

**REQUEST FOR PROPOSALS**

Sun 'n Lake of Sebring  
Tanya Cannady, General Manager  
5306 Sun 'n Lake Blvd.  
Sebring, FL 33872  
e-mail: alee@snldistrict.org  
Facsimile Number: 863-382-2988

RFP NO. 15-11  
OPENING TIME: 2:00 P.M.  
OPENING DATE: 12/1/15

**THIS IS NOT AN ORDER**

**YOU ARE INVITED TO PROPOSE ON THE FOLLOWING:**

**Sun 'n Lake of Sebring Improvement District**

Tru-Turf Model R52-11TC Green Roller

**SEE ATTACHED PROJECT DOCUMENTS**

The complete set of proposal documents is available on the District web site at [www.snldistrict.org](http://www.snldistrict.org) or call 863-382-2196

**Proposals must be received in the District Office before:**

**Time:** 2:00 P.M.      **Date:** 12/1/15

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

Signed: Tanya Cannady , General Manager

Date: 11/16/2015

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

**LEGAL AD**

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85-8012528797C-8

Signed: Tanya Cannady, General Manager  
Date: 11/16/2015

ADVERTISE WEDNESDAY, NOVEMBER 18 AND WEDNESDAY, NOVEMBER 25, 2015  
HIGHLANDS TODAY

## **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 two (2) 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 a Tru-Turf Model R52-11TC Green Roller. The District intends to select one supplying firm from the Request for Proposals (RFPs) to deliver and install the requested equipment.

### **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

### **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 7/2/14. 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](http://www.snldistrict.org) by 7/9/14

Tanya Cannady, General Manager  
Sun 'n Lake of Sebring Improvement District  
5306 Sun 'n Lake Blvd.  
Sebring, FL 33872  
Fax number: 863-382-2988 / E-mail: [alee@snldistrict.org](mailto:alee@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.

**11. SUBMITTAL OF PROPOSAL**

All firms submitting a proposal will need to submit one (1) marked original and two (2) copies of their documents in a sealed package. The left front of the package shall read:

Tru-Turf Model R52-11TC Green Roller  
RFP # 15-11  
Due Date: 12/1/15 – Time: 2:00 P.M.  
Company Name and Address

Documents will need to be mailed or hand delivered to:

Tanya Cannady, 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.

**12. BID PROTEST**

Failure to file a protest within the time prescribed in section 120.57(3), Florida Statutes, shall constitute a waiver of any right to protest the terms, conditions, and specifications contained in the RFP, including any provisions governing the methods for ranking bids, proposals, or replies, awarding contracts, reserving rights of further negotiation, or modifying or amending any contract, or to protest the decision or intended decision concerning a RFP contract award.

## **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. References
3. Quality and conciseness of the proposals
4. Relative distance of distributor warehouse from the District



**SUN 'N LAKE OF SEBRING  
IMPROVEMENT DISTRICT**  
Tru-Turf Model R52-11TC Green Roller  
**PROPOSAL FORM**  
**RFP NO. 15-11**

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 12/1/15 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 \_\_\_\_\_

**LIST OF REFERENCES FORM**  
Tru-Turf Model R52-11TC Green Roller  
**RFP NO. 15-11**

As per the General Specifications Section, below is a list of at least three (3) client/customer references including company name, address, contact person, telephone number, date of equipment provided, maintenance services provided, description of project and value of project. (Note: only list those clients/customers in which a similar scope of work was provided)

1.     Company Name: \_\_\_\_\_   Length of time since provided: \_\_\_\_\_  
       Address:               \_\_\_\_\_   Contact Person: \_\_\_\_\_  
                                   \_\_\_\_\_   Work Completion Date: \_\_\_\_\_  
       Telephone:           \_\_\_\_\_   Value of Project: \_\_\_\_\_  
       Equipment provided: \_\_\_\_\_  
\_\_\_\_\_   
Description of Project: \_\_\_\_\_  
\_\_\_\_\_

2.     Company Name: \_\_\_\_\_   Length of time since provided: \_\_\_\_\_  
       Address:               \_\_\_\_\_   Contact Person: \_\_\_\_\_  
                                   \_\_\_\_\_   Work Completion Date: \_\_\_\_\_  
       Telephone:           \_\_\_\_\_   Value of Project: \_\_\_\_\_  
       Equipment provided: \_\_\_\_\_  
\_\_\_\_\_   
Description of Project: \_\_\_\_\_  
\_\_\_\_\_

3.     Company Name: \_\_\_\_\_   Length of time since provided: \_\_\_\_\_  
       Address:               \_\_\_\_\_   Contact Person: \_\_\_\_\_  
                                   \_\_\_\_\_   Work Completion Date: \_\_\_\_\_  
       Telephone:           \_\_\_\_\_   Value of Project: \_\_\_\_\_  
       Equipment provided: \_\_\_\_\_  
\_\_\_\_\_   
Description of Project: \_\_\_\_\_  
\_\_\_\_\_

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

**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; and

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 # 15-11** described as: Tru-Turf Model R52-11TC Green Roller
- 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 \_\_\_\_\_

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**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 # 15-11 Tru-Turf Model R52-11TC Green Roller

\_\_\_\_\_  
Firm

\_\_\_\_\_  
Date

\_\_\_\_\_  
Authorized Signature and Title

\_\_\_\_\_  
Printed or Typed Name and Title

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## 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.