



# City of Franklin, Virginia Invitation for Bids

(THIS IS NOT AN ORDER)

<b>IFB Number:</b> 2019-02	<b>Request for Bid Title:</b> Youth Soccer Court
<b>BIDS Due/Opening Date and Time:</b> Monday, June 17, 2019 2:00 p.m., Local Time To be opened at: City of Franklin Administrative Offices	<b>Number of Pages:</b> 25

ISSUING AGENCY INFORMATION	
<b>City of Franklin Parks &amp; Recreation</b>	<b>Issue Date:</b> 5/13/2019
<b>Mail to:</b> City of Franklin 207 West 2 <sup>nd</sup> Avenue Franklin, Virginia 23851	<b>Hand Deliver:</b> City of Franklin 207 West 2 <sup>nd</sup> Avenue Franklin, Virginia 23851

INSTRUCTIONS TO BIDDERS	
<b>COMPLETE THE QUOTE FORM, WORKSHEET, AND QUOTE DECLARATION. SIGN AND RETURN WITH ANY REQUIRED DOCUMENTS TO THE ADDRESS LISTED ABOVE UNDER "ISSUING AGENCY INFORMATION."</b>	<b>Mark Face of Envelope/Package:</b>  "Youth Soccer Court"
	<b>Special Instructions:</b> <b>REVIEW THE "STANDARD TERMS AND CONDITIONS" BEFORE BIDDING</b>

# Invitation for Bids: Youth Soccer Court

## A. Introduction

The City of Franklin requests the submission of bids from qualified bidders to install a youth soccer court at the Armory Park tennis court. Bids must be submitted in sealed envelopes marked "Sealed Bid for Youth Soccer Court." Sealed Bids will be accepted until **2:00 P.M., Monday, June 17, 2019**, at which time they will be opened and read aloud at the City of Franklin Administrative Offices, 207 West 2<sup>nd</sup> Avenue, Franklin, VA 23851.

Bids must be delivered by the Bid Submittal Deadline. Bids arriving after the specified hour will not be accepted. Mailed bids which are delivered after the specified hour will not be considered regardless of the postmarked time on the envelope. All bids must be originals and in writing. Faxed or e-mailed proposals are not acceptable.

Please be observant of all Bid instructions and specifications. Every request for interpretation or substitutions regarding the work covered must be submitted in writing or email to Tracy Spence at 207 West 2<sup>nd</sup> Avenue, Franklin VA 23851 or email to [tspence@franklinva.com](mailto:tspence@franklinva.com). All request for interpretation must be made no later than 7 days prior to bid opening.

**The following Bid Documents must be completed, signed, and returned by the deadline date and time:**

**Bid Form**

**Bid Declaration**

**List of References/clients**

The City of Franklin reserves the right to accept or reject, in whole or part, any and all Bids and to waive informalities.

## B. Qualifications

C. The Contractor shall provide all necessary labor, parts, tools, materials, equipment, delivery and resources as may be required to furnish, deliver and install asphalt repairs and overlay. The Contractor must also provide three references of "like work" that they are performing or have performed in the past 36 months. Qualified Contractors shall possess a current City of Franklin business license and be insured to meet or exceed the City's terms and conditions.

**D. Location**

- Tennis court at the Armory Park, Franklin, VA 23851 (See Appendix F).

**E. Scope of Work**

- Court repair as needed to the existing surface for repair to existing cracks in the surface.
- Install a youth soccer court using the dimensions of 120 x 110 ft utilizing Duracourt® flooring system.
- Apply custom futsal court lines during installation of the court.
- Install two soccer/futsal goals.
- Court surface will be blue trimmed with orange lines.

**F. Work Completion**

It is the intent of the City of Franklin to make an award no later than June 24, 2019. The time in which the Contractor agrees to complete the work is of the essence of the contract. The time of completion will be a factor in making an award. **Final project completion shall be completed no later than one month after the award date.**

**G. Submittal of Bids**

**The following Bid Documents must be completed, signed, and returned by the deadline date and time:**

**Bid Form**

**Bid Declaration**

**List of References/clients**

Bids will be accepted until noon, Monday, June 17, 2019 by delivering them to:

City of Franklin  
207 West 2<sup>nd</sup> Avenue  
Franklin, VA 23851

Or by mail to:

City of Franklin  
207 West 2<sup>nd</sup> Avenue  
Franklin, VA 23851

**All bids must be marked on the outside of the envelope, “Sealed Bid for Youth Soccer Court”**

Award of Contract

The bids will be reviewed and the qualifications of the Contractor verified. The award will be made to the lowest responsible and responsive bidder.

Any questions concerning this request for proposal should be directed to:

Tracy Spence  
Interim Finance Director  
(757) 562-8535

**Invitation for Bids  
Youth Soccer Court Bid  
Conditions**

The procurement documents, including this Appendix A, “Bid or Proposal Conditions,” to the Invitation for Bid, the Request for Proposal, or other Solicitation, and the response of the bidder/offeror, (the “Bidder”) will be incorporated into resulting contract as fully and completely as if set forth in such contract in its entirety. The following are the conditions for submission of a bid that will apply to all procurements done by the City of Franklin (the “City”). In the event of a conflict between any of the following conditions and requirements with any other conditions or requirements set forth in an Invitation for Bid, Request for Proposal or other Solicitation, the Conditions and requirements set forth herein shall take precedence and control.

**Bid or Proposal Conditions:**

1. All forms, blanks and questions must be completed fully and on the forms provided by the City. Failure to do so may be cause for rejection of bid or proposal.
2. A Bidder may withdraw or cancel a bid or proposal at any time prior to the date set for opening unless otherwise stated in the bid or proposal documents. After such time, the Bidder may not withdraw the bid or proposal for a period of sixty (60) calendar days. A Bidder may be required to clarify his bid or proposal or acknowledge by written confirmation that the minimum requirements of request for bid or proposal are included in the Bidder’s submittal.
3. Bids or proposals on separate bid or proposal solicitations must not be combined on the same forms or placed in the same envelope. Such bids or proposals will not be considered.
4. Any Invitation to Bid, a Request for Proposal, any other Solicitation or any and all bids or proposals may be cancelled or rejected when it is determined that it is in the best interest of the City to do so. The reasons therefore shall be made a part of the contract file. Any bid or proposal which is incomplete, conditional, obscure, or which is not in conformance with the Specifications may be rejected, or any such irregularities if they do not affect quality, quantity, price, or delivery schedule may be waived at the sole option of the City.
5. The City reserves the right to award in part or in whole, or to reject any and all bids or proposals, and does not commit itself to accepting the lowest bid or proposal.
6. The award, if any, will be made by the City to the Bidder, who shall be determined in accordance with rules and regulations governing purchases or contracts adopted and established by the City and in accordance with all applicable provisions of the Code of Virginia and the City Code.

7. The Bidder agrees that the supplies or services furnished under any award resulting from this Solicitation shall be covered by the most favorable commercial warranties the Bidder gives any customer for such supplies or services and that the rights and remedies provide herein are in addition to and do not limit those available to the City by any other clause of this Solicitation. A copy of this warranty must be furnished with the bid or proposal.
8. In any Invitation to Bid, if more than one bid is received for the same total amount or unit price, quality and service being equal, preference shall be given to goods produced in or provided by persons, firms, or corporations falling within the provisions of the § 2.2-4324 of the Code of Virginia, as amended.
9. In any Invitation for Bid, if the lowest acceptable bid exceeds available funds, the City at its sole option may negotiate with the lowest Bidder to obtain a contract price within available funds. The negotiations shall be confined to a reduction in the contract price and shall not deal with changes in the contract requirements. The procedure to be followed is:
  - A. The City Manager or his designee shall advise the lowest responsible Bidder, in writing, that the proposed purchase exceeds available funds. He shall further suggest amendment of the proposed purchase price and invite the lowest responsible Bidder to amend its bid or proposal based upon the proposed amendment.
  - B. Repetitive informal discussions with the lowest responsible Bidder for purposes of obtaining a contract within available funds shall be permissible.
  - C. The lowest responsible Bidder shall submit an addendum to its bid or proposal, which addendum shall include any change in the purchase price.
10. Except in the case of an emergency affecting the public health, safety or welfare, no contract shall be awarded on the basis of cost plus a percentage of cost. This paragraph shall not apply to contracts of insurance or prepaid coverage as set forth in § 2.2-4331 of the Code of Virginia. Public contracts may be awarded on any other basis.
11. No contract other than one for the professional services of an accountant, actuary, architect, land surveyor, landscape architect, attorney, dentist, pharmacist, doctor of medicine or optometry or professional engineer or other professional listed in § 2.2-4301 of the Code of Virginia, shall be awarded for a period in excess of three (3) years.

12. With the following exceptions, procurement documents are subject to the Virginia Freedom of Information Act:
  - A. Cost estimates relating to a proposed procurement transaction prepared by or for the City shall not be opened to public inspection.
  - B. Bid and proposal records shall be opened to public inspection only after the award of the contract. Any Bidder may be allowed to inspect the bid or proposal records prior to award unless the City decides not to accept any bids and reopens the contract.
  - C. Trade secrets or proprietary information submitted to the City may not be protected from disclosure under FOIA if so identified and a request is made. Any such request must identify what is to be protected and state the reasons therefore. The City shall make the determination of whether the information is not subject to disclosure.
13. Any Bidder submitting a bid or proposal to the City subjects himself to the decision of the City Manager as to the quality of what is offered, responsiveness of the bid or proposal, responsibility of the Bidder, and the qualifications of any Bidder. The City Manager in his or her sole discretion will evaluate bids or proposals and in all cases the decision shall be final. Every offeror submitting a bid or proposal agrees to abide by the decision of the City Manager as a condition precedent to the submission of the bid or proposal.
14. All bids or proposals submitted shall have included in the price the cost of any business or professional licenses, permits or fees required by the City or the Commonwealth of Virginia.
15. By submission of bid or proposal, the Bidder certifies that the merchandise to be furnished will not infringe on any valid patent or trademark and the successful Bidder will, at his own expense, defend any and all actions or suits charging such infringement, and will save the City harmless in case of any infringement.
16. Samples of items, if requested, shall be furnished without charge and if not destroyed shall, upon request within sixty (60) days after bid or proposal opening, be returned at the Bidder's expense. After sixty (60) days, unclaimed items will become the property of the City of Franklin.
17. Envelopes containing bids or proposals will be sealed and marked in the lower left-hand corner with the invitation number, commodity classification, and date and hour of opening of the bid or proposal. Failure to do so may be cause for rejection.
18. All bids or proposals shall be submitted exclusive of direct Federal, State and Local Taxes. However, if the Bidder believes that certain taxes are properly payable by the City, he may list such taxes separately in each case directly below the respective item bid or proposal price. The City's tax exemption certificate will be furnished upon request.

19. The City is exempt from payment of State Sales and Use Tax on all tangible personal property purchased or leased for its use or consumption. Certificate of exemption will be furnished upon request.
20. The City shall not be obligated to purchase or pay for commodities, supplies, equipment or services covered by this solicitation unless and until they are ordered by, delivered to or performed for the City.
21. Method of payment unless otherwise set forth in the solicitation will be determined upon award with successful bidder.
22. All deviations from the specifications must be noted in detail by the Bidder, in writing, at the time of submittal of the formal bid or proposal. The absence of a written list of specification deviations at the time of submittals of the bid or proposal will hold the Bidder strictly accountable to the City to the specifications as written.
23. Once an Invitation to Bid or Request for Proposal has been advertised, should a prospective Bidder find any discrepancy in or omissions from the bid or proposal documents, or should there be a doubt as to the meaning of terms or requirements, the Bidder shall at once notify the contact person identified in the solicitation documents, or if none is listed, the City Manager who will send written instructions to all Bidders. The City will not be responsible for any oral instructions.
24. The provisions of Sections 2.2-4305, 2.2-4311, 2.2-4312, 2.2-4315, 2.2-4330, 2.2-4333 through 2.2-4338, 2.2-4340, 2.2-4341, 2.2-4363 and 2.2-4367 through 2.2-4377 of the Code of Virginia of 1950 (as amended) are incorporated into these conditions by reference as fully as if set forth herein.
25. The City reserves the right to require a bid or proposal, performance or payment bond. The requirement for such bond shall be clearly stated in the bid or proposal documents.
26. The City reserves the right to require the successful Bidder to furnish a performance bond in the amount of the contract before the award of contract. If no bond can be furnished by the successful Bidder, the City reserves the right to award the contract to the next lowest, responsive, responsible Bidder. If a performance bond is specified on the Invitation to Bid or Request for Proposal, the Bidder shall pay the cost thereof.
27. Unless expressly waived in the solicitation documents, the City reserves the right to cancel and terminate any resulting contract, in part or in whole, without penalty, immediately upon written notice.
28. By submitting a bid or proposal, the Bidder agrees and warrants that he has examined all the bid or proposal documents, has visited the site and become familiar with the conditions applicable to the project, and, if appropriate, the subject



of the bid or proposal and where the Specifications require a given result to be produced, that the Specifications are adequate and the desired results can be produced under the Specifications in the bid or proposal. Omissions from the Specifications shall not relieve the Bidder from the responsibility of complying with the general terms of the contract as indicated by the Specifications. Once the Bid has been opened, failure to have read all the conditions, instructions, and Specifications will not be a cause to alter the original bid or proposal or for the Bidder to request additional compensation.

29. The firm, corporate or individual name of the Bidder must be signed in ink in the space provided for the signature on the page following these Specifications. In the case of a corporation the title of the officer signing must be stated and each officer must be thereunto duly authorized. In the case of a partnership, the signature of at least one of the partners must follow the firm name using the term “member of the firm.”
30. Since competitive sealed bidding is being used in this IFB, the following factors shall be considered in addition to price when determining the lowest responsible Bidder and the responsiveness of the bid or proposal:
  - A. The “best value” or overall combination of quality, price and various elements of required services that in total are optimal relative to the needs stated in the Invitation to Bid.
  - B. The ability, capacity and skill of the Bidder to perform the contract or provide the services required.
  - C. Whether the Bidder can perform the contract or provide the service promptly, or within the time specified, without delay or interference.
  - D. The character, integrity, reputation, judgment, experience, and efficiency of the Bidder.
  - E. The quality of performance of previous contracts or services.
  - F. The previous and existing compliance by the Bidder with laws and ordinances relating to the contract or service.
  - G. The sufficiency of financial resources and ability of the Bidder to perform the contract or provide the service.
  - H. The quality, availability and adaptability of the goods or services to the particular use required.
  - I. The ability of the Bidder to perform future maintenance and service for use of the subject of the contract.
  - J. The number and scope of conditions attached to the Bid.

- K. Any other condition or criteria included in the request for bids or the instructions to Bidders.
  
- 31. Requests for bid results must be made in writing and a self-addressed stamped envelope is required.
  
- 32. The City does not accept the responsibility for maintaining a bid or proposal list and will not accept the responsibility for the failure of any prospective Bidder to receive a solicitation directly from the City.

**Invitation for Bids  
Youth Soccer Court  
General Terms and Conditions  
(Including Insurance and Indemnity)**

The procurement documents, including Appendix B “General Terms and Conditions,” to the Invitation for Bid, the Request for Proposal, or other Solicitation, and the response of the bidder (the “Contractor”) will be incorporated into a resulting contract as fully and completely as if set forth in such contract in its entirety. The following are the general conditions that will apply to all procurements done by the Board of Supervisors of the City of Franklin (the “City”).

**1. General Provisions**

Nothing in any resulting contract shall be construed as authority for either party to make commitments which will bind the other party beyond the scope of service contained herein. This contract is subject to appropriations by the City.

**2. Laws of the Commonwealth**

- A. Procurement Act: This solicitation is subject to the provisions of the Virginia Public Procurement Act and any revisions thereto which are hereby incorporated into this contract as appropriate.
- B. Any purchase order or contract resulting from this solicitation shall be governed in all respects whether as to validity, construction, performance, or otherwise by the laws of the Commonwealth of Virginia as amended.
- C. The Contractor providing goods or services to the City under this contract assures the City that it is:
  - 1. Conforming to the provisions of the Civil Rights Act of 1964, as amended, the Virginia Fair Employment Contracting Act of 1975, as amended, and the Virginia Human Rights Act, as amended, where applicable;
  - 2. Not employing illegal alien workers or otherwise violating the provisions of the Immigration Reform and Control Act of 1986;
  - 3. Complying with federal, state and local laws and regulations applicable to the performance of the services procured; and
  - 4. Submitting the bid or proposal in full compliance with the Virginia Conflict of Interest Act.

D. In every contract of over \$10,000, the Contractor agrees during the performance of this contract that:

1. The Contractor (1) will not discriminate against any employee or applicant for employment because of race, religion, color, sex, disability, or national origin, except where religion, sex or national origin is a bona fide occupational qualification reasonably necessary to the normal operation of the Contractor, (2) will post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause, and (3) will state that the Contractor is an equal opportunity employer in all solicitations or advertisements for employees placed by or on behalf of the Contractor under this contract. All notices, advertisements, and solicitations placed in accordance with federal law, rule or regulation shall be deemed sufficient for the purpose of meeting the requirements of this section;
2. The Contractor will include the provisions of the foregoing subparagraph 2.(B)(1) in every subcontract or purchase order under this Contract of over \$10,000, so that the provisions will be binding upon each subcontractor or vendor; and

E. In every contract of over \$10,000, the Contractor agrees during the performance of this contract that:

The Contractor shall A) provide a drug-free workplace for its employees; B) post in conspicuous places, available to employees and applicants for employment, a statement notifying employees that the unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana is prohibited in its workplace and specify the actions which will be taken against any employee for a violation; C) state in all of its solicitations or advertisements for employees that it maintains a drug-free workplace; and D) include the provisions of this subparagraph in every subcontract or purchase order of over \$10,000, so that said provisions shall be binding upon each subcontractor or vendor.

For purposes of this sub-paragraph, "drug-free workplace" means a site for the performance of work done in connection with a specific contract awarded to a contractor in accordance with the provisions of the Virginia Public Procurement Act, the employees of whom are prohibited from engaging in the unlawful manufacture, sale, distribution, dispensation, possession or use of any controlled substance or marijuana during the performance of the contract.

F. In addition to the provisions contained in sub-paragraph C. pertaining to drug-free workplace, Contractor shall comply with the federal Drug Free Workplace Act.

- G. Pursuant to Section 2.2-4343.1 of the Code of Virginia of 1950, in all invitations to bid, requests for proposals, contracts, and purchase orders, the City does not discriminate against faith-based organizations.

"Faith-based Organization" means a religious organization that is or applies to be a contractor to provide goods or services for programs funded by the block grant provided pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, P.L. 104-193.

If Contractor is a faith-based organization, then Contractor shall give to each individual who applies for or receives goods, services, or disbursements provided pursuant to this Agreement the following notice:

### **NOTICE**

Pursuant to Section 2.2-4343.1 of the Code of Virginia of 1950, as an applicant for or recipient of goods, services, or disbursements provided pursuant to a contract between the City and a faith-based organization, you are hereby notified as follows:

**Neither the City's selection of a charitable or faith-based provider of services or the expenditure of funds under this contract is an endorsement of the provider's charitable or religious character, practices, or expression. No provider of services may discriminate against you on the basis of religion, a religious belief, or your refusal to actively participate in a religious practice. If you object to a particular provider because of its religious character, you may request assignment to a different provider. If you believe that your rights have been violated, please discuss the complaint with your provider or notify the City Manager.**

### **3. Certifications**

By submitting their proposals, the Contractor certifies that:

1. The bid or offer (1) is made without prior participation, understanding, agreement, or connection with any corporation, firm or person submitting a bid/offer for the same materials, supplies, equipment, or services with respect to the allocation of the business afforded by or resulting from the acceptance of the bid or proposal, (2) is in all respects fair and without collusion or fraud, and (3) is or is intended to be competitive and free from any collusion with any person, firm or corporation;
2. The Contractor has not offered or received any kickback from any other bidder or Contractor, supplier, manufacturer, or subcontractor in connection with the bid/offer on this solicitation. A kickback is defined as an inducement for the award of a contract, subcontracts or order, in the form of any payment, loan, subscription, advance, deposit of money, services or anything, present or promised, unless consideration of substantially equal or

greater value is exchanged. Further, no person shall demand or receive any payment, loan, subscription, advance, and deposit of money, services or anything of value in return for an agreement not to compete on a public contract;

3. The Contractor is not a party to nor has he participated in nor is obligated or otherwise bound by agreement, arrangement or other understanding with any person, firm or corporation relating to the exchange of information concerning bids, prices, terms or condition upon which the contract resulting from the acceptance of his bid proposal is to be performed;
4. The Contractor understands that collusive bidding is a violation of the Virginia Governmental Frauds Act and federal Law, and can result in fines, prison sentences, and civil damage awards and agrees to abide by all conditions of this proposal; and
5. The Contractor or subcontractor has not and will not confer on any public employee having official responsibility for a procurement transaction any payment, loan, subscription, advance, deposit of money, services or anything of more than nominal value, present or promised, unless consideration of substantially equal or greater value is exchanged.

#### **4. Warranties**

Any goods or services furnished by the Contractor under the contract shall be covered by the most favorable warranties provided by the Contractor to any customer; the rights and remedies hereby provided are in addition to any and do not limit those otherwise available to the City. The Contractor agrees that if such warranties are in any respect breached, the Contractor will pay to the City the full contract price agreed to by the City to be paid for the supplies, materials, equipment or services furnished under the bid or proposal.

#### **5. Modifications, Additions or Changes**

Modifications, additions or changes to these terms and conditions may not be made except in writing and agreed to by the City; however, no fixed priced contract may be increased by more than twenty-five (25) percent of the amount of the contract or \$50,000 whichever is greater without the approval of the City. The amount of any contract may not be increased for any purpose without adequate consideration provided to the City.

**6. Hold Harmless**

The Contractor agrees to indemnify, defend and hold harmless the City and its officers, agents, and employees from any claims, damages and actions of any kind or nature, whether at law or in equity, arising from or caused by the use of any materials, goods, or equipment of any kind or nature furnished by the Contractor/any services of any kind or nature provided by the Contractor, provided that such liability is not attributable to the sole negligence on the part of the City or to failure of the City to use the materials, goods, or equipment in the manner outlined by the Contractor and descriptive literature or specifications submitted with the Contractor's bid.

**7. Assignment**

The contract may not be assigned, sublet, or transferred without the written consent of the City.

**8. Default**

In the case of default or breach by the Contractor or the failure of the Contractor to deliver the services in conformance with the specifications in the contract the City shall give written notice to the Contractor specifying the manner in which the contract has been breached. If the City gives such notice of breach and the Contractor has not corrected the breach within fifteen (15) days of receipt of the written notice, the City shall have the right to immediately rescind, revoke or terminate the contract and in addition to any other remedies available at law to procure such services from other sources and hold the Contractor responsible for any and all excess cost occasioned thereby.

**9. Audit**

The Contractor hereby agrees to retain all books, records, and other documents relative to this contract for five (5) years after final payment or after all other pending matters are closed, whichever is longer. The City and its authorized agents, state auditors, the grantor of the funds to the City, the Comptroller of Virginia or of the United States, or any of their duly authorized representatives shall have access to any books, documents, papers and records of the Contractor which are directly pertinent to the specific contract for the purpose of making audits, examinations, excerpts or transcriptions.

**10. Ownership of Documents**

Any reports, studies, photographs, negatives, or other documents prepared by Contractor in the performance of its obligations under any resulting contract shall be remitted to the City by the Contractor upon completion, termination or cancellation of this Contract. Contractor shall not use, willingly allow or cause to have such materials used for any purpose other than performance of Contractor's obligations under this contract without the prior written consent of the City. The City shall own the intellectual property rights to all materials produced under this contract.

## **11. Payment and Performance Bond**

For any Contract for construction, the amount of which exceeds \$100,000, the Contractor shall furnish to the City the bonds required under Sections 2.2-4336 and 2.2-4337 of the Code and shall otherwise fully comply with the requirements of such sections of the Code. The City reserves the right to require payment and/or performance bonds in the amount of the Contract for any other Contracts, whether or not required by such sections of the Code.

## **12. Required Payment**

Pursuant to Section 2.2-4354 of the Code, the Contractor covenants and agrees to:

- A. within seven (7) days after receipt of any amounts paid to the Contractor under the Contract, (i) pay any subcontractor for its proportionate share of the total payment received from the City attributable to the work under the Contract performed by such subcontractor, or (ii) notify the City and the subcontractor, in writing, of its intention to withhold all or a part of the subcontractor's payment and the reason therefore;
- B. provide its federal employer identification number or social security number, as applicable, before any payment is made to the Contractor under the Contract; and
- C. pay interest at the legal rate or such other rate as may be agreed to in writing by the subcontractor and the Contractor on all amounts owed by the Contractor that remain unpaid after seven (7) days following receipt by the Contractor of payment from the City for work performed by the subcontractor under the Contract, except for amounts withheld pursuant to subparagraph 12a. above.
- D. Include in its contracts with any and all subcontractors the requirements of a, b, and, c above.

## **13. Liability Coverage**

Unless otherwise expressly excepted in the procurement announcement documents prepared by the City, the Contractor shall take out and maintain during the life of the Contract such bodily injury, liability and property damage liability insurance as shall protect it and the City from claims for damages for personal injury, including death, as well as from claims for property damage, which may arise from its activities under this agreement. Such insurance shall at least have the coverages and be in the amounts set forth in section 15 "Insurance and Bond Requirements" set forth below and shall name the Board of Supervisors and the City as Additional Insureds. Such insurance must be issued by a company admitted within the Commonwealth of Virginia and with at least a Best's Key Rating of A:V1. The Contractor shall provide the City with a certificate of insurance showing such insurance to be in force and providing that the insurer shall give the City at least 30 days' notice prior to cancellation or other termination of such insurance.



**14. Loss or Damage in Transit**

Delivery by a contractor to a common carrier does not constitute delivery to state agencies or political subdivisions. Any claim for loss or damage incurred during delivery shall be between the contractor and the carrier. The state accepts title only when goods are received regardless of the F.O.B. point. The receiving agency will note all apparent damages in transit on the freight bill and notify the contractor. Discovery of concealed damages or loss will be reported by the receiving agency to the carrier and the contractor within seven days of receipt and prior to removal from the point of delivery if possible. The contractor shall make immediate replacement of the damaged or lost merchandise or be in default of the contract. It shall be the contractor's responsibility to file a claim against the carrier. If damage is to a small quantity, with the approval of the agency, the contractor may deduct the amount of damage or loss from his or her invoice to the agency in lieu of replacement.

**15. Freight**

By signing an IFB the bidder certifies that the bid price(s) offered for F.O.B. destination include only the actual freight charges at the lowest and best rate and is based upon the actual weight of the goods to be shipped. Freight charges are, therefore, established for each individual purchase. If a requirement is bid F.O.B. origin, the contractor shall prepay the charges and add the amount to the invoice. A copy of the freight bill should be attached to all invoices that include freight charges. In a solicitation specifying F.O.B. origin the state will consider freight cost in the evaluation of bids.

**16. Termination for Default**

In case of default by a contractor for failure to deliver or perform in accordance with the contract specifications or terms and conditions, the City may procure the articles or services from other sources and hold the defaulting contractor responsible for any resulting additional purchase and administrative costs. The City will normally repurchase from the next low bidder or purchase competitively by resolicitation. If the repurchase results in increased costs to the City, a letter will be sent to the defaulted contractor required payment for additional costs. When repayment is requested, the contractor will be removed from future bidding until the repayment has occurred. Contractors shall not be liable for any excess cost if the failure to perform arises out of any act of war, order of legal authority, strikes, act of God, or other unavoidable causes not attributed to their fault or negligence. Failure of a contractor's source to deliver is generally not considered to be an unavoidable cause. The burden of proof rests with the contract.

**17. Insurance and Bond Requirements**

The Contractor shall maintain the following insurance to protect it from claims under the Workmen's Compensation Act, and from any other claims for personal injury, including death, and for damage to property that may arise from operations under the Contract, whether such operations be by itself or by any subcontractor, or anyone directly or indirectly employed by either of them.

**TYPE OF COVERAGE**

**LIMITS**

Workers' Compensation and Employer's Liability including coverage under United States Longshoremen's and Harbor Worker's Act where applicable

Statutory, including Employer's Liability of \$100,000.00 Each Accident  
\$500,000.00 Disease-Policy Limit  
\$100,000.00 Disease-Each Employee

Comprehensive General Liability endorsement coverages.

Including the Broad Form C.G.L.

Premises – Operations  
Bodily Injury Liability and Property Damage Liability Combined

\$500,000 Each Occurrence  
\$1,000,000 Aggregate

Including:  
Underground Hazard (U)  
Explosion and Collapse  
Hazard (XC)

Independent Contractors – Owner's Protective Bodily Injury Liability and Property Damage Liability Combined

\$500,000 Each Occurrence  
\$1,000,000 Aggregate

Completed Operations - Products Liability  
Bodily Injury Liability and Property Damage Liability Combined for five (5) years after payment

\$500,000 Each Occurrence  
\$1,000,000 Aggregate

Contractual Bodily Injury Liability and Property Damage Liability Combined in accordance with Agreement between Owner and Contractor

\$500,000 Each Occurrence  
\$1,000,000 Aggregate

Personal Injury with Employee's Exclusion C deleted

\$1,000,000 Aggregate

Automobile Bodily Injury Liability and Property Damage Liability Combined covering all automobiles, trucks, tractors, trailers, or other automobile equipment, whether owned, non-owned, or hired by the Contractor

\$500,000 Per Accident

Umbrella/Excess Liability

\$1,000,000 Each Occurrence  
\$1,000,000 Aggregate

Professional Liability Insurance

\$1,000,000 Limit of Liability

1. The Contractor shall purchase and maintain insurance coverage on his tools, equipment and machinery and shall waive subrogation to the City for damage thereto.

2. The City reserves the right to require insurance of any Contractor in greater amounts provided notice of such requirements is stated in the Solicitation.

**18. Assignment of Contract**

The contract shall not be assignable by the Contractor in whole or in part without the written consent of the City.

**19. Execution**

All work performed shall be in accordance with all local, state and federal codes, laws and regulations, including but not limited to: Virginia Conflict of Interest Act, Virginia Fair Employment Contracting Act, Virginia Freedom of Information Act, Virginia Prompt Payment Act, and the Virginia Public Procurement Act.

**20. No Waiver**

Any failure of the City to demand rigid adherence to one or more of this Agreement's provisions in the contract, on one or more occasions, shall not be construed as a waiver nor deprive the City of the right to insist upon strict compliance with the terms of this Contract. Any waiver of a term of this Contract, in whole or in part, must be in writing and signed by the party granting the waiver to be effective.

**21. Audit**

The Contractor hereby agrees to retain all books, records, and other documents relative to this contract for five (5) years after final payment, or until audited by the City, whichever is sooner. The City, its authorized agents, and/or State auditors shall have full access to and the right to examine any of said material during said period.

**22. Termination and Cancellation**

The City shall have the unilateral right to terminate this contract for default, in the event that any one or more of the following events of default occur or continue during the term of this agreement: (a) the Contractor shall fail to deliver the equipment or services required by this contract or, (b) the Contractor shall repeatedly fail to respond to request for maintenance or other services within the time limits set forth in the contract or, (c) the Contractor shall breach any of the other cures after receiving a "Show Cause Notice" identifying the failure, then providing the Contractor ten (10) days to cure the failure/nonperformance.

If the Contractor fails to answer the cure notice, or does not correct the deficiencies noted, the City may immediately terminate the agreement for default. In such event the City will only be liable for cost incurred to the date of termination. All costs of de- installation and return of the equipment will be at the Contractor's expense. The City's

failure to exercise its right to terminate for default under this provision shall not be construed as a waiver of its right to terminate, rescind or revoke this contract in the event of any subsequent breach of any provisions of this agreement.

The City has the right to terminate the agreement in whole or in part of convenience and shall require no breach of contract by the offeror as a condition of termination. This right of termination for convenience may be exercised at the sole unconditional discretion of the City. If the contract is terminated in whole or in part for the convenience of the City, the Contractor shall be paid for the service done and the remaining buyout of the lease to the date of termination, but shall not be paid any other fees or lost profits.

**23. Work Site Damages**

Any damages, including damage to finished surfaces, resulting from the performance of this contract shall be repaired to the satisfaction of the City at the Contractor's expense.

**24. Choice of Law**

To ensure uniformity of the enforcement of this Contract, and irrespective of the fact that either of the parties now is, or may become, a resident of a different state, this Agreement shall be governed by and construed in accordance with the laws of the Commonwealth of Virginia without regard to her principles of conflicts of law.

**25. Forum Selection**

The parties hereby submit to the personal jurisdiction and venue of any state or federal court located within the Commonwealth of Virginia for resolution of any and all claims, causes of action or disputes arising out of or related to this Contract and agree that service by registered mail to the addresses set forth in Paragraph 20 of this Appendix shall constitute sufficient service of process for any such action. The parties further agree that any claims, causes of action or disputes arising out of, relating to or concerning this Contract shall have jurisdiction and venue only in the Circuit Court of Franklin or in the U.S. District Court, Eastern District of Virginia.

**26. Severability**

If any provision of this Contract is held to be illegal, invalid, or unenforceable, or is found to be against public policy for any reasons, such provision shall be fully severable and this Contract shall be construed and enforced as if such illegal, invalid, or unenforceable provision had never been part of this Contract, and the remaining provisions of this Contract shall remain in full force and effect and shall not be affected by the illegal, invalid, or unenforceable provision, or by its severance from this Contract.

**27. Notices**

All requests, notices and other communications required or permitted to be given under this Contract shall be in writing and delivery thereof shall be deemed to have been made when such notice shall have been either (a) duly mailed by first-class mail, postage prepaid, return receipt requested, or any comparable or superior postal or air courier service then in effect, or (b) transmitted by hand delivery, telegram, telex, telecopy or facsimile transmission, to the party entitled to receive the same at the address indicated below or at such other address as such party shall have specified by written notice to the other party. Notices to the City shall be sent to:

Ms. Amanda Jarratt, City Manager  
City of Franklin  
207 West 2<sup>nd</sup> Avenue  
Franklin, VA 23851

**28. Contractual Claims Procedure**

- A. Contractual claims or disputes, whether for money or other relief, except for claims or disputes exempted by law from the procedure set forth herein, shall be submitted in writing no later than sixty (60) days after final payment; provided, however, that Contractor shall give the City written notice of its intention to file a claim or dispute within fifteen (15) days after the occurrence upon which the claim or dispute shall be based. Any written notice of Contractor's intention to file such a claim or dispute need not detail the amount of the claim, but shall state the facts and/or issues relating to the claim in sufficient detail to identify the claim, together with its character and scope. Whether or not Contractor files such written notice, Contractor shall proceed with the work as directed. If Contractor fails to make its claim or dispute, or fails to give notice of its intention to do so as provided herein, then such claim or dispute shall be deemed forfeited.
- B. The City, upon receipt of a detailed claim, may at any time render its decision and shall render such decision within one hundred twenty (120) days of final payment. Each such decision rendered shall be forwarded to the Contractor by written notice.
- C. If the Contractor disagrees with the decision of the City concerning any pending claim, the Contractor shall promptly notify the City by written notice that the Contractor is proceeding with the work under protest. Any claim not resolved, whether by failure of the Contractor to accept the

decision of the City or under a written notice of Contractor's intention to file a claim or a detailed claim not acted upon by the governing body of the City, shall be specifically exempt by the Contractor from payment request, whether progress or final. Pendency of claims shall not delay payment of amounts agreed due in the final payment.

- D. The decision on contractual claims by the governing body of the City shall be final and conclusive unless the Contractor appeals within six months of the date of the final decision on the claim by instituting legal action in the appropriate circuit court.

**Invitation for Bids  
Youth Soccer Court**

**Bid Form**

The undersigned BIDDER proposes and agrees, if this BID is accepted, to enter into an Agreement with OWNER for the fixed price set forth herein and under the General Terms and Conditions (Appendix B) included in this Invitation for Bids. The Bidder further agrees to perform and furnish all work during the hours specified in the Invitation for Bids and in accordance with any other terms and conditions of the Contract Document.

BIDDER accepts all terms and conditions of the Invitation to Bid and instructions to bidders. This Bid will remain subject to acceptance for one hundred twenty (120) days after the day of Bid opening.

By: \_\_\_\_\_  
(Individual's Name or Company Name)

Business Address: \_\_\_\_\_  
\_\_\_\_\_

Phone Number: \_\_\_\_\_

By: \_\_\_\_\_  
(Print name of person authorized to sign)

Signature: \_\_\_\_\_  
(Authorized signer's signature)

Title: \_\_\_\_\_  
(Title of person authorized to sign)

Business License Number: \_\_\_\_\_

A. Total Bid for asphalt repairs and overlay as specified in the scope of work.

\$ \_\_\_\_\_  
(Written in words)

\$ \_\_\_\_\_  
(Figures)



**Invitation for Bids  
Youth Soccer Court**

**Bid Declaration**

NAME OF PROJECT: Youth Soccer Court

TO THE CITY MANAGER:

1. The undersigned hereby declare that he (it) is the only person (firm) interested in this bid/proposal; that it is made without any connection with any person making another bid/proposal for this same contract; that the bid/proposal is in all respects fair and without collusion or fraud; and that no official of the City or any department of the City or any person in the employ of the Council is directly or indirectly interested in the bid/proposal or any portion of the profit thereof.
2. The undersigned also declares that the specifications and all annexed instructions and contracts in the Invitation for Bid or Request for Proposal have been carefully examined.
3. The undersigned also declares that all the required services will be performed and all the terms of the bid/proposal will be fulfilled, if selected.

Name of Bidder: \_\_\_\_\_

Address of Principal Place of Business: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Phone: \_\_\_\_\_

Fax: \_\_\_\_\_

Date: \_\_\_\_\_

Name of Sales Representative: \_\_\_\_\_

Name and Title of Person Signing Bid: \_\_\_\_\_

Signature: \_\_\_\_\_

