist is received by USA SHADE.

Shadesure™ Fabric:

- Shadesure™ fabrics carry a 10-year limited manufacturer's warranty from the date of assembly, against failure from significant fading, deterioration, breakdown, mildew, outdoor heat, cold, or discoloration, with the exception of Red and Coolbrella™ fabrics, which carry a 3-year limited warranty. Should the fabric need to be replaced under the warranty, USA SHADE will manufacture and ship a new fabric at no charge for the first 6 years, thereafter pro-rated at 18% per annum over the last 4 years.
- This warranty shall be void if damage to the fabric is caused by contact with chemicals, misuse, vandalism, any Act of God (i.e. hurricane, tornado, micro/macroburst), including, but not limited to, ice, snow, or wind in excess of the applicable building code parameters.
- All fabric tops are warranted for winds/gusts up to 90mph and prior to snow or ice accumulation.
- All fabric curtains, valances and flat vertical panels are not covered under the warranty.
- Fabric is not warranted where it is assembled on a structure that is not engineered and built by USA SHADE.
- USA SHADE structures are designed to eliminate friction between the rafters and fabric. The warranty will be voided if any modification or attachment is made to the rafter(s). The fabric will wear/tear should any object be placed between the rafter and the fabric, voiding the warranty.
- Labor for the removal, assembly, and/or freight will be covered for a period of 1 year, where the structures supplied and assembled by USA SHADE are defective. In all cases where the structures are not assembled by USA SHADE, or its agents, all labor for the removal, assembly, and/or freight will be at the customers' expense, and the warranty will only be applicable to the repair or replacement of the defective materials.
- USA SHADE reserves the right, in cases where certain fabric colors have been discontinued, to offer the customer a choice of available colors to replace the warranted fabric of the discontinued color. USA SHADE does not warrant that any particular color will be available for any period of time, and reserves the right to discontinue any color for any reason, without recourse by the owner of the discontinued fabric color.

Coloursheade® FR Fabric:

- Coloursheade® FR fabrics carry a 5-year limited manufacturer's warranty from the date of assembly, against failure from significant fading, deterioration, breakdown, mildew, outdoor heat, cold, or discoloration, with the exception of FR Red and Coolbrella™ fabrics, which carry a 3-year limited warranty. Should the fabric need to be replaced under the warranty, USA SHADE will manufacture and ship a new fabric at no charge for 5 years.
- This warranty shall be void if damage to the fabric is caused by contact with chemicals, misuse, vandalism, any Act of God (i.e. hurricane, tornado, micro/macroburst), including, but not limited to, ice, snow, or wind in excess of the applicable building code parameters.
- All fabric tops are warranted for winds/gusts up to 90mph and prior to snow or ice accumulation.
- All fabric curtains, valances and flat vertical panels are not covered under the warranty.
- Fabric is not warranted where it is assembled on a structure that is not engineered and built by USA SHADE.
- USA SHADE structures are designed to eliminate friction between the rafters and fabric. The warranty will be voided if any modification or attachment is made to the rafter(s). The fabric will wear/tear should any object be placed between the rafter and the fabric, voiding the warranty.
- Labor for the removal, assembly, and/or freight will be covered for a period of 1 year, where the structures supplied and assembled by USA SHADE are defective. In all cases where the structures are not assembled by USA SHADE or its agents, all labor for the removal, assembly and/or freight will be at the customers' expense, and the warranty will only be applicable to the repair or replacement of the defective materials.
- USA SHADE reserves the right, in cases where certain fabric colors have been discontinued, to offer the customer a choice of available colors to replace the warranted fabric of the discontinued color. USA SHADE does not warrant that any particular color will be available for any period of time and reserves the right to discontinue any color for any reason, without recourse by the owner of the discontinued fabric color.

NOTE: Shadesure™ and Coloursheade® FR fabric warranties cover fabric tops up to 40' in length. Fabric tops over 40' in length are covered by a non-prorated 5-year warranty. Additionally, fabric tops made from other fabric types (i.e. Sunbrella®) will include their respective manufacturer's warranty.

Shadesure and Coolbrella are trademarks of Shade Structures, Inc..
Coloursheade is a registered trademark of Multiknit Pty. Ltd.
Sunbrella is a registered trademark of Glen Raven Custom Fabrics, LLC.

Steel:

- The structural integrity of the steel is warranted for 10 years.
- Workmanship and powder coated surfaces are warranted for 1 year.
- This warranty shall be void if damage to the steel frame is caused by misuse, vandalism, any Act of God (i.e. hurricane, tornado, micro/macroburst), including, but not limited to, ice, snow, or wind in excess of applicable building code parameters.

Thread:

- USA SHADE warranties its sewing thread for a period of 8 years.
- The thread will be free from defects in material/workmanship and will not be damaged by exposure to sunlight, weather, or water.
- This warranty does not cover damage from fire, cuts, vandalism, misuse, or any Act of God (i.e. hurricane, tornado, micro/macroburst), including, but not limited to, ice, snow, or wind in excess of the applicable building code.
- Labor for the removal, assembly and/or freight of tops with damage caused by thread will only be covered in instances where USA SHADE has assembled the unit. In all cases where units where not assembled by USA SHADE, all labor for the removal, assembly and/or freight will be for the customers account and the warranty will only be applicable to the repair or replacement of defective materials.

17) **Assembly/Installation:**

- Company will notify Purchaser of the scheduled assembly date. Owner agrees to have an owner representative meet the assembly crew at the job site on the scheduled assembly date to verify the exact location where the Structure(s) is to be placed
- Labor for the removal, assembly and/or freight charges will only be covered by Company in instances where the Structures supplied and installed by Company are determined by the Company to be defective. In all cases where Structures are not installed by Company, all labor for the removal, assembly and/or freight of the Structures will be Purchaser' responsibility.
- Installation prices are based on a single mobilization charge. If additional mobilization is needed, there will be additional charges.
- If the requested Services require Company access to Owner's premises Company will be provided access to the Owner's premises free and clear of debris, automobiles or other interference Monday thru Friday during the hours of 8am to 6pm, and Company will have access to water and electrical facilities during installation. Additional charges will apply if utilities are not easily accessible. All automobiles will be moved prior to Company's crew beginning any installation.

- Company will not be responsible for moving or repairing any underground utility lines such as electrical, telephone, gas, water, or sprinkler lines that may be encountered during installation.
- Any additional costs incurred as a result of hard rock conditions requiring extra equipment, utility removal or repair resulting in delay will result in additional charges unless they are detailed on as-built site drawings provided to Company or marked on the ground and communicated to Company in writing prior to fabrication and installation.

18) **Installation/Assembly on-site:** Where installation/assembly is part of the Services, Purchaser must provide the Company with a detailed drawing prepared by or for the Owner showing exactly where the Structure(s) are to be assembled as well as detailing any obstacles or other impediments that may cause the assembly process to be more difficult. Any fixture(s), e.g., playground, pools etc., that the Structure(s) is/are to be assembled over must also be detailed, along with their peak heights (if applicable).

19) **Site/Use Review by Purchaser:** Company relies on the Purchaser to determine that the Structure(s) ordered are appropriate and safe for the Owner's installation site and/or intended use. Company is not responsible for damages or injuries resulting from collisions by moving objects or persons with the structure post. Company can recommend or supply at additional cost, padding for posts from a third party manufacturer.

20) **Preparatory Work:** Where installation/assembly is part of the Services and in the event that the foundation or job site is not suitable or ready for assembly to begin on the scheduled day, a delay of order notification must be sent to Company at least 4 working days before in order to allow Company to reschedule the project. In the event that Company is not notified and incurs an expense in attempting to execute the assembly, a re-mobilization charge may be charged to Purchaser before Company will reschedule the assembly.

21) **Delegation: Subcontractors:** The Services and the manufacturing and assembly of the Structures may be performed by subcontractors under appropriate agreements with the Company.

22) **Force Majeure: Impracticability:** The Company shall not be charged with any loss or damage for failure or delay in delivering or assembling of the shade Structures when such failure or delay is due to any cause beyond the control of the Company, due to compliance with governmental regulations or orders, or due to any acts of God, strikes, lockouts, slowdowns, wars or shortages in transportation, materials or labor.

23) **Dispute Resolution:** Any controversy or claim arising out of or related to this agreement must be settled by binding arbitration administered in Dallas, Texas by a single arbitrator selected by the parties or by the American Arbitration Association, and conducted in accordance with the construction industry arbitration rules. Judgment upon the award may be entered in any court having jurisdiction thereof.

24) **Entire Agreement; No Reliance:** This agreement represents and contains the entire agreement between the parties. Prior discussion or verbal representations by the parties that are not contained in this agreement are not part of this agreement. Purchaser hereby acknowledges that it has not received or relied upon any statements or representations by Company or its agents which are not expressly stipulated herein, including. Without limitation any statements as to the Structures, warranties or Services provided hereunder.

25) **No Third-Party Beneficiaries:** This agreement creates no third party rights or obligations between Company and any other person, including any Owner who is not also a purchaser. It is understood and agreed that the parties do not intend that any third party should be a beneficiary of this Agreement.

26) **Governing Law:** The agreement will be construed and enforced in accordance with the laws of the State of Texas.

27) **Assignment:** Purchaser may not assign this agreement, by operation of law or otherwise, without the prior written consent of Company. The agreement shall be binding upon and insure to the benefit of the Company and the Purchaser, and their successors and permitted assigns.

28) **Materially Increased Costs:** Company reserves the right to implement a surcharge for material increases in raw materials, including but not limited to fuel, steel and concrete. Due to the duration of proposals and contracts, Company reserves the right to implement this surcharge when it determines that raw material cost increases warrant it.

PROPOSAL

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Shade Structures, Inc
P.O. Box 204691
Dallas, TX 75320-4691

Executed to be effective as of the date executed by the Company:

PURCHASER:		**COMPANY:**	
City of Frisco Parks & Recreation Department		**SHADE STRUCTURES, INC.**	
Signature:		Signature:	*Andy Enright*
By: (Print)		By: (Print)	**Andy Enright**
Title:		Title:	**Regional Manager**
Date:		Date:	**6/22/2015**

NOTE: All purchase orders and contracts should be drafted in the name of Shade Structures, Inc.