

Sun 'n Lake of Sebring
Greg Griffin, Director of Public Works
5306 Sun 'n Lake Blvd.
Sebring, FL 33872
e-mail: ggriffin@snldistrict.org
Facsimile Number: 863-382-2988

RFP NO. 14-09
OPENING TIME: 2:00pm
OPENING DATE: August 13th, 2014

THIS IS NOT AN ORDER

YOU ARE INVITED TO PROPOSE ON THE FOLLOWING:

Sun 'n Lake of Sebring Improvement District

Tennis Court Reconstruction and Resurfacing

SEE ATTACHED PROJECT DOCUMENTS

The complete set of proposal documents is available on the District web site at www.snldistrict.org or call 863-382-2196

Proposals must be received in the District Office before:

Time: 2:00pm **Date:** August 13th, 2014

State of Florida Tax Exemption Number is
85-8012528797C-8

Signed: Michael Wright , General Manager

Date: 07/16/2014

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Items in bold are required to be returned with proposal submittal.

LEGAL AD
REQUEST FOR PROPOSAL

Sun 'n Lake of Sebring
Greg Griffin, Director of Public Works
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e-mail: ggriffin@snldistrict.org
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Sun 'n Lake of Sebring Improvement District

Tennis Court Reconstruction and Resurfacing

A mandatory pre-bid meeting will occur at August 4th, 10:30am at 5306 Sun 'n Lake Boulevard, Sebring, FL 33872

The complete set of proposal documents is available on the District web site at www.snldistrict.org or call 863-382-2196

Proposals must be received in the District Office before:

Time: 2:00pm **Date:** August 13th, 2014

State of Florida Tax Exemption Number is
85-8012528797C-8

Signed: Michael Wright, General Manager
Date: 07/16/2014

ADVERTISE 07/20/2014 & 07/27/2014
TAMPA TRIBUNE, HIGHLANDS TODAY, ORLANDO SENTINAL, MIAMI HERALD

GENERAL CONDITIONS

PROPOSAL: To insure acceptance of the proposal, follow these instructions.

SEALED PROPOSALS: All Proposals must be submitted in a sealed package. The submitted proposal will contain One (1) original and Three (3) marked copies. The face of the package will contain the date and time of the proposal opening and the proposal number. Proposals not submitted on the District's forms may be rejected. All proposals are subject to the conditions specified herein and on any attached sheets, specifications, special conditions or vendor notes. Any changes to the proposal document must be in ink and must be initialed.

PROPOSAL OPENING: Shall be on the date and at the time specified in the proposal documents. It is the proposer's responsibility to assure that their proposal is delivered at the proper time and place of the proposal opening. Proposals which for any reason are not so delivered shall be returned to the proposer unopened. Offers by telephone or facsimile cannot be accepted.

CONFLICT OF INTEREST: The award hereunder is subject to Chapter 112, Florida Statutes. All proposers must disclose with their proposal the name of any officer, director or agent who is also an employee of the District. Further, all proposers must disclose the name of any District employee who owns, directly or indirectly, any interest of ten percent (10%) or more of the proposer's firm or any of its branches. Gifts from proposers to Employee's or Employee's Families is strictly prohibited per Florida Statutes 112.313 and 112.3148.

AWARDS: As the best interest of the District may require, the right is reserved to make award(s) by individual items, group of items, all or none, or a combination thereof, with one or more suppliers and to reject any proposals or waive any informality or technicality in proposals received. The District intends to select a proposal from the highest qualifying responsible bidder from this bid. Vendors who are awarded contracts are asked to extend the same pricing and conditions to other entities who may want to "piggy-back" on a District Bid or Request for Proposal.

DISPUTES: In case of any doubt or difference of opinion as to the items to be furnished hereunder, the decision of the District General Manager shall be final and binding on both parties.

LEGAL REQUIREMENTS: Federal, State, County and local laws, ordinances, rules and regulations that in any manner effect the item(s) covered herein apply. Lack of knowledge by the proposer will in no way be cause for relief from responsibility.

LIABILITY: The vendor shall hold and save the District, its officers, agents and employees harmless from liability of any kind in the performance of or fulfilling the requirement of the Purchase Orders, which may result from this proposal.

CANCELLATION: This agreement may be terminated in whole or in part in writing by either party with thirty (30) days notice in the event of substantial failure by the other party to fulfill its obligations under this agreement through no fault of the terminating party.

NOTE: ANY AND ALL SPECIAL CONDITIONS ATTACHED HERETO WHICH VARY FROM THESE GENERAL CONDITIONS SHALL HAVE PRECEDENCE.

PUBLIC ENTITY CRIME INFORMATION STATEMENT

All invitations to bid as defined by Section 287.012(11), Florida Statutes, requests for proposals as defined by Section 287.012(16), Florida Statutes, and any contract document described by Section 287.058, Florida Statutes, shall contain a statement informing persons of the provisions of paragraph (2)(a) of Section 287.133, Florida Statutes, which reads as follows:

“A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid on a contract to provide any goods or services to a public entity, may not submit a bid on a contract with a public entity for the construction or repair of public building or public work, may not submit bids on leases of real property to a public entity, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity, and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017, for CATEGORY TWO for a period of 36 months from the date of being placed on the convicted vendor list.”

All vendors who submit a Bid or Request for Proposal to Sun 'n Lake of Sebring, are guaranteeing that they have read the previous statement, and by signing the bid documents, are qualified to submit a bid under Section 287.133, (2)(a) Florida Statutes.

GENERAL SPECIFICATIONS

1. DESCRIPTION OF SERVICE

The Sun 'n Lake of Sebring Improvement District (hereafter "the District") is seeking proposals from interested manufactures (hereafter "the SUPPLIER") to provide Tennis Court Reconstruction and Resurfacing. The District intends to select one supplying firm from the Request for Proposals (RFPs) to deliver and install the requested equipment described herein under Equipment Specifications.

2. EFFECTIVENESS AND DURATION

The agreement(s) resulting from this solicitation is for the items and materials described in this proposal document.

3. REFERENCES

Proposers will complete and return, with the Proposal, a list of at least three (3) client/customer references including company name, address, contact person, telephone number and date you provided the equipment/services to the client. The List of References form provided in these documents should be used. If the Proposer already has a preprinted list of references, then indicate on the District's List of References form "See Attached List." Attach the preprinted list to the District's form and submit both with the Proposal.

4. REQUIRED DOCUMENTS

The following documents included in this Request for Proposal package are required to be submitted along with the Information Requested for this proposal:

- 4.1 Proposal Form
- 4.2 List of References Form
- 4.3 Statement of Insurance Compliance Form
- 4.4 Non-Collusion Affidavit of Proposer
- 4.5 Conflict of Interest Statement
- 4.6 Disputes Disclosure Form
- 4.7 Drug Free Workplace Certification Form
- 4.8 Unauthorized Alien Workforce

5. EFFECTIVE PERIOD OF PROPOSALS

All proposals must state the period for which the proposal shall remain in effect. Such period shall not be less than 120 days from the proposal date.

6. RIGHT OF REJECTION BY THE DISTRICT

Notwithstanding other provisions of this RFP, the District reserves the right to award this contract to the supplying firm that best meets the requirements of the RFP, and not necessarily, to the lowest bidder. Further, the District reserves the right to reject any or all proposals prior to execution of the contract, with no penalty to the District.

7. CONTRACT NEGOTIATIONS

After review of the proposals, the District intends to enter into contract negotiations with the selected supplying firm. These negotiations could include all aspects of equipment, service, and fees. If a contract is not finalized in a reasonable period of time, the District will open negotiations with the next ranked firm.

8. AWARD OF CONTRACT

The proposer to whom a contract is awarded shall be required to enter into a written contract agreement with the District in a form approved by legal counsel for the District. This RFP and the proposal, or any part thereof, may be incorporated into and made a part of the final contract. The District reserves the right to negotiate the terms and conditions of the contract with the selected proposer.

9. CONTRACT TERM

It is the intent to award a contract for the duration of the project

10. QUESTIONS

All questions concerning this RFP shall be submitted in writing to the name and address below before August 6th, 2014. All responses to questions will be addressed in the form of an addendum issued after the question deadline to be posted with the RFP on the District web site www.snldistrict.org by August 8th, 2014

Greg Griffin, Director of Public Works
Sun 'n Lake of Sebring Improvement District
5306 Sun 'n Lake Blvd.
Sebring, FL 33872
Fax number: 863-382-2988 / E-mail: ggriffin@snldistrict.org

Contact made with any other employee of, and/or elected officials of the District regarding this RFP will be grounds for the rejection of the contracting individual/firm submittal.

12. BONDS

In the event that the total awarded contract price to an individual entity is greater than \$100,000.00, Payment and Performance Bonds will be required, each in the amount of 100% of the contract price. Bid bonds are not required for this project.

13. SUBMITTAL OF PROPOSAL

All firms submitting a proposal will need to submit One (1) marked original and Three (3) copies of their documents in a sealed package. The left front of the package shall read:

Tennis Court Reconstruction and Resurfacing
RFP # 14-09
Due Date: August 13th, 2014 – Time: 2:00pm
Company Name and Address

Documents will need to be mailed or hand delivered to:

Michael Wright, General Manager
Sun 'n Lake of Sebring Improvement District
5306 Sun 'n Lake Blvd.
Sebring, FL 33872

All documents will need to be delivered to, or received in the mail by the due date and time. Any document submitted or received after this date and time shall not be considered and will be returned to the sender unopened. The District takes no responsibility for late mail or late delivery service.

SCOPE OF SERVICES

The purpose of this project is to remove all asphalt from all tennis and pickleball courts due to failure of asphalt and replace it with additional base and new, virgin asphalt.

1. Removal of fencing.
 - A. Contractor shall remove all East-West running fencing, including, but not limited to windscreen, vinyl coated wire fabric, top railing, tension wire, line and corner posts, and any other components of the fencing system. Removal shall be done so in a manner to preserve the materials in their existing, pre-removal condition, or they shall be replaced with like-kind new materials at the time of re-installation.
 - B. Contractor shall remove all vinyl fabric from North-South running fence lines.
 - C. Contractor shall be responsible for photographs to depict pre removal conditions.
2. Removal of asphalt and other court components.
 - A. Contractor shall remove all asphalt from existing tennis and pickleball courts. In addition to the removal of all asphalt, Contractor shall remove any contaminated base. Asphalt and contaminated base shall be disposed of in a legal manner off site. The District may, at its sole discretion, retain any portion of either asphalt or base for its own use.
 - B. Contractor shall remove all net post sleeves and associated concrete which shall be removed from the project site and disposed of properly.
3. Exploration and repair of settlement/base failure area.
 - A. Contractor shall explore an area of settlement located on the Southern baseline of Court 3. This area will be clearly delineated prior to the pre-bid meeting. It is the expectation of the District that all surface, base, and possibly sub-base material will likely need to be removed in order to identify the nature of the settlement. In the event organic material is exposed in the exploration it shall be removed and backfilled with suitable fill material, compacted in 1' lifts to a compaction suitable for the application and compaction of base material on top of it. Base material to be replaced in this area is to be no less than 12" thick of either virgin shellrock or limerock and compacted to 95% percent density LBR 100 as per AASHTO T-180. Recycled concrete or any other recycled materials will be rejected.
4. Installation of base material.
 - A. Virgin shellrock or limerock shall be installed to a total thickness of no less than 12", or a minimum elevation of 3" above existing limerock base, whichever is greater. Base shall be compacted to 95% density LBR 100 as per AASHTO T-180. Base containing any part recycled materials will be rejected.
 - B. Base material shall be finish graded with a slope of no more than 1%.
5. Installation of asphalt layer.
 - A. Asphalt shall consist of Type IIIS hot mix virgin asphalt. Recycled materials shall not be present. Any asphalt containing recycled materials will be rejected.
 - B. Asphalt shall meet United States Tennis Court and Track Builders Association specifications for asphalt.

- C. A tack coat shall be applied to cleaned base layer (free of sand, dust, or other debris) at a rate of .05-.15 gallons per square yard. Tack coat shall be heated to a suitable consistency. Tack coat shall be applied sufficiently in advance to permit drying, but shall not be applied so far in advance or over such an area as to lose its adhesiveness as a result of being covered with dust or other foreign material. Suitable precautions shall be by the Contractor to protect the surface while the tack coat is drying and until the wearing surface is applied.
- D. Outside air and surface temperatures must be greater than 50 degrees Fahrenheit at time of installation.
- E. Rain or any other form of precipitation must not be present on day of installation.
- F. Asphalt shall be installed in two lifts, each consisting of a minimum thickness of 0.75". Total asphalt thickness shall be no less than 1.5". Asphalt to be installed with a minimum temperature of 230degrees Fahrenheit or within 50 degrees of design temperature at the plant, whichever is greater. Thoroughly compact all courses in pavement.
- G. The installed asphalt must have no more that a 1% slope in any direction. The installed asphalt must be at the correct elevation at the edges. After second lift of asphalt is installed and cured, the courts shall be flooded. Any "bird baths" with a depth greater that 1/4" shall be removed and replaced, with a minimum distance from the edge of the bird bath equal to the radius. High spots shall be lowered either by grinding or heating and rolling.
 - 1. Slope—Asphalt courts are sloped in a true plane a minimum of .83% (1:120) to a maximum of 1.00% (1:100). Side to side is the preferred direction of slope; however, it can also be end to end or corner to corner if side to side cannot be achieved.
 - 2. Planarity—Planarity is the degree to which a surface is constructed as designed in one true plane. The surface also must be located at the designed elevation and slope because the elevation and grade of the surface tie it into the drainage system. According to the ITF, the finished court should not vary more than +/- 3/8" from the designed elevation within the Primary Playing Area. Planarity and slope are commonly measured with a transit or laser level.
 - 3. Evenness—In order to drain properly and to be acceptable for play, a surface must be smooth and regular, lacking humps and dips. An even surface will not cause ball deflection or create a player tripping hazard. As a measure of evenness, the surface should not vary more than 1/4" in 10' when measured in any direction using a straightedge.
 - 4. Small Irregularities—Small deviations over a large distance that fall within the evenness standard will not affect player movement or ball bounce, but small deviations over a short distance, such as those caused by irregular seams, expanded aggregate or roller marks, may affect play. For that reason, a third measure—no deviation in the asphalt surface greater than 1/8" in 18"—should be considered.

6. Installation of perimeter and internal fencing.

- A. Perimeter fencing shall be installed in the same location from which it was removed.
- B. Line posts shall be set with a minimum of 80# (one bag) Sakrete High Strength Concrete Mix or similar.
- C. Corner, terminal, and gate posts shall be set with a minimum of 160# (two bags) Sakrete High Strength Concrete Mix or similar.
- D. Top rail, tension wire, gates, windscreens, and any other components related to fencing system shall be installed in the same or better manner than they were removed.

7. Restoration of project area.

- A. Project area shall be restored to a condition equal to or greater than what was previously in place.
- B. Any concrete that has been broken, cracked, or chipped shall be replaced with new concrete in an area no less than 1 panel. Concrete finish shall match that of surrounding concrete.
- C. Any irrigation that was damaged due to demolition or construction activities shall be restored to their pre construction level.
- D. Any vegetation that is damaged or destroyed shall be replaced with like-kind vegetation.
- E. Mulch that is damaged shall be removed and replaced.
- F. Any light poles that may have been scratched or damages shall be painted to manufacturers specifications.
- G. All other court features to be reinstalled in a method equal to or greater than currently constructed (specifically netting post sleeves) and in same locations. Contractor is responsible for documenting the current location for replacement.
- H. Court final surface and striping not part of this project.

8. Project Timeline

- A. Construction activities should start within 30 days of contract date.
- B. Project should be completed within 30 days of commencement of construction. This may be extended to compensate for documented weather delays.
- C. If not able to comply with these timelines please state the requested construction time clearly on the bid proposal.

EVALUATION CRITERIA

One selection will be made from the equipment supplier proposer/bidder who is deemed to be the best suited among those submitting proposals on the basis of the previous Scope of Materials and the evaluation factors listed below. Proposer/Bidder shall be descriptive in their proposal on each of, but not limited to, the areas listed below.

Once the District has reviewed the submitted proposals, the District selection committee will use the criteria listed below to evaluate each proposal separately. These criteria are in no particular order.

1. Value.
2. Perceived structural integrity.
3. References.
4. Relevant experience providing similar systems with commercial and public sector clients.
5. Warranty, warranty period and warranted materials.
6. Quality and conciseness of proposals.
7. Overall ability of equipment to meet the needs of the District.
8. Relative distance of distributor warehouse from the District.

END OF EVALUATION CRITERIA

**SUN 'N LAKE OF SEBRING
IMPROVEMENT DISTRICT**
Tennis Court Reconstruction and Resurfacing
PROPOSAL FORM
RFP NO. 14-09

To: Sun 'n Lake of Sebring Improvement District
5306 Sun 'n Lake Blvd.
Sebring, FL 33872

The undersigned hereby declares that after carefully examining these proposal documents, they are fully aware of all conditions affecting such work/items, for which proposals were advertised to be returned by August 13th, 2014 and does hereby submit the following proposal for completion of said work/items. All changes must be initialed in ink.

FOR THIS PROPOSAL TO BE CONSIDERED VALID IT IS MANDATORY THAT THE PROPOSAL BE SIGNED IN THE SPACE PROVIDED

The Proposer:

A. Acknowledges receipt of:

- 1) Proposal Specifications
- 2) Addenda:

No. _____ Dated _____

No. _____ Dated _____

B. Has examined the Proposal Documents and understands that in submitting his Bid, he waives all right to plead any misunderstanding regarding the same.

As requested in the General Conditions, attached are two marked duplicate copies of the original Proposal Form and ALL attachments. ___Yes ___No (check one)

Attached, as required in the General Specifications section, is the List of References. ___Yes ___No (check one)

Equipment to be provided for a proposed price of \$ _____, ___ US Dollars

The District reserves the right to accept any or all proposals, to waive informalities, and to reject all or any part of any proposal as they may deem to be in the best interest of the District.

This Proposal Form is a mandatory form to ease tabulation and analysis; however, it can be accompanied by additional support forms. An officer or representative who has official authorization to sign proposals **MUST** sign this Proposal Form. Failure to sign in the space provided below will result in the Proposal being rejected.

Company Name _____
FEIN or SS# _____
Name of Owner/Partner/Officer _____
Title/Position of Owner/Partner/Officer _____
Signature of Owner/Partner/Officer _____
Business Telephone _____ Fax: _____
Business Address _____
City/State/Zip _____

NON-COLLUSION AFFIDAVIT OF PROPOSER

STATE OF _____

COUNTY OF _____

_____, being duly sworn, deposes and says that:

1. He/She is _____ of _____ the proposer that has submitted the attached proposal;
Title Company Name

2. He/She is fully informed with respect to the preparation and contents of the attached proposal and of all pertinent circumstances respecting such proposal;

3. Such Proposal is genuine and is not a collusive or sham proposal;

4. Neither the said Proposer nor any of its officers, partners, owners, agents, representatives, employees, or parties in interest, including this affiant, has in any way colluded, connived, or agreed, directly or indirectly, with any other proposer, firm or person to submit a collusive or sham Proposal in connection with such Contract, or has in any manner, directly or indirectly, sought by agreement or collusion or communication or conference with any other proposer, firm, or person to fix the price or prices in the attached proposal or any other proposer, or to fix any overhead, profit or cost element of the proposal price or the proposal price of any other proposer, or to secure through any collusion, connivance, or unlawful agreement any advantage against the Sun 'n Lake of Sebring Improvement District, Sebring, Florida or any person interested in the proposed Contract.

5. The price or prices quoted in the attached proposal are fair and proper and are not tainted by any collusion, conspiracy, connivance, or unlawful agreement on the part of the proposer or any of its agents, representatives, owners, employees, or parties in interest, including this affiant.

SIGNED _____

TITLE _____

SUBSCRIBED AND SWORN TO BEFORE ME THIS ____ DAY OF _____, 2014.

Notary Public, State of Florida

My Commission Expires

****THIS FORM MUST BE COMPLETED AND RETURNED WITH YOUR PROPOSAL.**

CONFLICT OF INTEREST STATEMENT

STATE OF FLORIDA

Before me, the undersigned authority, personally appeared _____, who was duly sworn, deposes, and states:

1. I am the _____ of _____ with a local office in _____ and principal office in _____.

City and State
City and State
2. The above named entity is submitting a Proposal for the Sun 'n Lake of Sebring Improvement District **RFP # 14-09** described as: Tennis Court Reconstruction and Resurfacing
3. The Affiant has made diligent inquiry and provides the information contained in this Affidavit based upon his own knowledge.
4. The Affiant states that only one submittal for the above proposal is being submitted and that the above named entity has no financial interest in other entities submitting proposals for the same project.
5. Neither the Affiant nor the above named entity has directly or indirectly entered into any agreement, participated in any collusion, or otherwise taken any action in restraints of free competitive pricing in connection with the entity's submittal for the above proposal. This statement restricts the discussion of pricing data until the completion of negotiations, if necessary, and execution of the Contract for this project.
6. Neither the entity nor its affiliates, nor anyone associated with them, is presently suspended or otherwise ineligible from participation in contract letting by any local, State, or Federal Agency.
7. Neither the entity, nor its affiliates, nor anyone associated with them have any potential conflict of interest due to any other clients, contracts, or property interests for this project.
8. I certify that no member of the entity's ownership or management is presently applying for an employee position or actively seeking an elected position with the Sun 'n Lake of Sebring Improvement District.
9. I certify that no member of the entity's ownership or management, or staff has a vested interest in any aspect of the District.
10. In the event that a conflict of interest is identified in the provision of services, I, on behalf of the above named entity, will immediately notify the District.

Dated this ____ day of _____, 2014

Signature

Typed Name and Title

Sworn to and subscribed before me this ____ day of _____, 2014

Personally Known _____ Or produced identification _____. Identification Type: _____

Notary Public-State of _____

Printed, typed, or stamped commissioned name of notary public

My commission expires _____

****THIS FORM MUST BE COMPLETED AND RETURNED WITH YOUR PROPOSAL.**

DISPUTES DISCLOSURE FORM

Answer the following questions by placing an “X” after “YES” or “NO”. If you answer “YES”, please explain in the space provided, or via attachment.

Has your firm or any of its officers, received a reprimand of any nature or been suspended by the Department of Professional Regulations or any other regulatory agency or professional association within the last five (5) years?

YES _____ NO _____

Has your firm, or any member of your firm, been declared in default, terminated or removed from a contract or job related to the services your firm provides in the regular course of business within the last five (5) years?

YES _____ NO _____

Has your firm had against it or filed any requests for equitable adjustment, contract claims, bid protests, or litigation in the past five (5) years that is related to the services your firm provides in the regular course of business?

YES _____ NO _____

If yes, state the nature of the request for equitable adjustment, contract claim, litigation, or protest, and state a brief description of the case, the outcome or status of the suit and the monetary amounts or extended contract time involved.

I hereby certify that all statements made are true and agree and understand that any misstatement or misrepresentation or falsification of facts shall be cause for forfeiture of rights for further consideration of this proposal for the Sun ‘n Lake of Sebring Improvement District, RFP # 14-09 Tennis Court Reconstruction and Resurfacing

Firm

Date

Authorized Signature and Title

Printed or Typed Name and Title

****THIS FORM MUST BE COMPLETED AND RETURNED WITH YOUR PROPOSAL.**

GENERAL TERMS AND CONDITIONS

Article 1 - Contract Documents

1.1 Definitions

When one of the following capitalized words, terms or phrases is used in this contract, it shall be interpreted or construed first as defined below, second according to Its generally accepted meaning in the construction industry, and third according to its common and customary usage.

Agreement: A written agreement between the Owner and a Contractor for provision of goods, products, materials, equipment, systems, management supervision, labor and services required to construct all or part of this Project.

Contractor: An entity, including but not limited to a general contractor, a trade contractor or a construction manager, engaged directly by the Owner pursuant to this Agreement.

Project Documents: Plans, specifications, change orders, revisions, addenda, supplementary conditions, and other information which set forth in detail the Work.

Construction Schedule: The timetable which sets forth pertinent dates for timely completion of the Work.

Final Completion The stage of construction when the Work has been completed in accordance with the Agreement and the owner has received all documents and Items necessary for closeout of the Work.

Hazardous Substances: The term "Hazardous substance" shall have the same meaning and definition as set forth in the Comprehensive Environmental Response compensation and Liability Act as amended, 42 U.S.C. § 6901 et seq, and regulations promulgated thereunder (collectively "CERCLA") and any corresponding state or local law or regulation, and shall also include: (a) any Pollutant or Contaminant as those terms are defined in CERCLA; (b) any solid Waste or Hazardous constituent as those terms are defined by, or are otherwise identified by, the Resource Conservation and Recovery Act as amended, 42 U.S.C. § 6901 et seq, and regulations promulgated thereunder (collectively "RCRA") and any corresponding state or local law or regulation; (c) crude oil, petroleum and fractions of distillates thereof; (d) any other material, substance or chemical defined, characterized or regulated as toxic or hazardous under any applicable law, regulation, ordinance, directive or ruling; and (e) any infectious or medical waste as defined by any applicable federal or state laws or regulations.

Owner's Related Parties: Any parent, subsidiary or affiliated entities of the owner, including the respective officers, trustees, office holders, directors, shareholders, partners, and employees of each.

Professional: An entity, including but not limited to an architect, civil engineer or geotechnical engineer, engaged directly by the Owner to provide design or engineering services.

Project: The planned construction undertaking as more specifically defined in the Scope of Services.

Project Design Schedule: The timetable which sets forth the required relationships between, and pertinent dates for, required completion of design and engineering services, documents and related activities.

Site: The geographical location of the Project, usually defined by legal boundary lines, and the location characteristics including, but not limited to, grades and lines of streets, alleys, pavements and adjoining structures, rights-of-way, restrictions, easements, encroachments, zoning, deed restrictions, existing buildings and improvements, and service and utility lines.

Substantial Completion: The stage of construction when the owner can occupy or beneficially use satisfactorily completed work for its intended purpose.

Supplier or Vendor: An entity, including but not limited to a local vendor, engaged directly by the Owner to supply equipment and or materials pursuant to this Agreement.

Work: Any and all computers, construction machinery, documents, equipment, facilities, fixtures, furnishings, goods, heat, items, labor, licenses, management, materials, permits, products, services, supervision, supplies, systems, taxes, testing, tools, utilities, transportation, vehicles, and water, required to be performed or supplied and/or necessary for proper execution and completion of the Project, or some portion thereof, whether or not incorporated or to be incorporated into the Project.

1.2 Electronic Media

Unless otherwise specified in this Agreement, the Owner may request that any submissions of shop drawings, manuals, final drawings and/or specifications be available on electronic media. Hard copies of the operation manual and information necessary to operate the equipment shall also be provided for proper operation in the field.

1.3 Minimum Requirements

In every case, requirements established by the Equipment Specifications shall be considered as the minimum which will be accepted.

1.4 Owner Disclaimer of Warranty

The Owner has requested that its Professional(s) prepare documents for the Project, including the plans and specifications for the Project, which are to be complete, accurate, coordinated, and adequate for bidding, negotiating and constructing the Work, however, the Owner makes no representation or warranty of any nature whatsoever to the Vendor concerning such documents. The Vendor hereby acknowledges and represents that it has not relied, and does not and will not rely, upon any representations or warranties by the Owner concerning such documents, as no such representations or warranties have been or are hereby made.

1.5 Conflicts in Documents

In the event of any conflict, discrepancy, or inconsistency among any of the documents which make up this Agreement, the following shall control:

1.5.1 As between figures given on plans and scaled measurements, the figures shall govern;

1.5.2 As between large-scale plans and small-scale plans, the large-scale plans shall govern;

1.5.3 As between plans and specifications, the requirements of the specifications shall govern;

1.5.4 As between this document and the plans, specifications, or supplementary conditions, this document shall govern.

1.6 Shop Drawings and Submittals

Shop drawings and other submittals from the Vendor or its subcontractors and suppliers do not constitute a part of this Agreement.

1.7 Contract Changes

The Vendor understands and agrees that this Agreement cannot be changed except as expressly provided herein. No act, omission, course of conduct, or course of dealing by the parties shall alter the requirement and that modifications of this Project Agreement can be accomplished only by written documents signed by the parties. Express written notice is a non-waivable condition precedent in

connection with all changes and claims arising under or relating to this Agreement.

Article 2 - Goods, Products and Materials

2.1 Quality Of Materials

The Vendor shall furnish services, goods, products, materials, equipment and systems

which:

- 2.1.1 comply with this Agreement;
- 2.1.2 conform to applicable specifications, descriptions, instructions, drawings, data and samples;
- 2.1.3 are new (unless otherwise specified or permitted) and without apparent damage;
- 2.1.4 are of quality, strength, durability, capacity or appearance equal to or higher than that required by the Construction Documents;
- 2.1.5 are merchantable;
- 2.1.6 are free from defects; and
- 2.1.7 are beyond and in addition to those required by manufacturers' or suppliers' specifications where such additional items are required by the Construction Documents.

Article 3 – Submittals

3.1 Submittal Schedule

The Vendor shall timely prepare and transmit to the Professional a schedule for provision of all anticipated submittals. The schedule shall (i) include submittals required by the specifications; (ii) be in a format acceptable to the Professional; and (iii) set forth specific dates for submission of the listed submittals. The Vendor shall review and approve all submittals prior to submission to a Professional.

3.2 Processing of Submittals

The Vendor shall in timely fashion review, approve if appropriate and forward submittals to the Professional(s) for review and approval along with such detail and information, as the Professional requires. No part of the Work dealt with by a submittal shall be fabricated or performed until such approval has been given.

- 3.2.1 A Professional is responsible to the Owner, but not to the Vendor, to verify that the submittals conform to the design concept and functional requirements of the plans and specifications, that the detailed design portrayed in shop drawings and proposed equipment and materials shown in submittals are of the quality specified and will function properly, and that the submittals comply with the Agreement.
- 3.2.2 All Work shall be performed in accordance with approved submittals. Approval of submittals by a Professional shall not relieve the Contractor from complying with this Agreement, including all plans and specifications, except as changed by change order.

Article 4 – Owner’s Consultant(s), Professional(s) and Construction Administration

4.1 Owner's Designated Professional Representative

Unless otherwise directed by the Owner, one designated Professional shall act as the Owner's representative from the effective date of this Agreement until one year from the date of achievement of Substantial Completion.

4.1.1 The Professional so designated will be the Owner's design representative during performance of the Work and will consult with and advise the Owner on all design and technical matters.

4.1.2 The designated Professional will act as initial interpreter of the requirements of this Agreement and as the Owner’s advisor on claims.

4.2 Professional Site Visits

The Professional(s) will visit the site with sufficient frequency for familiarization with the progress and quality of the Work and to inspect the Work to determine compliance of the Work with (i) this Agreement, including approved shop drawings and other submittals; (ii) the Construction Schedule; and (iii) applicable laws, statutes, building codes, rules or regulations of all governmental, public and quasi-public authorities and agencies having or asserting jurisdiction over the Project. No site or construction work that is to be covered shall be covered until the Professional has inspected the Work and provided a written report of the inspection to the Owner.

4.3 Professional Rejection of Work

The Professional(s) may disapprove or reject Work or materials which does not comply with (i) this Agreement including approved shop drawings and other submittals; or (ii) applicable laws, statutes, building codes, rules or regulations of any governmental, public and quasi-public authorities and agencies having or asserting jurisdiction over the Project.

4.4 Professional Evaluations

4.4.1 The Professional(s) will review and evaluate the results of all inspections, tests and written reports required by this Agreement and by any governmental entity having or asserting jurisdiction over the Project. The Professional(s) will take appropriate action on test results, including acceptance, rejection, requiring additional testing or corrective work, or such other action deemed appropriate by the Professional(s). The Professional(s) will promptly reject Work, which does not conform to and comply with testing requirements.

4.4.2 The Professional(s) may require inspection or testing of any work in addition to that required by this Agreement or governmental entities having or asserting jurisdiction over the Project when such additional inspections and testing is necessary or advisable, whether or not such Work is then fabricated, installed or completed. The Professional(s) will take appropriate action on all such special testing and inspection reports, including acceptance, rejection, requiring additional testing or corrective work, or such other action deemed appropriate by the Professional(s).

4.5 Professional Submittal Activities

The Professional(s) will review and approve, reject or take other appropriate action on submittals such as shop drawings, product data, samples and proposed equal materials or equipment and requested substitutions within not more than fourteen calendar days, and will not approve any submittals unless such submittals conform with (i) the Project design concept; (ii) this Agreement; and (iii) the Owner's budgeted Total Project Construction cost. A Professional's review of submittals shall not constitute final acceptance of materials or equipment furnished or installed if such materials or equipment should be defective or not as represented by approved submittals or as otherwise required by the Construction Documents. The Contractor remains responsible for details and accuracy, for confirming and correlating all quantities and dimensions, for selecting fabrication processes, for techniques of assembly, and for performance of the

Work.

4.6 Professional Interpretations

A Professional will, when requested to do so in writing by the Vendor, promptly and so as to cause no unnecessary delay, render written or graphic interpretations and decisions necessary for the proper execution of the Work. A Professional's interpretations and decisions relating to artistic effect shall be final if not inconsistent with this Agreement.

4.7 Professional Change Order Activities

The Professional(s) will consult with and advise the Owner concerning, and will administer and manage, all change order requests and change orders on behalf of the Owner.

4.9 Professional Relationship To Vendor

The duties, obligations and responsibilities of the Vendor under this Agreement shall not be changed, abridged, altered, discharged, released, or satisfied by any duty, obligation or responsibility of any Professional. The Vendor shall not be a third-party beneficiary of any agreement by and between the Owner and any Professional. The duties of the Vendor to the Owner shall be independent of, and shall not be diminished by, any duties or obligations of any Professional to the Owner.

ADDITIONAL SUPPLEMENTAL TERMS AND CONDITIONS

WITNESSETH:

(1) The VENDOR hereby warrants and represents to the OWNER that it is competent and otherwise able to provide professional and high quality goods and/or services to the OWNER by means of employees who are neat in appearance and of polite demeanor.

(2) Each party hereto represents to the other that it has undertaken all necessary actions to execute this Agreement, and that it has the legal authority to enter into this Agreement and to undertake all obligations imposed on it. The person(s) executing this Agreement for the VENDOR certify that he/she/they is/are authorized to bind the VENDOR fully to the terms of this Agreement,

(3) The VENDOR hereby guarantees the OWNER that all materials, supplies, services and equipment as listed on a Purchase Order meet the requirements, specifications and standards as provided for under the *Federal Occupations Safety and Health Act of 1970*, from time to time amended and in force on the date hereof.

(4) Execution of this Agreement by the VENDOR is a representation that the VENDOR is familiar with the goods and/or services to be provided and/or performed and with local conditions. The VENDOR shall make no claim for additional time or money based upon its failure to comply with this Agreement. The VENDOR has informed the OWNER, and hereby represents to the OWNER, that it has extensive experience in performing and providing the services and/or goods described in this Agreement and that it is well acquainted with the components that are properly and customarily included within such projects and the requirements of laws, ordinance, rules, regulations or orders of any public authority or licensing entity having jurisdiction over the OWNER'S Projects.

(5) The VENDOR shall be responsible for the professional quality, accepted standards, technical accuracy, neatness of appearance of employees, employee conduct, and the coordination of all goods and/or services furnished by the VENDOR under this Agreement as well as the conduct of its staff, personnel, employees and agents. The VENDOR shall work closely with the OWNER on all aspects of the provision of the goods and/or services. With respect to services, the VENDOR shall be responsible for the professional quality, technical accuracy, competence, methodology, accuracy and the coordination of all of the following which are listed for illustration purposes and not as a limitation: documents, analysis, reports, data, plans, plats, maps, surveys, specifications, and any and all other services of whatever type or nature furnished by the VENDOR under this Agreement.

(6) Neither the OWNER'S review, approval or acceptance of, nor payment for, any of the goods and/or services required shall be construed to operate as a waiver of any rights under this Agreement or of any cause of action arising out of the performance of this Agreement and the VENDOR shall be and remain liable to the OWNER in accordance with applicable law for all damages to the OWNER caused by the VENDOR negligent or improper performance or failure to perform any of the goods and/or services furnished under this Agreement.

(7) The OWNER and the VENDOR will make every effort to resolve all disputable items contained in the VENDOR'S invoices.

(8) Each invoice shall reference this Agreement, the appropriate billing period.

(9) The *Florida Prompt Payment Act* shall apply when applicable. A billing period represents the dates in which the VENDOR completed goods and/or services referenced in an invoice.

(10) Invoices are to be forwarded directly to:

**Sun 'n Lake of Sebring Improvement District
5306 Sun 'n Lake Blvd.
Sebring, Florida 33872**

(11) OWNER designates the OWNER, Manager or his/her designated representative, to represent the OWNER in all matters pertaining to and arising from the work and the performance of this Agreement.

(12) The OWNER, Manager, or his/her designated representative, shall have the following responsibilities:

(a) Examination of all work and rendering, in writing, decisions indicating the OWNER'S approval or disapproval within a reasonable time so as not to materially delay the work of the VENDOR;

(b) Transmission of instructions, receipt of information, and interpretation and definition of OWNER'S policies and decisions with respect to design, materials, and other matters pertinent to the work covered by this Agreement;

(c) Giving prompt written notice to the VENDOR whenever the OWNER official representative knows of a defect or change necessary in the project; and

(d) Coordinating and managing the VENDOR'S preparation of any necessary applications to governmental bodies, to arrange for submission of such applications.

(13) The VENDOR agrees to comply with Federal, State, and local environmental, health, and safety laws and regulations applicable to the goods and/or services provided to the OWNER. The VENDOR agrees that any program or initiative involving the work that could adversely affect any personnel involved, citizens, residents, users, neighbors or the surrounding environment will ensure compliance with any and all employment safety, environmental and health laws.

(14) The VENDOR shall advise the OWNER in writing if it has been placed on a discriminatory vendor list, may not submit a bid on a contract to provide goods or services to a public entity, or may not transact business with any public entity.

(15) The VENDOR shall not engage in any action that would create a conflict of interest in the performance of that actions of any OWNER employee or other person during the course of performance of, or otherwise related to, this Agreement or which would violate or cause others to violate the provisions of Part III, Chapter 112, *Florida Statutes*, relating to ethics in government.

(16) In the event of any audit or inspection conducted revealing any overpayment by the OWNER under the terms of the Agreement, the VENDOR shall refund such overpayment to the OWNER within thirty (30) days of notice by the OWNER of the request for the refund.

**SAMPLE AGREEMENT FORM
CONTRACT**

THIS IS AN AGREEMENT between the SUN'N LAKE OF SEBRING IMPROVEMENT DISTRICT, a special taxing district of the State of Florida and Highlands County (herein called "District") and <<CONTRACTOR>> (herein called "Contractor").

1. PREMISE

District would like for Contractor to do the Work as defined herein and Contractor would like to do so on the terms and conditions set forth herein and in accordance with the Request for Bids or Proposals, the plans, the specifications, the Bid Form, General Terms and Conditions, Special Conditions and all Bid and Contract Documents, which are collectively made a part of this Contract and in part attached as Exhibit A. Contractor agrees to furnish at its own cost and expense, all labor, tools, materials, equipment, superintendence, security, insurance, testing and all other accessories and services necessary to accomplish the Work.

2. WORK (herein collectively called the "Project" or the "Work")

RFP # 14-09 – Tennis Court Reconstruction and Resurfacing

3. CONTRACT PRICE

District shall pay to Contractor the sum of <<CONTRACT AMOUNT WRITTEN>> Dollars (\$<<NUMERICAL CONTRACT AMOUNT>>) as the total price for the completion of the Project, subject to increase or decrease as provided herein.

4. NOTICES

Whenever any notice is required or permitted by this contract to be given, such notice shall be by certified mail or overnight delivery addressed to:

Contractor:

<<COMPANY NAME>>
<<PRIMARY CONTACT>>
<<ADDRESS>>
<<CITY, STATE ZIP>>
<<PHONE>>
<<FAX>>(fax)

District:

Sun'n Lake of Sebring Improvement District
Michael Wright, General Manger
5306 Sun 'n Lake Boulevard
Sebring, Florida 33872
863-382-2196
863-382-2988 (fax)

Notice shall be considered given when deposited with the U.S. Postal Service or commercial carrier, postage prepaid. Each party will be responsible for notifying the other of any change in their address.

5. PAYMENT

District shall pay Contractor upon a mutually agreeable payment schedule for Work completed. Upon Contractor's application for payment, the <<PROJECT MANAGER>>, or his designee(s), will make an inspection and, if the Work is found to be acceptable under the contract, they will submit the payment request to the District General Manager. The District Public Works Director and/or District Consulting Engineer shall have five working days to review the application for payment. Once approved the District shall have ten working days to process and issue the payment.

6. CHANGE ORDERS

The Contract Price and the Contract Time may be changed only by a written Change Order. The District, without invalidating the Contract, may order changes in the Work within the general scope of the Contract consisting of additions, deletions or other revisions, the Contract Price and the Contract Time being adjusted accordingly. All such Changes in the Work shall be authorized only by written Change Order and shall be executed under the applicable conditions of the Contract Documents. The Contractor shall not change, alter, or delete in any manner, any portion of the Specifications without prior approval by the District.

7. CANCELLATION

The District may terminate this Contract for default if the Contractor has been found to have provided the service in an "unsatisfactory manner". An "unsatisfactory manner" includes, but is not limited to: Failure to supply exact services specified within the required service periods, providing sub-standard services, and/or the inability to maintain Bid prices for the term of the Contract. The District may further terminate this Contract if the Contractor fails to comply with any other provisions of the Contract. In such cases, the Contract shall be terminated in the following manner: The Contractor will be notified, in writing, of the nature of their failure to perform and time certain for correcting the failure will be specified. Unless the failure is corrected, the Contractor shall be found in default and the Contract shall be subject to immediate cancellation. Termination shall be effected by serving a notice of termination on the Contractor setting forth

the manner in which the Contractor is in default. The Contractor will only be paid the Contract Price for service provided and accepted in accordance with the Specifications, terms and conditions set forth in the Contract.

8. EXAMINATION AND FAMILIARITY WITH SITE

Contractor represents that it has examined the Project site thoroughly before entering into this agreement and is knowledgeable of all site conditions, above and below ground, and placement of all utilities. Contractor has also fully investigated the typical weather for the time of year required for performance of the Contract. Contractor has undertaken such inspections as it deems necessary to undertake the Project at the contract price set forth herein.

9. UNUSUAL CONDITIONS

Should concealed conditions encountered in the performance of the Work below the surface of the ground be at variance with the conditions indicated by the Contract Documents or should unknown physical conditions below the surface of the ground of an unusual nature, differing materially from those ordinarily encountered and generally recognized as inherent in work of the character provided for in this Contract be encountered, the guaranteed maximum cost shall be equitably adjusted by Change Order upon claim by either party, on condition that the claim is made in writing within a seven (7) calendar days after the first observance of the condition.

10. COMMENCEMENT AND COMPLETION DATES

Contractor hereby agrees to commence Work under this contract no later than <<START DATE>> and shall be responsible to achieve final completion of the Project by <<COMPLETION DATE>>, with detailed deadlines outlined in Attachment A. Contractor shall be solely responsible for the means, methods, techniques utilized in the design and construction.

11. PENALTY

It is acknowledged that the Contractor's failure to achieve substantial completion of the Work within the Contract Time provided by the Contract Documents will cause the District to incur substantial economic damages and losses of types and in amounts which are impossible to compute and ascertain with certainty as a basis for recovery by the District of actual damages, and that liquidated damages represent a fair, reasonable and appropriate estimate thereof. Accordingly, in lieu of actual damages for such delay, the Contractor agrees that liquidated damages may be assessed and recovered by the District as against Contractor, in the event of delayed completion and without the District being required to present any evidence of the amount or character of actual damages sustained by reason thereof; therefore Contractor shall be liable to the District for

payment of liquidated damages in the amount of **Five Hundred Dollars (\$500.00)** for each day that Substantial Completion is delayed beyond the Contract Time as adjusted for time extensions provided by the Contract Documents. Such liquidated damages are intended to represent estimated actual damages and are not intended as a penalty, and Contractor shall pay them to District without limiting District's right to terminate this agreement for default as provided elsewhere herein.

12. LAWS AND REGULATIONS

The Contractor is assumed to be familiar with all federal, state and local laws, ordinances, rules and regulations that may in any manner affect performance of the Contract. The failure to be familiar with applicable laws will in no way relieve the Contractor from responsibility. Contractor shall comply with all laws, ordinances, rules, orders and regulations relating to performance of the Work and the protection of persons and property.

13. WORKMANSHIP

Contractor shall, in a good and workmanlike manner, perform all Work and furnish all supplies and materials necessary and proper to complete the Work under this contract, within the time specified herein, in accordance with the provisions of this contract, including any specifications, plans and drawings provided to Contractor. Contractor shall complete the entire Project to the satisfaction of District.

14. PROTECTION OF PROPERTY AND IMPROVEMENTS

Contractor shall be responsible for the protection of all existing paving, buildings, grass, landscaping, utilities and adjacent real property and shall promptly repair, at its sole cost, any damage caused, in whole or in part, by Contractor or its agents or subcontractors during the construction or completion of the Work or Project unless specifically excluded by District.

15. CLEAN-UP AND REMOVAL OF DEBRIS

Contractor shall daily keep the site in a clean and orderly condition, free from all refuse, rubbish, scrap materials and debris caused by Contractor's operations.

16. DRUG-FREE WORKPLACE

Contractor acknowledges that District is a drug-free work place. Contractor covenants that all employees of Contractor working upon District property shall be subject to implementation of all possible provisions to

maintain a drug-free environment and that Contractor will adhere to the provisions of Florida Statute section 440.102 (Chapter 440).

17. REQUIRED INSURANCE

Contractor shall provide, pay for, and maintain in force at all times during the Project, such insurance, including Workers' Compensation Insurance, Employer's Liability Insurance, Comprehensive General Liability Insurance and Business Automobile Liability, as will assure to the District of the protection contained in the indemnification and hold harmless clauses of Section 25 of this agreement undertaken by Contractor and in compliance with the applicable provisions of this contract. The Comprehensive General Liability and Business Automobile Liability policies shall clearly identify the indemnification and hold harmless clauses of Section 25 of this agreement by the additional named insured endorsement under this article.

Such policy or policies shall be issued by an insurance company authorized to do business in the State of Florida and be written by a resident agent licensed by The State of Florida. Contractor shall specifically protect the District of by naming the District as an additional named insured under the Comprehensive General Liability Insurance and Business Automobile Liability policies hereinafter described. A current Certificate of Insurance meeting these requirements shall be evidence of the required coverage.

The following coverages shall be provided:

Workers' Compensation Insurance to apply for all employees in compliance with the "Workers' Compensation Law" of the State of Florida and all applicable Federal laws. In addition, the policy(ies) must include Employers' Liability with limits of One Hundred Thousand Dollars (\$100,000.00) Each Accident, Five Hundred Thousand Dollars (\$500,000.00) Each Disease, and One Million Dollars (\$1,000,000.00) Aggregate by Disease. All exemptions allowed by law must be specified in conjunction with the above specified requirements as applicable.

Comprehensive General Liability with minimum limits of One Million Dollars (\$1,000,000.00) per occurrence single limit for Bodily Injury Liability and Property Damage Liability. The policy shall not contain exclusions for explosion, collapse, or underground (X, C, U) hazards. All policies shall be written on an occurrence basis where available. The required limits may be met by the issuance of an excess or umbrella coverage policy so long as the DISTRICT is named as an additional insured on such policies. Coverage shall include:

- (a) Premises/Operations Liability on an occurrence basis.
- (b) Independent contractors.
- (c) Product and Completed Operations Liability on an occurrence basis.
- (d) Broad Form Property Damage.

- (e) Broad Form Contractual Coverage applicable to this specific Agreement, including any hold harmless and/or indemnification agreement.
- (f) Personal Injury Coverage with Employees and Contractual Exclusions removed with minimum limits of coverage equal to those required for Bodily Injury Liability and Property Damage Liability.

Business Automobile Liability with minimum limits of One Million Dollars (\$1,000,000.00) per occurrence combined single limit for Bodily Injury Liability and Property Damage Liability. Coverage must be afforded on a form no more restrictive than the latest edition of the Business Automobile Liability Policy, without restrictive endorsements, as filed by the Insurance Services Office and must include: Owned vehicles, Non-owned and hired vehicles

Notice of Cancellation, Expiration and/or Restriction: The policies must be endorsed to provide the District with thirty (30) days advanced written notice of cancellation, expiration, and/or restriction of coverage.

Contractor shall furnish to the District, Certificate(s) of Insurance and certified copies of all insurance policies evidencing the insurance coverage's required herein prior to notice to proceed by the District. Such certificate(s) shall reference this agreement. The certificate holder shall be the District.

18. TRANSFER OR ASSIGNMENT PROHIBITED

Contractor shall not assign this contract, in whole or in part, or any monies due or to become due hereunder, without the written consent of District.

19. ACCEPTANCE AND WARRANTY

Unless a longer period is otherwise provided in the Contract Documents, Contractor warrants that the Work shall be free from defects in material and workmanship at the time of final completion and for a period of one year from the date of final completion. Acceptance of the Work and final payment shall not relieve Contractor of the obligation to remedy Work that does not comply with the Contract Documents. Contractor warrants to District that all materials and equipment furnished under this Contract will be new unless otherwise specified, and that all Work will be of good quality, free from faults and defects and in conformance with the Contract Documents. All Work not so conforming to these standards may be considered defective, and Contractor shall promptly repair or replace the defective Work. Contractor shall promptly repair all defects at Contractor's expense. The provisions of this section shall survive the closing.

20. TAXES

Contractor shall pay at Contractor's expense, included as a part of the contract price, all sales, consumer, use and other similar taxes required by law resulting from the Work which are in effect as of the date of execution of this Agreement.

21. PERMITS, FEES AND NOTICES

Contractor shall secure and pay for all permits and licenses necessary for the proper execution and completion of the Work which are in effect as of the date of execution of this contract. Contractor shall give all notices and comply with all laws, ordinances, rules, regulations and orders of any public authority bearing on the performance of the Work. If either Contractor or District observes that any of the Contract Documents are at variance therewith in any respect, it shall promptly notify the other party, in writing, and any necessary changes shall be adjusted by appropriate modification. If Contractor performs any Work which is contrary to such laws, ordinances, rules and regulations in effect as of the date of execution of this Agreement, then Contractor shall assume full responsibility therefore and shall bear all costs attributable thereto.

22. RESPONSIBILITY FOR THOSE PERFORMING THE WORK

Contractor shall be responsible to District for the acts and omissions of all its employees and all subcontractors, their agents and employees and all other persons performing any of the Work by, through, or under Contractor.

23. PROVISIONS REQUIRED BY LAW DEEMED INSERTED

Each and every provision of law and clause required by law to be inserted in this document shall be deemed to be inserted herein and the contract shall be read and enforced as though it were included, and if, through mistake or otherwise, any such provision is not inserted, or is not correctly inserted, then upon application of either party, the contract shall forthwith be physically amended to make such insertion or correction.

24. SAFETY AND HEALTH REGULATIONS

Contractor shall comply with the Department of Labor Safety and Health Regulations for construction promulgated under the Occupational Safety and Health Act and such other rules and regulations as may be applicable to this Project. Contractor shall be solely responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the Work. Contractor shall comply with all applicable laws, ordinances, rules, regulations and orders of any public authority having jurisdiction for the safety of persons or property or to protect them from damage, injury or loss. It shall erect and maintain, as

required by existing conditions and progress of the Work, all reasonable safeguards for safety and protection, including, securing materials for the Project, providing appropriate lighting and posting danger signs and other warnings against hazards, promulgating safety regulations and notifying owners and users of adjacent utilities. Contractor and District's designee shall mutually agree on appropriate staging areas for the materials and equipment for the Project so as to not unreasonably encumber District's other real property.

25. INDEMNIFICATION AND HOLD HARMLESS

To the fullest extent permitted by Laws and Regulations, Contractor shall indemnify and hold harmless the District and their consultants, agents and employees from and against all claims, damages, losses and expenses, direct, indirect or consequential (including but not limited to reasonable fees and charges of attorneys and other professionals and court and arbitration costs) arising out of or resulting from the performance of the work, provided that any such claim, damage, loss or expense (a) is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the work itself) including the loss of use resulting therefrom and (b) is caused in whole or in part by any willful or negligent act or omission of Contractor, any subcontractor, any person or organization directly or indirectly employed by any of them to perform or furnish any of the work or anyone for whose acts any of them may be liable, regardless of whether or not it is caused in part by a party indemnified hereunder or arises by or is imposed by Law and Regulations regardless of the negligence of any such party.

In any and all claims against the District or any of their consultants, agents or employees by any employee of Contractor, any Subcontractor, any person or organization directly or indirectly employed by any of them to perform or furnish any of the work or anyone for whose acts any of them may be liable, the indemnification obligation under the above paragraph shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for Contractor or any such Subcontractor or other person or organization under workers or workman's compensation acts, disability benefit acts or other employee benefit acts.

It is the specific intent of the parties hereto that the foregoing indemnification complies with Florida Statute 725.06 (Chapter 725). It is further the specific intent and agreement of the parties that all of the Contract Documents on this project are hereby amended to include the foregoing indemnification and the "Specific Consideration" therefore as a portion of the contract price.

26. DEFAULT

In any action brought by either party for the interpretation or enforcement of the obligations of the other party including District's right to indemnification, the prevailing party shall be entitled to recover from the losing party all reasonable attorney's fees, paralegal fees, court and other costs, whether incurred before or during litigation, on appeal, in bankruptcy or in post judgment collections.

27. BINDING EFFECT

This contract shall bind and inure to the benefit of the successors and assigns of each of the parties.

28. GOVERNING LAW AND LITIGATION

The Contract shall be governed by the laws of the State of Florida as they are now and hereinafter in force. Jurisdiction and venue of any litigation arising out of the Contract shall be exclusively in Highlands County, Florida. In the event of litigation to settle issues arising hereunder, the prevailing party in such litigation shall be entitled to recover against the other party its costs and expenses, including reasonable attorney fees, which shall include any fees and costs attributable to pre-trial, trial, and appellate proceedings arising on and of such litigation.

29. UNAUTHORIZED ALIEN WORKERS

The Sun 'n Lake of Sebring Improvement District will not intentionally award publicly-funded contracts to any contractor who knowingly employs unauthorized alien workers, constituting a violation of the employment provisions contained in 8 U.S.C. Section 1324a(e) [Section 274A(e) of the Immigration and Nationality Act ("INA"). The District shall consider the employment by a contractor of unauthorized aliens a violation of Section 274A(e) of the INA. Such violation by the Recipient of the employment provisions contained in Section 274A(3) of the INA shall be grounds for unilateral cancellation of this Agreement by the District.

Employment Eligibility Verification

(a) *Definitions.* As used in this paragraph

Employee assigned to this Contract means an employee who was hired after November 6, 1986, who is directly performing work, in the United States, under this Contract. An employee is not considered to be directly performing work under this Contract if the employee—

- (1) Normally performs support work, such as indirect or overhead functions; and
- (2) Does not perform any substantial duties applicable to the contract.

Subcontract means any contract entered into by a subcontractor to furnish supplies or services for performance of this Contract or a subcontract under this Contract. It includes but is not limited to purchase orders, and changes and modifications to purchase orders.

Subcontractor means any supplier, distributor, vendor, or firm that furnishes supplies or services to or for Contractor or another subcontractor.

United States, as defined in 8 U.S.C. 1101(a)(38), means the 50 States, the District of Columbia, Puerto Rico, Guam, and the U.S. Virgin Islands.

(b) *Enrollment and verification requirements.*

(1) The Contractor must be enrolled in E-Verify at time of contract award, and the Contractor shall use E-Verify to initiate verification of employment eligibility of—

(i) *All new employees.*

(A) *Enrolled 30 calendar days or more.* The Contractor shall initiate verification of employment eligibility of all new hires of the Contractor, who are working in the State of Florida, whether or not assigned to this Contract, within 3 business days after the date of hire; or

(B) *Enrolled less than 30 calendar days.* Within 30 calendar days after enrollment in E-Verify, the Contractor shall initiate verification of employment eligibility of all new hires of the Contractor who are working in the State of Florida, whether or not assigned to this Contract, within 3 business days after the date of hire.

(ii) *Employees assigned to this Contract.* For each employee assigned to this Contract, the Contractor shall initiate verification of employment eligibility, to the extent allowed by the E-Verify program, within 30 calendar days after date of contract award or within 30 days after assignment to this Contract, whichever date is later.

(2) The Contractor shall comply, for the period of performance of this Contract, with the requirements of the E-Verify program MOU. Termination of the Contractor's MOU and denial of access to the E-Verify system by the Department of Homeland Security or the Social Security Administration or the U.S. Citizenship and Immigration Service is an event of default under this Contract.

(c) *Web site.* Information on registration for and use of the E-Verify program can be obtained via the Internet at the U.S. Citizenship and Immigration Service's Web site: <http://www.uscis.gov>.

(d) *Individuals previously verified.* The Contractor is not required by this paragraph to perform additional employment verification using E-Verify for any employee whose employment eligibility was previously verified by the Contractor through the E-Verify program.

(e) *Subcontracts.* The Contractor shall include, and shall require the inclusion of, the requirements of this paragraph, including this subparagraph (e) (appropriately modified for identification of the parties), in each subcontract that includes work performed in the United States under this Contract.

