

**AGREEMENT FOR GOODS AND SERVICES
(Utilizing The School District of Palm Beach County Agreement 23C-5L)**

THIS AGREEMENT is made on _____, between the City of Lake Worth Beach, Florida, a municipal corporation, hereinafter the “CITY”, with its office located at 7 North Dixie Highway, Lake Worth, Florida 33460, and **Armor Courts Incorporated**, a corporation authorized to do business in the State of Florida with its office located at 3477 High Ridge Road, Boynton Beach, FL 33426, hereinafter the “CONTRACTOR”.

RECITALS

WHEREAS, the CITY’s Leisure Department is in need of a company to provide services for acrylic coating for sports surfaces; and

WHEREAS, the CITY’s Procurement Policy and Code authorize the purchase of goods and services through “piggybacking” other governmental competitively procured agreements; and

WHEREAS, on September 23, 2022, the School District of Palm Beach County competitively awarded the Agreement for Acrylic Coating for Sports Surfaces based on the School District of Palm Beach County Invitation for Bid (Solicitation 23C-5L) (“ITB”) to the CONTRACTOR (“School District Contract”) which is valid from October 18, 2022 through October 17, 2025; and;

WHEREAS, the School District Contract authorizes the CONTRACTOR to extend the terms and conditions of the School District Contract to other government entities at the discretion of the CONTRACTOR; and

WHEREAS, the CITY has requested, and the CONTRACTOR has agreed to extend the terms and conditions of the School District of Palm Beach County’s Letter of Agreement to the CITY; and

WHEREAS, the CITY has reviewed the prices from the School District Contract and determined that the unit prices are competitive and will result in the best value to the CITY; and

WHEREAS, the Contractor has provided the City with a written proposal, dated July 1, 2024, for resurfacing three (3) tennis courts, one (1) basketball court and six (6) pickleball courts in accordance with the terms and unit prices of the School District Contract which is attached to this Agreement as Exhibit “A” and incorporated herein by this reference (“Proposal”); and

WHEREAS, the CITY finds entering this Agreement with the CONTRACTOR serves a valid public purpose.

NOW THEREFORE, in consideration of the mutual promises set forth herein, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. Recitals. The parties agree that the recitals set forth above are true and correct and are fully incorporated herein by reference.
2. Contract; Term. The School District Contract (including the ITB) is hereby incorporated by reference into and expressly made a part of this Agreement as if set forth at length herein. The CITY shall have all rights and obligations of Palm Beach School District under the School District Contract except as specifically modified herein. The term of this Agreement shall be consistent with the term of the School

District Contract and valid until October 17, 2025 unless earlier terminated in accordance with the School District Contract terms. This Agreement may be extended by the City Manager consistent with extensions of the School District Contract.

3 CONTRACTOR'S Services. As more specifically set forth in the Proposal, the CONTRACTOR shall supply all material, labor, and equipment to resurface 4,241 square yards of area including three (3) tennis courts, one (1) basketball court and six (6) pickleball courts.

4. Not to Exceed Amount. The CITY shall compensate the CONTRACTOR in accordance with the Proposal. The total cost to be paid by the CITY to the CONTRACTOR shall be a not to exceed amount of **Seventy Four Thousand Two Hundred and Seventeen Dollars and Fifty Cents (\$74,217.50)**. No additional services shall be authorized without a fully executed amendment to this Agreement.

5. Purchase Orders. The CITY's ordering mechanism for the work under this Agreement shall be a CITY issued Purchase Order approved in accordance to the thresholds set forth in City's Procurement Code and Policy; however, in the event of a conflict, all contractual terms and conditions stated herein and as stated in the School District Contract shall take precedence over the terms and conditions stated in the CITY issued Purchase Order. The CONTRACTOR shall not provide any work under this Agreement without a CITY issued Purchase Order specifically for this purpose. The CONTRACTOR shall not perform work which is outside the scope of an issued Purchase Order and the CONTRACTOR shall not exceed the expressed amounts stated in the Purchase Order to be paid to the CONTRACTOR. The pricing in each Purchase Order shall be consistent with the pricing set forth in the School District Contract. Each issued Purchase Order shall be incorporated into this Agreement and made a part hereof.

6. Conflict of Terms and Conditions. Conflicts between documents that make up this Agreement shall be resolved in the following order of precedence:

- a. This Agreement (including its exhibits);
- b. The School District Contract; and
- c. The City issued Purchase Order.

7. Compensation to CONTRACTOR. CONTRACTOR shall submit invoices to the CITY for review and approval by the CITY's representative, indicating that all goods and services have been provided and rendered in conformity with this Agreement and then will be sent to the Finance Department for payment. Invoices will normally be paid within thirty (30) days following the CITY representative's approval. CONTRACTOR waives consequential or incidental damages for claims, disputes or other matters in question arising out of or relating to this Agreement. In order for both parties herein to close their books and records, CONTRACTOR will clearly state "final invoice" on the CONTRACTOR's final/last billing to the CITY. This certifies that all services have been properly performed and all charges have been invoiced to the CITY. Since this account will thereupon be closed, any and other further charges if not properly included in this final invoice are waived by the CONTRACTOR. The CITY will not be liable for any invoice from the CONTRACTOR submitted thirty (30) days after the provision of all services.

8. Miscellaneous Provisions.

A. LAW; VENUE, REMEDIES. This Agreement shall be governed by the laws of the State of Florida. Any and all legal action necessary to enforce this Agreement will be held in Palm Beach County. No remedy herein conferred upon any party is intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or further exercise thereof.

- B. ENFORCEMENT COSTS; WAIVER OF JURY TRIAL. Except for any obligation of the CONTRACTOR to indemnify the CITY, if any legal action or other proceeding is brought for the enforcement of this Agreement, or because of an alleged dispute, breach, default or misrepresentation in connection with any provisions of this Agreement, each party shall be liable and responsible for their own attorney's fees incurred in that enforcement action, dispute, breach, default or misrepresentation. FURTHER, TO ENCOURAGE PROMPT AND EQUITABLE RESOLUTION OF ANY LITIGATION, EACH PARTY HEREBY WAIVES ITS RIGHTS TO A TRIAL BY JURY IN ANY LITIGATION RELATED TO THIS AGREEMENT.
- C. SEVERABILITY; WAIVER. If any term or provision of this Agreement, or the application thereof to any person or circumstances shall, to any extent, be held invalid or unenforceable, to remainder of this Agreement, or the application of such terms or provision, to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected, and every other term and provision of this Agreement shall be deemed valid and enforceable to the extent permitted by law. Failure of a party to enforce or exercise any right under this Agreement shall not be deemed a waiver of that party's right to enforce or exercise said right at any time thereafter.
- D. NOTICES. All notices required in this Agreement shall be sent by certified mail, return receipt requested or by nationally recognized overnight courier, and sent to the addresses appearing on the first page of this Agreement.
- E. ENTIRE AGREEMENT; AMENDMENTS; SURVIVAL. The CITY and the CONTRACTOR agree that this Agreement (and the other documents described herein) sets forth the entire agreement between the parties, and that there are no promises or understandings other than those stated herein. None of the provisions, terms and conditions contained in this Agreement may be added to, modified, superseded or otherwise altered, except by written instrument executed by the parties hereto. Any provision of this Agreement which is of a continuing nature or imposes an obligation which extends beyond the term of this Agreement shall survive its expiration or earlier termination.
- F. COUNTERPARTS. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, and will become effective and binding upon the parties as of the effective date at such time as all the signatories hereto have signed a counterpart of this Agreement. This Agreement may be executed electronically.
- G. PREPARATION. This Agreement shall not be construed more strongly against either party regardless of who was more responsible for its preparation.
- H. PALM BEACH COUNTY IG. In accordance with Palm Beach County ordinance number 2011-009, the CONTRACTOR acknowledges that this Agreement may be subject to investigation and/or audit by the Palm Beach County Inspector General. The CONTRACTOR has reviewed Palm Beach County ordinance number 2011-009 and is aware of its rights and/or obligations under such ordinance.
- I. PUBLIC RECORDS. The Contractor shall comply with Florida's Public Records Act, Chapter 119, Florida Statutes, and, if determined to be acting on behalf of the City as provided under section 119.011(2), Florida Statutes, specifically agrees to:
1. Keep and maintain public records required by the City to perform the service.

2. Upon request from the City's custodian of public records or designee, provide the City with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes, or as otherwise provided by law.

3. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of this Agreement and following completion of this Agreement if the Contractor does not transfer the records to the City.

4. Upon completion of this Agreement, transfer, at no cost, to the City all public records in possession of the Contractor or keep and maintain public records required by the City to perform the service. If the Contractor transfers all public records to the City upon completion of the Agreement, the Contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Contractor keeps and maintains public records upon completion of the Agreement, the Contractor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the City, upon request from the City's custodian of public records or designee, in a format that is compatible with the information technology systems of the City.

IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, PLEASE CONTACT THE CUSTODIAN OF PUBLIC RECORDS OR DESIGNEE AT THE CITY OF LAKE WORTH BEACH, ATTN: CITY CLERK, AT (561) 586-1662, CITYCLERK@LAKEWORTHBEACHFL.GOV, 7 N. DIXIE HIGHWAY, LAKE WORTH BEACH, FL 33460.

J. SCRUTINIZED COMPANIES.

1. CONTRACTOR certifies that it and its subcontractors are not on the Scrutinized Companies that Boycott Israel List and are not engaged in a boycott of Israel. Pursuant to section 287.135, Florida Statutes, the CITY may immediately terminate this Agreement at its sole option if the CONTRACTOR or any of its subcontractors are found to have submitted a false certification; or if the CONTRACTOR or any of its subcontractors, are placed on the Scrutinized Companies that Boycott Israel List or are engaged in a boycott of Israel during the term of this Agreement.

2. If this Agreement is for one million dollars or more, the CONTRACTOR certifies that it and its subcontractors are also not on the Scrutinized Companies with Activities in Sudan List, or the Scrutinized Companies with Activities in Iran Terrorism Sectors List, or engaged in business operations in Cuba or Syria as identified in Section 287.135, Florida Statutes. Pursuant to Section 287.135, the CITY may immediately terminate this Agreement at its sole option if the CONTRACTOR, or any of its subcontractors are found to have submitted a false certification; or if the CONTRACTOR or any of its subcontractors are placed on the Scrutinized Companies with Activities in Sudan List, or the Scrutinized Companies with Activities in Iran Terrorism Sectors List, or are or have been engaged with business operations in Cuba or Syria during the term of this Agreement.

3. The CONTRACTOR agrees to observe the above requirements for applicable subcontracts entered into for the performance of work under this Agreement.
4. The CONTRACTOR agrees that the certifications in this section shall be effective and relied upon by the CITY for the term of this Agreement, including any and all renewals.
5. The CONTRACTOR agrees that if it or any of its subcontractors' status changes in regards to any certification herein, the CONTRACTOR shall immediately notify the CITY of the same.
6. As provided in Subsection 287.135(8), Florida Statutes, if federal law ceases to authorize the above-stated contracting prohibitions then they shall become inoperative.

K. E-VERIFY.

Pursuant to Section 448.095(5), Florida Statutes, the CONTRACTOR shall:

1. Register with and use the E-Verify system to verify the work authorization status of all newly hired employees and require all subcontractors (providing services or receiving funding under this Agreement) to register with and use the E-Verify system to verify the work authorization status of all the subcontractors' newly hired employees;
2. Secure an affidavit from all subcontractors (providing services or receiving funding under this Agreement) stating that the subcontractor does not employ, Agreement with, or subcontract with an "unauthorized alien" as defined in Section 448.095(1)(f), Florida Statutes;
3. Maintain copies of all subcontractor affidavits for the duration of this Agreement and provide the same to the CITY upon request;
4. Comply fully, and ensure all of its subcontractors comply fully, with Section 448.095, Florida Statutes;
5. Be aware that a violation of Section 448.09, Florida Statutes (Unauthorized aliens; employment prohibited) shall be grounds for termination of this Agreement; and,
6. Be aware that if the CITY terminates this Agreement under Section 448.095(5)(c), Florida Statutes, CONTRACTOR may not be awarded an Agreement for at least 1 year after the date on which the Agreement is terminated and will be liable for any additional costs incurred by the CITY as a result of the termination of the Agreement.

L. COMPLIANCE WITH SECTION 787.06, FLORIDA STATUTES (2024). By signing this Agreement before a notary public and taking an oath under the penalty of perjury, the CONTRACTOR attests and warrants that the CONTRACTOR does not use coercion for labor or services as defined in section 787.06, Florida Statutes (2024).

M. INDEMNIFICATION; SOVEREIGN IMMUNITY. In addition to the indemnification (including defense and hold harmless) provision set forth in the School District Contract, the CONTRACTOR agrees to indemnify, defend, and hold harmless, the CITY, its elected officials, officers, employees, and agents harmless from and against any and all liability on account of any injuries, illnesses, death, damages, omissions, commissions, actions, causes of action, claims, suits, judgments and damages accruing, including court costs and attorneys' fees at all levels of trial and appeal, as a result of any negligence, omission, or action on the part of the CONTRACTOR, its officers, directors, employees, agents, independent contractors, subcontractors, or other individual or entity performing services hereunder. This paragraph shall also apply to the CONTRACTOR's infringement upon any copyrights, patent, trade secret or other intellectual property, proprietary, or ownership interest or legal rights of any third party. Nothing contained in any of the Agreement documents shall be construed or interpreted as consent

by the CITY to be sued, nor as a waiver of sovereign immunity beyond the waiver and limits provided in section 768.28, Florida Statutes, as amended from time to time. The limitations and provisions set forth in section 768.28, Florida Statutes, are deemed to apply to this Agreement to claims or actions arising in tort and to claims or actions arising in contract.

N. INDEPENDENT CONTRACTOR. The CONTRACTOR is and shall be, in the performance of all services under this Agreement, an independent contractor, and not an employee, agent, or servant of the CITY. All persons engaged in any of the services performed pursuant to the Agreement shall at all times, and in all places, be subject to the CONTRACTOR's sole direction, supervision, and control. The CONTRACTOR shall exercise control over the means and manner in which it and its employees perform the services.

O. SUCCESSORS. The CONTRACTOR and the CITY each binds itself and its partners, successors, executors, administrators, and assigns to the other party and to the partners, successors, executors, administrators, and assigns of such other party, in respect to all covenants of the Agreement.

**[REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK;
SIGNATURE PAGE FOLLOWS]**

IN WITNESS WHEREOF, the CITY and CONTRACTOR hereto have made and executed this Agreement for Acrylic Coating for Sports Surfaces as of the day and year first above written.

CITY OF LAKE WORTH BEACH, FLORIDA

By: _____
Betty Resch, Mayor

ATTEST:

By: _____
Melissa Ann Coyne, MMC, City Clerk

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY:

APPROVED FOR FINANCIAL SUFFICIENCY:

By: _____
Glen J. Torcivia, City Attorney

By: _____
Yannick Ngendahayo, Financial Services Director

CONTRACTOR: ARMOR COURTS INCORPORATED

By: Keith Hoersch

[Corporate Seal]

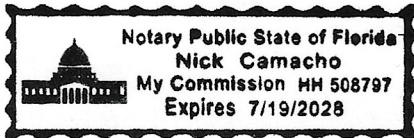
Print Name: Keith Hoersch

Title: Vice President

STATE OF Florida)
COUNTY OF Palm Beach)

THE FOREGOING instrument was acknowledged before me by means of physical presence or online notarization on this 20 day of September 2024, by Keith Hoersch, as the Vice President [title] of Armor Courts Incorporated, a company authorized to do business in the State of Florida, who is personally known to me or who has produced personally known as identification, and who did take an oath under penalty of perjury that the facts stated with regard to section 787.06, Florida Statutes, are true and correct, and that he or she is duly authorized to execute the foregoing instrument and bind **Armor Courts Incorporated** to the same.

Notary Seal:



Keith Hoersch
Notary Public Signature

My Commission expires 7/19/28

Exhibit "A"
Contractor's Proposal (3 pages)



Armor Courts, Inc.

3477 High Ridge Road | 3477 High Ridge Road | Boynton Beach, Florida 33426
561-501-0885 | gvizzini@armorcourts.com | www.armorcourts.com

RECIPIENT:

Chris Hana

1400 14th Avenue North
Lake Worth, Florida 33460
Phone: 5614493078

Quote #94814	
Sent on	Jul 01, 2024
Persons Title	Superintendent
Referred By	Google
Salesperson	Keith Hoersch
Property Name	Sunset Park
Salesperson	Nick Camacho
Revised	#0
Total	\$74,217.50



Armor Courts, Inc.

3477 High Ridge Road | 3477 High Ridge Road | Boynton Beach, Florida 33426
 561-501-0885 | gvizzini@armorcourts.com | www.armorcourts.com

Product/Service	Description	Qty.	Total
Palm Beach County Approved Spec. Playcourt Surfacing -per the Palm Beach County School Board Contract #23C- 5L-ACRYLIC COATING FOR SPORTS SURFACES.	<p>Contractor to supply all material, labor, & equipment to resurface Qty 4,241 Sq yds of area including 3 tennis courts, 1 basketball court & 6 pickleball courts.</p> <p>The surface to be coated must be sound, smooth and free from dust, dirt and oily material. All mildew is to be removed with a pressure washer with no additives.</p> <p>All cracks 1/8" or greater in width shall be cleaned out and filled with Plexipave or similar Acrylic Crack Filler or equivalent. All repaired areas shall be flush with surrounding surface. If not, they shall be ground or rolled as needed to make them flush and even.</p> <p>Prior to the application of surfacing materials, the entire surface shall be inspected for any depressions or irregularities. After the surfaces have been flooded, any depressions covering a nickel shall be corrected by the following method. Depressions and irregularities shall be filled with Court Patch Binder or equivalent according to specifications using the following mix: Court must have enough existing pitch in order for the court to drain and dry properly regardless of patching depth.</p> <p>Fiberglass applications shall be installed over the prepared surface. The fiberglass shall be 10 x 20 mesh resin-coated fiberglass (asphalt-coated fabric is not acceptable). The fiberglass shall be rolled out into the Plexibond and stretched tight. The Plexibond Coating shall be applied using a "wet on wet" method. The Plexibond Coating shall be diluted two part Plexibond to one part water prior to application. Adjacent panels shall be overlapped a minimum of 3". Wrinkles in the fiberglass membrane shall be corrected prior to application of the acrylic resurfacer.</p> <p>After the fiberglass coating and acrylic coats are applied and cured we install 3 coats of Plexipave a textured acrylic color coat system.</p> <p>You may choose up to 2 different colors for the court surface.</p> <p>**Additional court colors & special order colors will require special pricing. Contact your representative for more information **</p> <p>After the color system has been and applied we will seal and stripe the lines in a highly textured white paint for crisp concise lines for basketball, tennis, volleyball, hopscotch, box ball, or pickleball or unless noted in this proposal. No more than ten games in total.</p> <p>**Any additional play court designs will be assessed monetarily based on the individual requests and must be approved in writing with design requirements prior to work beginning**</p>	4241	\$74,217.50



Armor Courts, Inc.

3477 High Ridge Road | 3477 High Ridge Road | Boynton Beach, Florida 33426
561-501-0885 | gvizzini@armorcourts.com | www.armorcourts.com

Total

\$74,217.50