



TOWN OF YORKTOWN

BID AND SPECIFICATIONS

**REHABILITATION OF BASKETBALL COURT
AT RAILROAD PARK**

FOR THE

**TOWN OF YORKTOWN
RECREATION DEPARTMENT**

BID# 22-E2

**Matthew Slater
Town Supervisor**

**Daniel A. Ciarcia, P.E.
Town Engineer**

**James Martorano
Superintendent
Parks and Recreation**

Dated: March 1, 2022

**TOWN OF YORKTOWN
REHABILITATION OF BASKETBALL COURT
AT RAILROAD PARK**

INSTRUCTIONS TO BIDDERS

NOTICE IS HERE GIVEN that sealed bids will be received by the Town Clerk, Town of Yorktown, Yorktown Heights, NY until **11:00 AM on March 24, 2022** at Town Hall, 363 Underhill Avenue, Yorktown Heights, N.Y. 10598, for Rehabilitation of the Basketball Court at Railroad Park- Bid# 22-E2. located at Intersection of Underhill Avenue and Commerce Street in Yorktown Heights, NY. Copies of the Bid Documents will be available in the office of the Town of Yorktown Town Clerk located at 363 Underhill Avenue, Yorktown Heights, NY 10598. A completed Bid Proposal Form must be returned to the Town Clerk, 363 Underhill Avenue, Yorktown Heights, NY 10598, marked: **“BID: Rehabilitation of Basketball Court at Railroad Park”**.

The Bid Documents consists of the following documents:

1. **Instructions to Bidders**
2. **Part One** Bid Proposal Form
3. **Part Two** General Terms and Conditions of Bid
4. **Part Three** Specifications
5. **Part Four** Plan entitled “Basketball Court Rehabilitation Project, Railroad Park” dated January 24, 2022, last revised March 1, 2022
6. **Non-Collusive Bidding Certificate**

Wherever in the Bid Documents any section or paragraph is stamped "VOID", only the section(s) or paragraph(s) so stamped are void. All other sections(s) and paragraph(s) remain in full force and effect.

A submitted bid will consist of

1. one original completed **Bid Proposal Form**, signed on behalf of Bidder with information for all blanks supplied, and a detailed listing of any exceptions taken by Bidder; and
2. A signed and notarized Non-Collusive Bidding Certificate.

Diana L. Quast, Town Clerk
Town of Yorktown

**TOWN OF YORKTOWN
REHABILITATION OF BASKETBALL COURT
AT RAILROAD PARK**

**PART ONE
BID PROPOSAL FORM**

The Town of Yorktown seeks bids from qualified parties to rehabilitate the basketball court in Railroad Park in accordance with this bid document.:

BIDDER'S OFFICIAL CORPORATE NAME (required, if bidder is a corporation):

BIDDER'S D/B/A NAME (if any) _____

ITEM No. 1 Lump Sum Bid

TOTAL PRICE BID

Dollar Amount: \$ _____

Amount in words: _____

The price(s) set forth above shall remain valid for one (1) year from the date of bid award.

Prices in the bid must cover all of bidder's costs. There shall be no additional charges to the Town for delivery, training, set-up, etc.

Name of person authorized to submit bid for bidder:

Signed: _____

TITLE of authorized person: _____

BIDDER'S CORPORATE NAME:

BIDDER CONTACT INFORMATION:

PRINT NAME: _____

TITLE: _____

Address: _____ State: _____ Zip: _____

Phone: _____

Fax: _____

Email: _____ @ _____

- END OF BID PROPOSAL FORM -

**TOWN OF YORKTOWN
SERVICES AND PUBLIC WORKS CONTRACTS BID**

PART TWO

General Terms and Conditions of Bid

<u>Section Numbers</u>	<u>Heading</u>
Section 1.	Bid Proposal Form
Section 2.	Pre-Bid Site Inspection
Section 3.	Quality and Samples
Section 4.	Request for information and/or clarification of the Bid Documents
Section 5.	Non-Collusion
Section 6.	Late Bids
Section 7.	Bid Opening
Section 8.	Acceptance and Rejection
Section 9.	Appeal of Determination of Non-Responsiveness and Non-Responsibility
Section 10.	Award
Section 11.	Notice of Award
Section 12.	Performance and Payment Bond
Section 13.	Assignment Prohibited
Section 14.	Special Requirements
Section 15.	Purchase of Additional Quantities of Bid Items
Section 16.	Contractor's Subcontracts and Material Lists
Section 17.	Representative Always Present
Section 18.	Performance
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Section 20.	Indemnification

<u>Section Numbers</u>	<u>Heading</u>
Section 21.	Delivery Point
Section 22.	Date of Delivery
Section 23.	Damages
Section 24.	Warranty/Guarantee
Section 25.	Breach of Contract/Termination
Section 26.	Prevailing Wage Rates and Supplements
Section 27.	Estimates and Payments
Section 28.	Payments to Subcontractors and Materialmen by Contractor
Section 29.	Change in Contract Price
Section 30.	Proper Method of Work and Materials
Section 31.	Utilities and Service Lines
Section 32.	Protection, Existing Structures
Section 33.	Acceleration of the Work
Section 34.	Stopping Work
Section 35.	Change in the Contract Time
Section 36.	Disputed Work – Notice of Claims for Damages

Section 1. Bid Proposal Form

- 1.1** The bidder shall complete the Bid Proposal Form by filling in the unit price and the total price in the appropriate designated spaces. Unit price and total price of each item bid shall be written legibly in ink, or typed. All bids shall be signed in ink. Any erasures or alterations shall be initialed in ink by the signer. The completed Bid Proposal Form shall be submitted, along with any documentation in support of the bid proposal if required by the Bid Documents, in a sealed envelope addressed as required in the Invitation to Bidders on or before the time and at the place so designated. Any Bid Proposal Form which has been materially altered in any way may render the bid nonresponsive and the bid rejected.
- 1.2** In the event of a discrepancy between the unit price and the total price of the Bid Proposal Form, the unit price will prevail. In the event of a discrepancy between the written bid amount and the numerical bid amount, the written amount will take precedence and be controlling as to the amount of the Bid. All items not bid shall be indicated as “not bid” in the total price space. When bids are requested on a lump sum basis, bidder must bid on each item in the lump sum group. Any bidder desiring to bid “no charge” on an item in a group must so indicate.
- 1.3** Failure to comply with the provisions of this section may be grounds for rejection of the bid proposal.
- 1.4** Correction or withdrawal of a bid because of an inadvertent, non-judgmental mistake in the Bid Proposal Form requires careful consideration to protect the integrity of the competitive bidding process, and to ensure fairness. If the mistake is attributable to an error in judgment, the Bid Proposal Form may not be corrected. Bid correction or withdrawal by reason of the non-judgmental mistake is permissible at the sole discretion of the Town Clerk, but only to the extent that it is not contrary to the interests of the Town or the fair treatment of other bidders.
- 1.5** By signing the Bid Proposal Form, the bidder certifies that:
 - i.** the person whose signature appears below is legally empowered to bind the bidder;
 - ii.** the bidder has read the complete Bid Documents and understands and agrees to all terms and conditions set forth in the Bid Documents;
 - iii.** if accepted by the Town, the bid is guaranteed as written and will be implemented as stated;

- iv. By submission of the bid, each bidder and each person signing on behalf of any bidder certifies, and in the case of a joint bid each party thereto certifies as to its own organization, under penalty of perjury, that to the best of its knowledge and belief that each bidder is not on the list created pursuant to paragraph (b) of subdivision 3 of section 165-a of the New York State Finance Law.¹²

- 1.6** The bidder understands and agrees that quantities shown on the Bid Proposal Form opposite items of the work for which unit prices have been requested are approximate estimated quantities, and that during the progress of the work the Town may find it advisable and shall have the right to omit portions of the work, and to increase or decrease the shown approximate estimated quantities, or the scope of the whole work; and that the Town reserves the right to add to or take from the total amount of the work up to a limit of thirty (30%) percent of the total amount of the contract based upon the executed contract price for all the specified work.
- 1.7** The bidder shall make no claim for anticipated profits or loss of profits, because of any difference between the quantities of the various classes of work actually done, or of the materials actually furnished, and the original specified scope of work and the shown approximate estimated quantities.
- 1.8** All prices bid include a sum sufficient for the preparation and submission of approved final “As-builts”, record drawings, guarantees, warranties, and operations and maintenance manuals.
- 1.9** All plans and other like records compiled by the contractor in completing the work under this contract shall become the property of the Town. The Contractor may retain copies of each such plan or record for its own use.
- 1.10** The contractor shall secure and pay for all necessary permits for the proper executing and completion of work.
- 1.11** The Town is exempt from all federal, state and local taxes.

Section 2. Pre-Bid Site Inspection

- a. The bidder shall satisfy itself by personal examination of the location of the proposed work and surroundings thereof, and by such other means as it may prefer, as to the scope of the work and the accuracy of the approximate estimated quantities; and shall not at any time after submission of the bid dispute such approximate estimated quantities or assert that there was any misrepresentation by the Town or any misunderstanding by the bidder in regard to the quantity or kind of materials to be furnished, or work to be done. Failure to do so will not relieve a successful bidder contractor ("contractor") of the obligation to furnish all material and labor necessary to carry out the provisions of the contract documents and to complete the contemplated work for the consideration set forth in its bid.
- b. Unless otherwise stated, the bidder is free and encouraged to examine the work site during normal work hours preceding the submission of the bid. For those bidders requesting further clarification of the conditions, an appointment with the Town's representative, can be requested, by contacting the, Town Clerk.
- c. At the time of the opening of bids each bidder will be presumed to have inspected the sites and to have read and to be thoroughly familiar with the Bid Documents.

Section 3. Quality and Samples

- 3.1 All equipment, material and supplies bid upon must conform to the description and specifications set forth in the in the Bid Documents, or their reasonable equivalent.
- 3.2 References in the Bid Documents to type, style, brand or trade name, and catalog are intended to be descriptive only and not restrictive.

Section 4. Request for information or interpretation and/or clarification of the Bid Documents

- 4.1 The bidder shall have seven (7) business days prior to the bid opening date to notify the Town Clerk in writing of any errors or defects in the Bid Documents which would prevent the bidder from providing a responsive bid.
- 4.2 No interpretation of the Bid Documents will be made to any bidder orally by any representative of the Town.
- 4.3 Any request for information or interpretation and/or clarification of the Bid Documents must be addressed in writing to Diana Quast, Yorktown Town Clerk, 363 Underhill Avenue, Yorktown Heights, NY 10598, and be submitted not later than five (5) business days prior to the date fixed for the opening of bids.

- 4.4 Any written response to a request for information or interpretation and/or clarification of the Bid Documents shall be issued by Town Clerk and will be incorporated into and made part of the Bid Documents and will be made available in the same manner and method as the Bid Documents. The Town Clerk's decision shall be final and binding on all parties. The failure of any bidder to receive such Addenda will not relieve the contractor of any obligation to comply with the terms and conditions of the Addenda.
- 4.5 The Bid Documents, including the drawings, Bid Documents, have been prepared with care and are intended to show as clearly as is practicable the work required to be done. The bidder must realize however, that construction details cannot always be accurately anticipated and that in executing the work, field conditions may require reasonable modifications in the details of the plans and quantities of work involved. Work under all items in the contract must be carried out to meet these field conditions to the satisfaction of the Town and in accordance with the Bid Documents. The bidder shall not take advantage of any apparent errors or omission in the Bid Documents. In the event the contractor discovers an error or omission in the Bid Documents, it shall immediately notify the Town. The Town will then make such corrections and interpretations as may be deemed necessary for fulfilling the intent of the Bid Documents.
- 4.6 A bidder's failure to request a clarification, interpretation, etc. of any portion of the Bid Documents or to point out any inconsistency therein will preclude such bidder from thereafter claiming any ambiguity, inconsistency, or error which should have been discovered by a reasonably prudent bidder and from asserting any claim for damages arising directly or indirectly therefrom.

Section 5. Non-Collusion

- 5.1 The bidder shall certify that it has complied with all of the requirements stated in the non-collusive bidding certificate by signing the form included in the Bid Documents. Failure by the bidder to complete and sign the non-collusive bidding certificate will constitute grounds for rejection of the bid.

Section 6. Late Bids

- 6.1 All bids received after the deadline date and time stated in the Instructions to Bidders will not be considered and will be returned to the bidder unopened. The bidder assumes the risk of any delay in the mail and the handling of the mail by the employees of the Town. Whether sent by mail or by means of personal delivery, the bidder assumes all responsibility for having the bid delivered on time and to the place specified above.

Section 7. Bid Opening

- 7.1** Sealed bids will be publicly opened on the date and time specified in the Instructions to Bidders. Bids may be read aloud to those persons present when practicable. Any bidder may request to review any submitted Bid Proposal Forms by arranging a mutually convenient time with the Town Clerk.
- 7.2** The prices stated in the Bid Proposal Form are irrevocable until the Notice of Award is issued, unless the bid is withdrawn only after the expiration of sixty (60) days from the bid opening and only in writing received by the Town Clerk and in advance of the issuance of the Notice of Award.

Section 8. Acceptance or Rejection

- 8.1** A responsive bid is one that complies with all material terms and conditions of the Bid Documents.
- 8.2** If the lowest price bid or proposal is found non-responsive, a determination setting in detail and with specificity the reasons for such finding shall be issued by the Town Clerk. A copy of such determination shall be mailed to the non-responsive bidder no later than two (2) business days after the determination is made.
- 8.3** The Town reserves the sole right to waive any informality that is a matter of form rather than substance without prejudice to other bidders and what is in the best interests of the Town. The Town's decision shall be final and binding.
- 8.4** Any corporation not incorporated under the Laws of New York State, must furnish a copy of its certificate of authority, from the New York State Secretary of State, to do business in the State of New York, in accordance with Article 13 of the New York State Business Corporation Law.
- 8.5** The Town will consider the qualifications of all bidders and may conduct such investigation as it deems necessary to assist in the evaluation of any bid. The Town reserves the right to reject any bid if the evidence submitted by, or the investigation of such bidder fails to satisfy the Town, in the Town's sole discretion, that it is properly qualified to carry out the obligations of the contract and to complete the contemplated work. In evaluating a bidder's responsibility the Town may consider the following factors:
 - i.** financial resources;
 - ii.** technical qualifications;
 - iii.** experience;

- iv. organization, material, equipment, facilities, and personnel resources and expertise (or the ability to obtain them) necessary to carry out the work and to comply with required delivery or performance schedules, taking into consideration other business commitments;
- v. a satisfactory record of performance;
- vi. a satisfactory record of business integrity;
- vii. where the contract includes provisions for reimbursement of contractor costs, the existence of accounting and auditing procedures adequate to control property funds, or other assets, accurately delineate costs, and attribute them to their causes; and
- viii. compliance with requirements for the utilization of small, minority-owned, and women-owned businesses as subcontractors.

8.6 The Town reserves the right to require additional information as it deems appropriate concerning the history of any bidder's performance of prior contracts. The final determination of whether the bidder possesses the requisite experience rests in the sole discretion of the Town. Failure of a bidder to provide relevant information specifically requested by the Town may be grounds for a determination of non-responsive and/or non-responsible.

Section 9. Appeal of Determination of Non-Responsiveness or Non-Responsible

- 9.1** Any determination that a bid is non-responsive or a bidder is non-responsible may be appealed as set forth herein.
- 9.2** Time Limit; A bidder shall have five (5) business days from receipt of the determination of non-responsiveness or non-responsible to file an appeal with the Town Clerk. Receipt of notice by the bidder shall be deemed to be no later than five (5) business days from the date of mailing or upon delivery, if delivered. Filing of the appeal shall be accomplished by actual delivery of the appeal document to the Town Clerk. The bidder shall also send a copy of its appeal, for informational purposes, to the Town Attorney.
- 9.3** Form and Content; The appeal shall be in writing and shall briefly state all the facts or other basis upon which the bidder contests the finding of non-responsiveness or non-responsible. Supporting documentation, if any, shall be included.
- 9.4** Stay of Award of Contract Pending. Award of the contract shall be stayed pending the determination of the Town Clerk unless the Town Clerk makes a determination that proceeding with the award without delay is necessary to protect substantial Town's interests. Where such a determination is made, the bidder shall be advised of this action in the determination of non-responsiveness or, if the stay is removed at any time after the bidder has been notified of determination of non-responsiveness or non-responsible, notification shall be provided to the bidder no

later than two (2) business days after such determination is made. The Town Clerk shall consider the appeal, and may, in his or her sole discretion, meet with the bidder to discuss the merits of the appeal. The Town Clerk shall make a prompt determination with respect to the merits of the appeal, a copy of which shall be sent to the bidder. The Town Clerk's determination shall be final.

Section 10. Award

- 10.1** Town reserves the right to make an award within sixty (60) days after the date of the bid opening, during which period bids may not be withdrawn.
- 10.2** The Award will be made to the responsible and responsive bidder submitting the lowest bid that fully complies with all the specifications stated in the Bid documents.
- 10.3** Town reserves the right to reject all bids and to purchase any or all items on contracts awarded by agencies or departments of the State of New York or of the Town, if such items can be obtained on substantially the same terms, conditions, specifications, and at a lower price.

Section 11. Notice of Award

- 11.1** If the bid is awarded by Town, a written Notice of Award will be issued by the Town Clerk to the contractor. Such Notice of Award will constitute a binding enforceable contract between the contractor and the Town of Yorktown. These General Terms and Conditions shall be incorporated into the contract as material terms.
- 11.2** The Town may issue a Notice of Award based on either Lowest Responsible Bid or Best Value, in accordance with the 2012 amendments to General Municipal Law § 103, as implemented by Yorktown Town Code Chapter 78 entitled *Procurement for Goods and Services*.
- 11.3** Upon receipt of the Notice of Award the contractor will be required to submit to the Town Clerk a completed W-9 form in addition to any other information or documents required by the Town. Failure to supply a completed W-9 form or such other information or documents required by the Town will invalidate the bid.

Section 12. Performance and Payment Bond

- 12.1** If a Performance and Payment bond is required in accordance with the Instruction to Bidders, the "Bid Bond and Consent of Surety" Form must be executed by the contractor's Surety Company and submitted to the Town.

Section 13. Assignment Prohibited

- 13.1** The contractor shall not assign, transfer, convey or otherwise dispose of the contract or any part of it or any monies due and payable under the contract, without prior written approval of the Town. If such approvals are granted by the Town, they shall in no way relieve the contractor or from any obligations under the terms of the contract.

Section 14. Special Requirements

- 14.1** Special requirements for any bid may supersede and/or be added to any provision contained in these General Terms and Conditions.

Section 15. Purchase of Additional Quantities of Bid Items

- 15.1** The Town may purchase additional quantities of the bid items at any time during the contract period, for the same price and under the same terms and conditions as set in the Bid Proposal Form.

Section 16. Contractor's Subcontracts and Material Lists

- 16.1** Within fifteen (15) days after execution of the Contract, the contractor shall submit to the Town for approval a list of the subcontractors, materialmen and materials that the contractor plans to use in the performance of the work and statements of the work they are to perform. The format and content of the list shall be in accordance with directives from the Town. No part of the work may be sublet until after the contractor has received the Town's approval. The contractor shall be fully responsible for all acts and omissions of its subcontractors and persons directly or indirectly employed by them, and the Town's approval to sublet parts of the work will in no way relieve the contractor of any of its obligations under the Contract. All dealings of the Town with the subcontractors shall be through the contractor.
- 16.2** The contractor shall insert appropriate clauses in all subcontracts to bind the subcontractors to the contractor by all applicable provisions of the contract documents executed between the contractor and the Town, but this shall not be construed as creating any contractual relationships between subcontractors and the Town. Prior to approval of the subcontractors, the Town has the right to review and recommend changes in the subcontracts. The Town reserves the right to reject any subcontractor proposed by the contractor if in the reasonable opinion of the Town such subcontractor lacks the experience or capability to perform its subcontract work or is otherwise non-responsible.

- 16.3** The contractor shall insert appropriate clauses in each subcontract that require that if the contractor is terminated by the Town either for default or convenience that at the sole option of the Town the subcontract shall automatically attorn to the Town and the subcontractor shall continue without delay or interruption to fully perform all of the obligations required by its subcontract.

Section 17. Representative Always Present

- 17.1** The contractor in case of its absence from the work shall have a competent representative or foreman present, who shall obey without delay, all instructions of the Town in the prosecution and completion of the work in conformity with the contract, and shall have full authority to supply labor and material immediately.
- 17.2** The contractor, or its superintendent, shall attend job meetings with the Town for the purpose of discussing expedition, execution and coordination of the work. Job meetings will be scheduled periodically (the first to be prior to commencement of construction) at a time and place designated by the Town.
- 17.3** The contractor shall not commence any work prior to the first (pre-construction) meeting between the contractor, Town, and other concerned governmental and utility company representatives.

Section 18. Performance

- 18.1** All work performed and all materials furnished shall be in reasonably close conformity with the lines, grades, cross sections, dimensions and materials requirements, including tolerances, shown in the Bid Documents.
- 18.2** Plan dimensions and contract specification values are to be considered as the target value to be strived for and complied with as the design value from which any deviations are allowed. It is the intent of the specifications that the materials and workmanship shall be uniform in character and shall conform as nearly as realistically possible to the prescribed target value or to the middle portion of the tolerance range. The purpose of the tolerance range is to accommodate occasional minor variations from the median zone that are unavoidable for practical reasons. When a maximum or minimum value is specified, the production and processing of the material and the performance of the work shall be so controlled that material or work shall not be preponderantly of borderline quality or dimension.

- 18.3** Figured dimensions on the plans shall be given preference over scaled dimensions, but shall be checked by the contractor before starting construction.

Information and data on the contract documents shall take precedence in the following order (1) Drawing; Details, Sections, Plans, Notes, General Notes, (2) Technical Specifications, (3) General Specifications. Any errors, omissions or discrepancies shall be brought to the attention of the Town whose decision thereon shall be final.

- 18.4** In the event that the Town determines that the materials or the finished product in which the materials used are not within reasonably close conformity with the Bid Documents but that reasonably acceptable work had been produced, the Town shall then make a determination if the work shall be accepted and remain in place. In this event, the Town will document the basis of acceptance by contract modification, subject to the approval of the Town Board, which will provide for an appropriate adjustment in the contract price for such work or materials as deems necessary.

- 18.5** In the event that the Town determines that the materials or the finished product in which the materials used are not within reasonably close conformity with the Bid Documents and have resulted in an inferior or unsatisfactory product, the work or materials shall be removed and replaced or otherwise corrected by and at the expense of the contractor.

- 18.6** All traffic control devices (signs, signals, markings, and devices placed by the authority of a public body or official having jurisdiction for the purpose of regulating, warning or guiding traffic) shall be in conformity with the latest edition of the New York State Manual of Uniform Traffic Control Devices or other such standard as directed by the Town.

- 18.7** Time being of the essence, the contractor shall take notice that the timely completion of the work called for under the contract is of the greatest importance. The contractor shall commence its work within ten (10) days after "Notice of Award" has been given it by the Town (unless a definite starting date is otherwise stated). Prior to commencing its work, the contractor shall notify the Town, at least forty-eight (48) hours prior to the planned date of its "start".

Section 19. Insurance Requirements

- 19.1** The contractor, upon award of the contract, shall provide at its own cost and expense the following insurance to the Town from insurance companies licensed in the State of New York, carrying a Best's financial rating of "A" or better, which insurance shall be evidenced by certificates and/or policies as determined by the Town.
- 19.2** Each certificate or policy shall require that, thirty (30) days prior to cancellation or material change in the policies, notice thereof shall be given to the Town Clerk by registered mail, return receipt requested, for all of the following stated insurance

policies. All such notices shall name the contractor and identify the contract number or description.

19.3 All policies and certificates of insurance shall be approved by the Town prior to the inception of any work.

- i. Workmen's Compensation: The contractor shall evidence compliance with Workers' Compensation Law, or as otherwise directed by the Town.
- ii. Commercial General Liability Insurance with minimum limits of liability per occurrence of \$1,000,000 with the Town named as an additional insured.
- iii. Automobile Liability Insurance with minimum limits of liability per occurrence of \$1,000,000 with the Town named as an additional insured.
- iv. Additional insurance may be required on an individual basis for extra hazardous contracts and specific service agreements. If such additional insurance is required for a specific contract, that requirement will be described in the Special Requirements of the contract specifications.
- v. If any of the insurance requirements are not complied with at their renewal dates, payments to the contractor will be withheld until those requirements have been met, or at the option of the Town, the Town may pay the Renewal Premium and withhold such payments from any monies due the contractor.
- vi. If at any time any of the foregoing policies shall be or become unsatisfactory to the Town, as to form or substance, or if a company issuing any such policy shall be or become unsatisfactory to the Town, the contractor shall upon notice to that effect from the Town, promptly obtain a new policy, submit the same to the Town for approval and submit a certificate thereof as herein above provided. Upon failure of the contractor to furnish, deliver and maintain such insurance as above provided, the contract, at the election of the Town, may be forthwith declared suspended, discontinued or terminated. Failure of the contractor to secure and/or maintain or the taking out and/or maintenance of any required insurance, shall not relieve the contractor from any liability under the contract, nor shall the insurance requirements be construed to conflict with or otherwise limit the obligations of the contractor concerning indemnification.
- vii. In the event that claims in excess of the insured amounts provided herein, are filed by reason of any operations under the contract, the amount of excess of such claims or any portion thereof, may be withheld from payment due or to become due the contractor until such time as the contractor shall furnish such additional security covering such claims as may be determined by the Town.

Section 20. Indemnification

- 20.1** The contractor hereby agrees to indemnify and save harmless the Town, its officers, employees, elected officials, and agents from and against all liability, loss or damage the Town may suffer, arising directly or indirectly out of the contract between the contractor and the Town. The Contractor further agrees to provide defense for and defend any claims or causes of action of any kind or character directly or indirectly arising out of this Agreement at its sole expense and agrees to bear all other costs and expenses relating thereto. The foregoing provisions shall not be construed to cause the contractor to indemnify the Town, its officers, elected officials, agents or employees from its or their sole negligence.
- 20.2** Neither the acceptance of the completed work nor payment therefore shall release the Contractor from its obligation under this section.

Section 21. Delivery Point

- 21.1** Shipping of any products shall be FOB Destination. Delivery shall be at the location set forth in the Specifications except on national, state or local holidays when Town buildings are closed. Bidder shall be responsible to verify that the appropriate Town building for delivery is open prior to delivering items. All bid items shall be unloaded and placed within the particular Town building, at points of delivery, and in quantities, as directed by the Town. Any costs incurred by the Town or bidder due to the failure of bidder to comply with this requirement will be the responsibility of bidder. Bidder should be prepared to furnish proof of delivery, if requested by Town. Deliveries shall be made in accordance with the specifications, and shall be made Monday through Friday from 8 a.m. to 2 p.m. unless otherwise stated in the Specific Specifications.
- 21.2** If bidder is shipping bid items to Town using a third-party carrier (US Postal Service, UPS, FedEx), there shall be no additional shipping charge to the Town.
- 21.3** Delivery will not be complete until the good are inspected and accepted by the Town.

Section 22. Date of Delivery

- 22.1** Delivery of all materials included under this bid shall be made not later than the date specified in the Bid Documents or Project Schedule. If contractor cannot meet the delivery date specified in Bid Documents or Project Schedule, contractor shall state on the bid form the proposed date of delivery and such date will be considered when determining responsiveness in awarding the bid.

Section 23. Damages

- 23.1** The contractor shall be fully responsible for shipping and delivery of materials specified in the Bid Documents or Project Schedule in an undamaged condition. Town will not consider the carrier responsible for damaged or delayed deliveries. Any bid item damaged or broken when delivered to Town shall be replaced immediately by contractor at no cost to the Town.

Section 24. Warranty/Guarantee

- 24.1** It is the intent of the Bid Documents to require first-class work and materials and any work not fully covered herein Bid Documents shall be interpreted to require first-class work and materials, and such interpretations shall be binding upon the Contractor. The contractor shall be fully responsible for performance of work in a satisfactory manner with satisfactory results in the discretion of the Town quality materials.
- 24.2** Contractor is deemed to warrant and guarantee all work performed under this agreement.
- 24.3** Unless otherwise stated in other parts of the specifications, all work performed or goods supplied under the contract shall be guaranteed by the contractor against all defects resulting from the use of inferior materials, equipment or workmanship, for a period of one (1) year from the date of final completion and acceptance of the work, which shall be defined as the date of the Town's approval of the final Certificate for Payment or from the date the Town takes possession and makes full use of the constructed facility.
- 24.4** Any goods furnished must be standard, new, latest model of the regular stock product, as required by the specifications, with parts regularly used for the type of equipment offered.
- 24.5** No attachment or part will be substituted or applied contrary to manufacturer's recommended and standard practice. All regularly manufactured stock electrical items must bear the label of the Underwriters Laboratories, Inc. Any equipment, part or constructed item which is or becomes defective during the guarantee period shall be replaced or redone by the contractor, including all labor at no additional charge to the Town. All replacements shall carry the same guarantee as the original equipment. The contractor shall make any such replacement promptly upon receiving written notice from Town.

Section 25. Breach of Contract/Termination

25.1 If contractor fails to deliver as ordered, or within the time specified, or within reasonable time as interpreted by Town, or fails to make replacement of rejected or defective goods, whether so requested immediately or as directed by Town, that shall constitute a breach of the contract, and Town may arrange to have the work performed from other sources to take the place of the work product found defective or not delivered. Without limiting the foregoing, Town reserves the right to terminate the contract upon breach upon within ten (10) days written notice provided to the contractor.

Section 26. Prevailing Wage Rates and Supplements

26.1 Wages to be Paid and Supplements to be provided

- i. The contractor shall, at its own cost and expense, comply with all provisions of the Labor Law (i.e. prevailing rate of wages and supplements), Lien Law, Workmen's Compensation Law and all other laws and ordinances affecting the contract or order, either Federal, State or local.

26.2 Records to be kept on Site

The contractor, subcontractors at any tier shall certify their payrolls and keep them on site and available, in addition to the following informative records:

- i. Record of hours worked by each workman, laborer and mechanic on each day; record of days worked each week by each workman, laborer and mechanic;
- ii. Schedule of occupation or occupations at which each workman, laborer and mechanic on the project is employed during each work day and week;
- iii. Schedule of hourly wage rates paid to each workman, laborer and mechanic for each occupation.
- iv. A statement or declaration signed by each workman, laborer and mechanic attesting that they have been provided with a written notice, informing them of the prevailing wage rates and supplements requirement for the contract.

Section 27. Estimates and Payments

27.1 As the work progresses but not more often than once a month and then on such days as the Town shall direct, the contractor will submit a requisition in writing of the amount and value of the work performed and the materials and equipment provided to the date of the requisition, less any amount previously paid to the contractor.

- 27.2** From each requisition, the Town will retain five percent (5%) plus one hundred fifty percent (150%) of the amount necessary to satisfy any claims, liens or judgments against the contractor that have not been suitably discharged. The Town will thereupon cause the balance of the requisition therein to be paid to the contractor.
- 27.3** As a condition to the making of any progress payment as set forth in this paragraph, the Town, in its sole discretion may require the contractor to submit such document as may be reasonably required to establish that the contractor and its subcontractors have timely and properly paid their respective subcontractors and materialmen at any tier.
- 27.4** When the work or major portion thereof, as contemplated by the terms of the contract are substantially completed in the judgment of the Town, the contractor shall submit a requisition for the remainder of the contract balance. An amount equal to two (2) times the value of the remaining items to be completed plus one hundred fifty percent (150%) of the amount that the Town deems necessary to satisfy to satisfy any claims, liens or judgments against the contractor which have not been suitably discharged shall be deducted from the requisition. As the remaining items of work are satisfactorily completed or corrected, the Town will, upon receipt of a requisition, pay for these items less one hundred fifty percent (150%) of the amount necessary to satisfy any claims, liens or judgments.
- 27.5** All estimates will be made for actual quantities for work performed and materials and equipment incorporated in the work as determined by the measurements of the Town, and this determination shall be accepted as final, conclusive and binding upon the contractor. All estimates will be subject to correction in any succeeding estimate.
- 27.6** Payment will be made only upon the written request of the contractor. Payment requests shall be processed by the Town no more than one (1) time per month. Payment will be made for materials pertinent to the project which have been delivered to the site or off-site by the contractor suitably stored and secured in first-class condition as required by the Town. The contractor must submit certified copies of the manufacturer's or vendor's invoices or statements establishing the true purchase value of the material or equipment; freight bills, release of liens and certificate of insurance covering all equipment and materials.
- 27.7** The Contractor shall be responsible for safeguarding stored equipment and materials against loss or damage of any nature whatsoever, shall retain title until incorporated into the work and acceptance by the Town and in case of loss or damage, the contractor shall replace such lost or damaged equipment and materials at no cost to the Town. After receipt of payment, the contractor shall not remove from the site equipment and materials for which such payment was made without written authorization from the Town.
- 27.8** Within thirty (30) days after receiving written notice from the Contractor of substantial completion of the work under this Agreement, the Town will cause an

inspection to be made of the work done under the contract. If, upon such inspection, the Town determines that the work is substantially complete, a Substantial Completion Payment to the contractor for the work done under the contract, less any and all deductions authorized to be made by the Town under the contract or by law, will be issued.

27.9 As a condition precedent to receiving payment therefore, the Contractor must have received Town approval of all Shop Drawing submittals, the Operation and Maintenance Manuals, and As-Built Drawing(s).

27.10 Together with its application for substantial completion payment the Contractor shall also deliver to the Town a verified statement certifying that all claims or liabilities arising from the completed work, including all charges for Extra Work, Change Orders, additional time, damages or credits (collectively referred to as "claims") have been presented to the Town. All such claims shall be described in sufficient detail so as to be easily identified. The contractor's failure to submit the verified statement shall constitute a full and final waiver of all claims against the Town from the beginning of the project through the date of substantial completion as established by the Town. The presentation of the verified statement to the Town shall not constitute an acknowledgement by the Town that any such claim is valid. The Town expressly reserves its right to assert that any such claim(s) is waived or precluded by reason of other provisions of the contract documents. Only claims particularly identified on the contractor's verified statement shall be preserved; all other claims whatever nature shall be deemed waived and released. It shall also submit proof of title of the materials and equipment covered by the contract. The contractor shall also, prior to the issuance of said Substantial Completion Payment, supply to the Town affidavits and certificates for labor, material and equipment (where applicable).

27.11 Within ten (10) days after receiving written notice from the contractor of completion of all the work, the Town will make a final inspection. If upon inspection the Town determines that no further work is needed, the Town will request that the Town approve the completion of the project and authorize payment of the Final Estimate.

Section 28. Payments to Subcontractors and Materialmen by Contractor

28.1 Within fifteen (15) calendar days of the receipt of any payment from the Town, the contractor shall pay each of its subcontractors and materialmen the proceeds from the payment representing the value of the work performed and/or materials furnished by the subcontractor and/or materialmen as reflected in the payment from the Town less an amount necessary to satisfy any claims, liens or judgment against the subcontractor or materialman which have not been suitably discharged and less any retained amount as hereafter described.

28.2 Nothing provided herein shall create any obligation on the part of the Town to pay or to see the payment of any moneys to any subcontractor or materialman

from any contractor nor shall anything provided herein serve to create any relationship in contract or otherwise, implied or expressed between the subcontractor or materialman and the Town. Notwithstanding anything to the foregoing, the Town may tender payments to the Contractor in the form of joint or dual payee checks.

Section 29. Change in the Contract Price

29.1 The Contract Price constitutes the total compensation (subject to authorized adjustments) payable to the contractor for performing the work pursuant to the contract. All duties, responsibilities and obligations assigned to or undertaken by the contractor shall be at its expense without change in the Contract Price.

29.2 The Contract Price may only be changed by a Change Order. Any claim for an increase in the Contract Price shall be based on written notice delivered to Town within fifteen (15) days of the occurrence of the event giving rise to the claim. Notice of the amount of the claim with supporting data shall be delivered within twenty (20) days of such occurrence unless the Town allows an additional period of time to ascertain accurate cost data. Any change in the Contract Price resulting from any such claim shall be incorporated in a Change Order. All change orders are subject to the determination and approval of the Town Board.

Section 30. Proper Method of Work and Proper Materials

30.1 The Town shall have the power in general to direct the order and sequence of the work, which will be such as to permit the entire work under the contract to be begun and to proceed as rapidly as possible, and such as to bring the several parts of the work to a successful completion at about the same time.

30.2 If at any time before the commencement or during the progress of the work the materials and appliances used or to be used appear to the Town as insufficient or improper for securing the quality of work required, or the required rate of progress, he may order the contractor to increase its efficiency or to improve their character, and the contractor shall promptly conform to such order; but the failure of the Town to demand any increase of such efficiency or improvement shall not release the Contractor from its obligation to secure the quality of work or the rate of progress specified.\

30.3 The Contractor will establish the lines, grades and measurements necessary in his opinion to properly locate the work, by setting suitably marked offset or reference stakes. These stakes are referenced to the control points, coordinates and similar data that may be shown on the contract drawings, but the Town reserves the right to modify that information.

- 30.4** The Contractor shall carefully and properly preserve all stakes, pins and markers required at no additional costs to the Town. All existing property lines and survey monuments which may, of necessity have to be disturbed during the construction work, will be property tied to fixed points and reset by the Contractor at no cost to the Town.

Section 31. Utilities and Service Lines

- 31.1** The Contractor is hereby warned that a reasonable opportunity is to be given the municipalities and public service corporations to alter and install pipes, conduits or other structures prior to placing to pavement. No guarantee is given that public utility structures and service lines herein shown are correctly located. Locations given are from the best available information.

Section 32. Protection, Existing Structures

- 32.1** The Contractor, at his expense, shall protect adjacent and other property or premises from damage of any kind during the progress of the work and shall erect and maintain guards around his work in such a way as to afford protection to the public. The Contractor shall be held responsible for improper, illegal, or negligent conduct of himself, his subcontractors, employees and agents in and about said work or in the execution of the work covered by this Contract.
- 32.2** The Contractor shall, at his expense, sustain in their places and permanently protect from direct or indirect injury any and all pipelines, subways, pavements, sidewalks, curbs, railways, buildings, trees, poles, wells, and other property in the vicinity of his work, whether over-or underground, or which appear within the trench or excavations, and he shall assume all costs and expenses for direct or indirect damage which may be occasioned by injury to any of them.
- 32.3** The Contractor's liability shall also include the damage or injury sustained by any structure whatsoever due to settlement of trenches or excavations or to settlement or lateral movement of the sides of such trenches or excavations, whether such movement occurs during or after excavation or backfilling of such trenches or excavations. His liability to so support and protect all such structures from damage or injury shall continue without limitation, throughout the Contract period and during the period of guarantee.
- 32.4** The Contractor shall at all times have on the ground suitable and sufficient material and shall use the same as may be necessary or required for sustaining and supporting any and all such structures which are uncovered, undermined, weakened, endangered, threatened, or otherwise materially affected.
- 32.5** In case injury occurs to any portion of a pipeline or structure, or to the material surrounding or supporting the same, through blasting or similar operations, the Contractor shall immediately notify the Engineer, and, at his expense, shall remove such injured work and shall rebuild the pipeline or structure and shall

replace the material surrounding the supporting the same, or shall furnish such material and perform such work of repairs or replacement as the Town may order. Any damage whatsoever shall be promptly, completely and satisfactorily repaired by the Contractor at his expense.

Section 33. Acceleration of the Work

- 33.1** The Town may, at its sole discretion and as circumstances reasonably require, require the contractor to accelerate the schedule of performance by providing overtime, extended day, extra crews, Saturday, Sunday and/or holiday work and/or by having all or any subcontractors designated by the Town provide overtime, extended day, extra crews, Saturday, Sunday or holiday work by the contractor's or his subcontractor's own forces.
- 33.2** The Town, pursuant to a validly issued written change order, may reimburse the contractor for the direct cost to the contractor of the premium time for the labor utilized by the contractor in such overtime, extended day, extra crews, Saturday, Sunday or holiday work (but not for the straight time costs of such labor) together with any social security and state or federal unemployment insurance taxes in connection with such premium time. However, no overhead, supervision costs, commissions, profit or other costs and expenses of any nature whatsoever, including impact costs or costs associated with lost efficiency or productivity, shall be payable in connection therewith.
- 33.3** Anything to the foregoing notwithstanding, in the event that the contractor has fallen behind schedule or in the Town's judgment appears likely to fall behind schedule, Town shall have the absolute right to direct the contractor to accelerate the performance of its work, including that of its subcontractors, and the full costs for such acceleration shall be borne solely by the contractor.

Section 34. Stopping Work

34.1 Town May Suspend Work:

- i.** The Town may, at any time and without cause, suspend the work or any portion thereof for a period of not more than ninety (90) days by notice in writing to the contractor which shall fix the date on which work shall be resumed. The contractor shall resume the Work on the date so fixed. Subject to the approval of the Town Board, the contractor may be allowed an increase in the Contract Price or an extension of the Contract Time, or both, directly attributable to any suspension.

34.2 The Town May Terminate:

A. Upon the occurrence of any one or more of the following events:

- 1. If the contractor is adjudged bankrupt or insolvent,

2. If the contractor makes a general assignment for the benefit of creditors,
3. If a trustee or receiver is appointed for the contractor or for any of the contractor's property,
4. If the contractor files a petition to take advantage of any debtor's act, or to reorganize under the bankruptcy or similar laws,
5. If the contractor repeatedly fails to supply sufficient skilled workers or suitable materials or equipment,
6. If the contractor repeatedly fails to make prompt payments to Subcontractors or for labor, materials or equipment,
7. If the contractor disregards laws, ordinances, rules, regulations or orders of any public body having jurisdiction,
8. If the contractor disregards the authority of the Town, or
9. If the contractor otherwise violates in any substantial way any provisions of the Bid Documents or the Contract. The Town may after giving the contractor and its Surety seven (7) days written notice, terminate the services of the contractor, exclude the contractor from the site, incorporate in the work all materials and equipment stored at the site or for which Town has paid the contractor but which are stored elsewhere, and finish the Work as Town may deem expedient. In such case the contractor shall not be entitled to receive any further payment until the work is finished. If the unpaid balance of the Contract Price exceeds the direct and indirect costs of completing the work, including compensation for additional professional services, such excess shall be paid to the contractor. If such costs exceed such unpaid balance, the contractor shall pay the difference to the Town.

B. Where the contractor's services have been so terminated by the Town, the termination shall not affect any rights of Town against the contractor then existing or which may thereafter accrue. Any retention or payment of moneys due the contractor by Town will not release the contractor from liability.

C. Upon seven (7) days written notice to the contractor, Town may, without cause and without prejudice to any other right or remedy, elect to abandon the work and terminate the Agreement. In such case, the contractor shall be paid (without duplication of any items):

1. For completed and acceptable work executed in accordance with the Contract Documents prior to the effective date of termination, including fair and reasonable sum of overhead and profit on such work;
2. For expenses sustained prior to effective date of termination in performing services and furnishing labor, materials or equipment as required by the Contract Documents in connection with uncompleted Work, plus fair and reasonable sums for overhead and profit on such expenses;
3. For amounts paid in settlement of terminated contracts with Subcontractors, manufacturers, fabricators, suppliers or distributors and others; and

4. For reasonable expenses directly attributable to termination contractor shall not be paid on account of loss of anticipated profits or revenue or other economic loss or any consequential damages arising out of such termination.

Section 35. Change in the Contract Time

- 35.1** The contractor agrees that it will make no claim against the Town or any of its representatives for damages for delay, interference or disruption in the performance of its Contract occasioned by any act or omission to act by the Town or any of its representatives, or occasioned by any act or omission of any other contractor and further agrees that any such claim shall be fully compensated for by an extension of time to complete the performance of the work as provided herein.
- 35.2** The Contract Time may only be changed by a Change Order. Any claim for an extension in the Contract Time shall be based on written notice delivered to Town within fifteen (15) days of the occurrence of the event giving rise to the claim. Notice of the extent of the claim with supporting data shall be delivered within twenty (20) days of such occurrence unless the Town allows an additional period of time to ascertain more accurate data. Any change in the Contract Time resulting from any such claim shall be incorporated in a Change Order.
- 35.3** The Contract Time will be extended in an amount equal to time lost due to delays beyond the control of the contractor. Such delays shall include, but not be limited to, acts or neglect by Town, or to fires, floods, labor disputes, epidemics, abnormal weather conditions, or acts of God. No extension of the Contract Time will be granted where the delay is attributable to a subcontractor, manufacturer, fabricator, supplier or distributor or any other party performing services or furnishing material or equipment on behalf of the contractor unless such party's delay is attributable to one of the above enumerated causes.

35.4 The time limits concerning Substantial Completion and final completion as stated in the Contract Documents are of the essence. The provisions of this section shall not exclude recovery for damages (including compensation for additional professional services) for delay by either party, provided, however that the contractor shall not be entitled to damages for any delay occurring as a consequence of a delay if the performance of said additional work was noted in the Contract Documents and the delay (by others) was not directly caused by the fault of the Town.

Section 36 Disputed Work - Notice of Claims for Damages

36.1 If the contractor is of the opinion that any work required, necessitated, or ordered violates or conflicts with or is not required by the terms and provisions of the contract, he must promptly, within five (5) calendar days after being directed to perform such work, notify the Town, in writing, of its contentions with respect thereto and request a final determination thereon. If the Town determines that the work in question is contract and not extra work, or that the order complained of is proper, he will direct the Contractor in writing to proceed and the Contractor shall promptly comply. In order, however, to preserve its right to claim compensation for such work or damages resulting from such compliance, the Contractor must, within seven (7) calendar days after receiving notice of the Town's determination and direction, notify the Town, in writing that the work is being performed or that the determination and direction is being complied with, under protest. Failure of the Contractor to so notify shall be deemed as a waiver of claim for extra compensation or damages therefore.

36.2 The contractor is bound by the provisions of all applicable laws, including but not limited to the General Municipal Law and the Town Law, as related to the presentation of claims.

36.3 While the contractor is performing disputed work or complying with a determination or order under protest in accordance with this Article, in each such case the contractor shall furnish the Town daily with three copies of written statements signed by the Contractor's representatives at the site showing:

- i. the name of each workman employed on such work or engaged in complying with such determination or order, the number of hours employed thereon, and the character of the work each is doing; and
- ii. the nature and quantity of any materials, plant and equipment furnished or used in connection with the performance of such work or compliance with such order, and from whom purchased or rented.

- 36.4** The contractor shall carry on the work and maintain the progress schedule during all disputes or disagreements with the Town. No work shall be delayed or postponed pending resolution of any disputes or disagreements, except as the contractor and Town may otherwise agree in writing.
- 36.5** Before final acceptance of the work by the Town, all matters of dispute must be adjusted to the mutual satisfaction of the parties thereto. Determinations and decisions in case any question shall arise, shall constitute a condition precedent to the right of the Contractor to receive the money therefore, until the matter in question has been adjusted.

PART THREE

GENERAL SPECIFICATIONS

BASE BID: The base bid work includes reconstruction of one (1) basketball court at Railroad Park in the Town of Yorktown. Work includes all court preparation, finish work and cleanup as described in the attached specifications and drawings (if indicated).

Portions of the site preparation will be completed by the Yorktown Parks Department as described on the project drawings.

SECTION 010100

SITE PREPARATION

PART 1: WORK

1.01 DESCRIPTION

Under this work, the Contractor shall furnish all labor, materials and equipment necessary to complete the proposed improvements. The Engineer, at his discretion, may require additional work under this section if he deems this work necessary to comply with the intent of this project. Any work not included under this specification but required for the successful completion of project work, as deemed by the Engineer, shall be performed by the Contractor as directed by the Engineer and paid for under Item 0905 Miscellaneous Additional Work.

The Contractor shall carefully protect all trees and shrubs and other growth shown on the plan to be protected to remain. The Engineer shall have the final authority on the removal of all trees and existing features to remain. The Contractor at his expense shall replace any trees removed contrary to the orders of the Engineer. The Contractor shall be responsible for any and all damages to property caused by the construction operations. All damaged trees and plants or improvements shall be replaced or restored to their original condition to the satisfaction of the Engineer. Further any new or existing improvements to remain shall also be protected throughout the construction of the project. The Contractor will be responsible at his expense to replace any improvements damaged by his company workers and those of any subcontractors under the Contractor.

All materials removed under this item, which are not to be reset, shall be promptly and legally disposed of offsite by the Contractor. Burning material shall not be allowed. No removed trees, shrubs, stumps, roots, wood chips or branches may be used as backfill.

PART 2: MATERIALS

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PART 3: METHOD

3.01 DESCRIPTION

The Contractor shall thoroughly prepare the site for reconstruction. An access road shall be established and removed at the end of the project. The existing stone base shall be graded and compacted. Existing asphalt, Trees, stumps, roots and shrubs have been removed by the Yorktown Parks Department to provide a suitable subgrade upon which the proposed facilities shall be constructed.

Note that existing topsoil shall be stored on site and protected during the course of construction.

Any remaining debris, refuse, solid waste, tires, wooden planks, junk of any nature, etc. shall also be removed from the site and disposed of legally in a manner that meets all applicable Federal, State and local codes and ordinances.

3.02 CLEARING AND REMOVALS

The site has been previously cleared of all trees and tree stumps. Site clearing and/or demolition is not required under this contract. No debris may be disposed of on premises.

3.03 GRUBBING

The site has been previously cleared of all trees and tree stumps. Grubbing is not required under this contract.

3.04 STRIPPING

All stumps, roots, foreign matter, topsoil, loam and unsuitable earth shall be stripped from the ground surface. The topsoil and loam shall be utilized insofar as possible, for finished surfacing unless otherwise directed by the Engineer. Only excess or unsuitable soils shall be taken from the site unless otherwise directed by the Engineer.

Strip topsoil to depths encountered in a manner that prevents intermingling of topsoil with underlying subsoil or other objectionable material.

The Contractor shall not strip topsoil from within the drip line of any tree to remain.

3.05 STOCKPILING

The Contractor shall stockpile topsoil in storage piles where approved by the Engineer and construct stockpiles so that surface water drains freely.

3.06 DISPOSAL

The Contractor shall protect topsoil piles if required by the work. Silt fencing around the perimeter shall be installed to prevent soil erosion and sedimentation. All material resulting not scheduled for reuse or stockpiling shall become the property of the Contractor and shall be suitably disposed of offsite in accordance with all applicable laws, ordinances, rules and regulations, unless otherwise directed by the Engineer.

Any debris remaining from site preparation or excavation must be disposed of off-site. No debris must be used as fill or backfill or embankments or dikes.

Such disposal shall be performed as promptly as possible after removal of the material and shall not be left until the final period of cleaning up. It is the Contractors responsibility to properly dispose of any materials to be removed off-site as per all sections of these specifications. The Contractor is responsible to find a legitimate disposal site and must obtain any permits or licenses required for proper disposal. The Contractor is responsible for any fees or fines associated with the proper disposal of any materials outline in all sections of these specifications.

PART 4: MEASUREMENT AND PAYMENT

4.01 DESCRIPTION

The cost for this work item shall be on a lump sum basis and shall include the cost of all labor, materials and equipment necessary to clear grub and remove all objectionable material within the limits shown on the Contract Drawings and as directed by the Engineer.

SECTION 116500

BASKETBALL SYSTEM

PART 1 – GENERAL

1.1 DESCRIPTION

Scope: Under this section the Contractor shall furnish and install a Bison Ultimate Basketball System model BA873U-BK or approved equal.

1.2 SUBMITTALS

Contractor shall provide shop drawings for the proposed basketball system.

1.3 INSTALLATION

Pole shall be constructed of 6" square, 3/16" wall structural steel tube suitable for a 39" in-ground installation. 45° extension arm shall be 6" square, 3/16" wall structural tube with a 4" square, 1/8" wall steel tube horizontal support and 1/4" thick steel backboard support plate. Pole shall be designed so that rim mounts directly to pole to minimize stress on the backboard. Extension arm shall be mounted by means of 6 each 5/8" grade 8 bolts. Pole system shall provide a minimum setback from the front of pole to front of backboard of 60". Entire pole system shall have a textured black polyester powder coated finish and carry an unconditional lifetime functional warranty. Vertical pole shall be capped to keep out rain.

Backboard shall be 42" x 72" official size 1/2" polycarbonate with a 5-year limited warranty. Backboard shall be framed with aluminum extensions and have a white border and shooter's square. Rim shall be the flexible type with official-sized 5/8" diameter ring and one-piece net attachment. Rim shall have orange powder coated finish and a 1-year limited warranty. Installation to be completed in accordance to manufacturer's instructions.

SECTION 321216

NEW ASPHALT PAVEMENT

PART 1: WORK

1.01 NEW PAVEMENT

Under this work, the Contractor shall furnish and install new asphalt pavement. All labor and materials for and the proper placement of asphalt pavement as required to complete the construction of the work included under this Contract shall be included in this item. Final grading and preparation of the subgrade including removal of temporary asphalt pavement and sub-base material shall be incidental to this work. No additional payment will be made.

Upon completion of all underground installations and curbing the Contractor may install all new pavement sections in the driveway and trench repair areas. This will occur when final sub-grade elevation and compaction is met and accepted by the Engineer. First, the base course and binder course will be placed to the depths shown. Upon completion of all site work which would no longer require any activity or use of heavy equipment which would cause damage, the final course of asphalt can be installed to the required depth. All work will be in conformance with the Contract Documents and Specifications unless otherwise directed by the Engineer.

1.02 REPLACEMENT PAVEMENT

The Contractor, under this Item, will furnish all the labor and materials for and will properly place the pavement removed or disturbed in the construction of the work included under this Contract.

In all locations where asphalt has been removed and requires replacement a base course will be placed over trenches, and a tack coat and bituminous concrete pavement placed as the permanent pavement surface. This will be done in accordance with the plans and specifications.

1.03 REFERENCES

In general, all work and materials will conform to the latest revision and addenda to the New York State Department of Transportation Standard Specifications for Construction and Materials, which is referred to herein as NYSDOT Standard Specifications dated May 1, 2008.

1.04 SUBMITTALS

A. Quality Control Submittals:

1. Plant name and location of asphalt concrete supplier.
2. Delivery receipts and certificates of asphalt product.

1.05 PROJECT CONDITIONS

A. Environmental Requirements:

1. Discontinue paving when surface temperatures fall below requirements listed in DOT Table 402-2.
2. Do not place asphalt concrete on wet surfaces, or when weather conditions otherwise prevent the proper handling or finishing of bituminous mixtures as determined by the Engineer.

PART 2: MATERIALS

2.01 MATERIALS

All materials will conform to NYSDOT Standard Specifications.

The temporary and permanent pavement used on all roads, shoulders, driveways and parking areas will be bituminous concrete pavement conforming to NYSDOT Standard Specifications, Section 403.

The Item 4 will conform to NYSDOT Standard Specifications, Section 304, Type 4.

2.01A FOUNDATION COURSE FOR ROADWAY (ITEM 304.04)

The foundation course shall consist of placing a compacted layer of New York State D.O.T. Item #304.05 Type 4 granular material of the NYSDOT Standard Specifications, dated May 1, 2008, upon a properly prepared sub-grade to a depth as shown on the Contract Drawings. Prior to placing the foundation course, the finished sub-grade surface shall not extend above the design elevation at any location. The foundation material shall be spread on the grade by a procedure that minimizes particle segregation. The depth of loose spread lifts shall not exceed those permitted by the type and classification of the compactor utilized. Water shall be added in such amounts as the Engineer, or his representative, may consider necessary to secure satisfactory compaction. The final surface of the foundation course shall be fine graded so that, after final compaction and just prior to placement of the binder pavement course, the surface elevation shall not vary more than one-quarter inch above or below the design line and grade shown on the Contract Drawings. The surface shall be completed to the above tolerance and approved by the Engineer, or his representative, prior to placing of the binder course. If, after approval, the foundation course becomes displaced or disturbed in any way for any reason, the Contractor shall repair and re-grade and damaged areas to the satisfaction of the Engineer, or his representative, prior to placing the binder course.

2.01B HOT MIX ASPHALT CONCRETE BINDER

Work under this item shall consist of placing a binder course of hot, plant mixed, asphalt concrete binder NYSDOT Item No. 403.13, in the trench areas as shown on the Contract Drawings, or as required by the Engineer, or his representative.

2.01C HOT MIX ASPHALT CONCRETE TOP COURSE

Work under this item shall consist of placing a compacted pavement course of hot, plant mixed asphalt concrete top. NYSDOT. Item No. 403.198 Hot Mix Asphalt Type 7 with virgin material and no wrap, in accordance with these Specifications and in reasonably close conformity with the required lines, grades, thicknesses and typical sections as shown on the Contract Documents or established by the Engineer, or his representative.

The pavement shall be so constructed that the final compacted thickness is as near to the nominal thickness as is practical. A tolerance not to exceed one-quarter (1/4") inch from the nominal thickness will be acceptable.

The surface shall be tested with a sixteen (16') foot straight edge or string line placed transversely to the center line of the street on any portion of the street surface. Variations exceeding one-quarter (1/4") inch shall be satisfactorily eliminated or the pavement re-laid at no additional cost to the Owner. The mixture shall be transported from the mixing plants to the work site in tight vehicles previously cleaned of all foreign materials and each load shall be covered with canvas or other suitable material of sufficient size and thickness to protect it from weather conditions. The mixture shall be laid upon a clean dry surface, spread and struck off to the established grade and elevation. Approved bituminous pavers shall be used to distribute the mixture either over the entire width or over such partial width as may be practicable.

The bituminous pavers shall be in the charge of an experienced operator.

Placing of the mixture shall be continuous at a desired rate of not less than fifty (50) tons per hour. The Engineer, or his representative, may permit a lesser rate if satisfactory results are achieved. Upon arrival at the site, the mixture shall be dumped into the paver and immediately spread and struck off to the width required, and placed to a loose depth so that when the work is completed, the required compacted thickness of the mixture will be obtained.

Before any rolling is started, the finished surface struck off by the paving machine shall be checked and any surface irregularities adjusted. Immediately after the bituminous mixture has been placed, it shall be thoroughly and uniformly compacted by rolling. The surface shall be rolled when the mixture is in the proper condition and when the rolling does not cause undue displacement, cracking and shoving. Under no circumstances will compaction be permitted if the mix temperature drops below 200°F. Said material shall be removed from the site.

The course shall be initially rolled with an approved ten (10) to twelve (12) ton steel wheel tandem roller. During the initial rolling, the roller shall travel parallel to the centerline of the pavement, beginning at each edge and working toward the center, overlapping on successive trips by one-half the width of the roller. Immediately following the initial rolling, the course shall be rolled with a ten (10) to twelve (12) ton steel wheel roller a minimum of eight (8) passes per lane.

Immediately following the above intermediate rolling, the course shall be finished rolled with a ten (10) to twelve (12) steel wheel roller. This final rolling shall be both longitudinal and diagonal as directed by the Engineer, or his representative, and shall remove shallow ruts and ridges and other irregularities from the surface. Rolling shall be continued until all roller marks are eliminated.

Rollers shall move at a slow and uniform speed not exceeding three (3) miles per hour unless otherwise approved. The roller drive roll shall be nearest the paver.

To prevent adhesion of the bituminous mixture to the rollers, the rollers shall be kept properly moistened with water.

In areas not accessible to the rollers, the mixture shall be thoroughly compacted with approved mechanical tampers as directed by the Engineer, or his representative.

Suitable means shall be provided to keep pavers, and other equipment and tools, free from bituminous accumulations. The surface of the pavement shall be protected from drippings of oil, kerosene, or other materials used in paving and cleaning operations.

The Contractor may be required to adjust and change both the equipment and the compaction procedure as directed by the Engineer, or his representative, if conditions, as determined by the Engineer, so warrant.

In placing and compacting abutting courses of bituminous concrete pavement, joint heater devices shall be used on all joints, both transverse and longitudinal. These joint heater devices shall be of the infrared type or equal. Direct flame heaters shall not be used. The joint heater devices will be so constructed as to permit adjustment of the heat applied to the joints.

The bituminous plant mix shall not be placed on any wet surface, or when the surface temperature is less than 45°F (7.2°C), when weather conditions otherwise prevent the proper handling or finishing of the bituminous mixture as determined by the Engineer, or his representative.

The bituminous top course shall only be placed during the period of April 1 to November 15 or as directed by the Engineer.

2.02 ASPHALT TACK COAT

Tack coat material shall be in accordance with NYS DOT Item 702-30, material designation RS-1.

2.03 TRAFFIC LOADING

Traffic shall be diverted away from newly paved areas until such time that the surface is totally cooled and has set to the extent that traffic will cause marks, indentation, or displacement of asphalt. All work shall be done in strict conformance with the requirements of the Town and as set forth in the NYSDOT Standard Specifications.

PART 3: MEASUREMENT AND PAYMENT

4.01 DESCRIPTION

The cost for this work item shall be included as a lump sum price for paving and shall include the cost of furnishing all labor, materials and equipment including but not limited to the removal of any temporary pavement, raising of all manhole frames; cutting and cleaning of pavement edges; final grading including sub-base material, supplying and applying the tack coat; supplying and applying permanent bituminous concrete pavement, and furnishing of all labor, materials, tools, equipment and appliances, and incidental work and the removal and disposal of surplus material required to complete the work in accordance with the Contract Documents and Specifications, and to the satisfaction of the Engineer.

SECTION 321800

ACRILIC TENNIS & RECREATIONAL SPORT SURFACES

PART 1 – GENERAL

1.1 DESCRIPTION

- A. Court Construction: Refer to the American Sports Builders Association (ASBA) manual Tennis Courts: A Construction & Maintenance Manual for court construction details. This publication may be obtained by calling the ASBA at 443-640-1042 or visiting www.sportsbuilders.org.

1.2 QUALITY ASSURANCE

- A. All work shall be done in accordance with American Sports Builders Association (ASBA) guidelines.
- B. The contractor shall record the batch number of each product used on the site and maintain it through the warranty period.
- C. The contractor shall provide the inspector, upon request, an estimate of the volume of each product to be used on the site.

1.3 SUBMITTALS

- A. Submit one set of Specifications.
- B. Submit system components Technical Data Sheets (TDS).
- C. Submit current Safety Data Sheets (SDS).
- D. Submit current ISO Quality Management System Certification certificate.

1.4 WORKING CONDITIONS & LIMITATIONS

- A. Asphalt substrates should be allowed to cure a minimum of 14 days.
- B. The substrate shall be CLEAN and DRY before coatings are applied. The surface of the substrate shall be inspected and made sure to be free of grease, oil, dust, dirt and other foreign matter before any coatings are applied.
- C. Water used in all mixtures shall be fresh and potable.
- D. No part of the surfacing system shall be applied during a rainfall, or when rainfall is imminent.
- E. Do not apply coatings to a cold surface. Surface and air temperatures must be a minimum of 50°F (10°C) and rising. A minimum temperature of 50°F must be maintained during the entire installation process to include 24-hours before and after the installation.
- F. Shaded areas will be cooler with slower curing times. Special precautions should be taken to ensure all coatings cure sufficiently prior to application of additional coatings.
- G. Do not apply coatings if extremely high humidity prevents drying.
- H. No coatings are to be applied if surface temperature exceeds 130°F (54°C).
- I. All materials shall be delivered to the job site in sealed containers with the manufacturer's label affixed.
- J. Color(s) of acrylic color coating system are to be selected by Yorktown Park and Recreation Commission from manufacturer's product color card.
- K. If all the above conditions are met, surfacing materials shall have a one-year limited warranty as supplied by the manufacturer.

PART 2 – EXECUTION

3.1 INSPECTION

- A. Inspect asphalt substrate for dryness. Report any discrepancies to general contractor or owner.
- B. Surface of substrate shall be cleaned by general contractor as required.
- C. Surfacing contractor to approve site and surface conditions prior to proceeding with application of any coatings.

3.2 PREPARATION

A. New Asphalt Substrates

- 1. The workmanship of other contractors including the sub-base shall be level and compacted. The field dry density shall be a minimum of 95%. The asphalt base must have a maximum deviation of 1/4" below a 10-foot straight edge when measured in any random path.
- 2. New asphalt shall be allowed to cure a minimum of 14 days before proceeding.
- 3. All surfaces shall be checked to ensure a level surface. The surface shall be flooded with water; any area that retains 1/16" of water in depth after 30 minutes should be leveled with the approved product. All cracking should be filled with the correct sealant. To be witnessed by Owner.
- 4. Surface cleaning – All surfaces must be clean, dry, and free from any bond inhibiting contaminants and foreign residue. Pressure wash the surface to remove any residues.

B. Previously Coated Asphalt Substrates

- 1. The workmanship of other contractors including the sub-base shall be level and compacted. The field dry density shall be a minimum of 95%. The asphalt base must have a maximum deviation of 1/4" below a 10-foot straight edge when measured in any random path.
- 2. Surface cleaning – All surfaces must be clean, dry, and free from any bond inhibiting contaminants and foreign residue. Pressure wash the surface to remove any residues.

3.3 INSTALLATION

- A. Patching: Once the surface has been thoroughly cleaned and is free of all loose material, dirt, or dust, the court should be flooded and allowed to drain a minimum of 30 minutes and a maximum of 1 hour. Any area that holds water (birdbaths) in a depth greater than 1/16 inch (1.6 mm or the thickness of a nickel) shall be outlined and patched.

1. Surface Leveling: Birdbaths shall be leveled using a Laykold Acrylic Deep Patch court patch binder slurry. Prime area with a 50/50 mixture of Laykold Acrylic Deep Patch and water. Primer shall be brushed into place and allowed to dry prior to patching. Patch mix shall consist of Laykold Acrylic Deep Patch, 50-mesh sand and Type 1 Portland cement. Mix as per manufacturer directions. Note: Laykold Poly Primer (Patch mix) is an acceptable substitute for leveling materials.

2. Crack Filling: Cracks shall be cleaned, primed, and filled if cracks are 1/16 inch or less. If greater than 1/16 inch, court patch binder slurry should be used to fill cracks. Mix as per manufacturer directions. Refer to Laykold Deep patch technical data sheet for additional mixing details and application instructions for various sized cracks. Note: Laykold Crack Filler and QualiCaulk are acceptable substitutes for crack filling materials.

3. All areas that are repaired/leveled/corrected using a court patch binder mixture shall be allowed to fully cure and then ground smooth and level with the substrate by stone or an acceptable mechanical method.

C. NuSurf Filler Coat(s): Apply one coat of Laykold NuSurf as filler coat using a 24", 30" or 36" wide 70 Durometer flexible rubber squeegee. Batch mix shall consist of 55 gallons (260 kg) of Laykold NuSurf, 25 gallons (95 kg) of potable water, and 400 to 500 pounds (181 – 227 kg) of clean, bagged silica sand (60 to 80 mesh). The application rate shall be 0.05-0.07 gal/yd² (0.29 0.40 kg/m² -129-180 ft²/gal) of undiluted Laykold NuSurf per coat. NOTE: If the asphalt is very porous, an optional 2nd application of Laykold NuSurf may be applied. Each coat should be completely dry before applying subsequent coats.

D. Textured ColorFlex Coats:

Laykold MS2 and/or Equal – ITF Classification 2

Apply two coats of Laykold ColorFlex and/or equal textured batch mixture using a 24", 30" or 36" 50 Durometer flexible rubber squeegee. Batch mix shall consist of 55 gallons (260 kg) of ColorFlex, 38 to 41 gallons (144 -155 kg) of potable water and 225 to 300 pounds (102 -136 kg) of clean, bagged silica sand (60 to 80 mesh). The application rate shall be 0.05-0.07 gal/yd² (0.29-0.40 kg/m² – 129-180 ft²/gal) of undiluted ColorFlex per coat. Each coat should be completely dry before applying subsequent coats.

Laykold M3 and/or Equal – ITF Classification 3

Apply two coats of Laykold ColorFlex and/or equal textured batch mixture using a 24", 30" or 36" 50 Durometer flexible rubber squeegee. Batch mix shall consist of 55 gallons (260 kg) of ColorFlex, 38 to 41 gallons (144 -155 kg) of potable water and 225 to 300 pounds (102 -136 kg) of clean, bagged silica sand (70 to 100 mesh). The application rate shall be 0.04-0.05 gal/yd² (0.23-0.29 kg/m² – 160-200 ft²/gal) of undiluted ColorFlex per coat. Each coat should be completely dry before applying subsequent coats.

Laykold MF4 and/or Equal – ITF Classification 4

Apply two coats of Laykold ColorFlex and/or equal textured batch mixture using a 24", 30" or 36" 50 Durometer flexible rubber squeegee. Batch mix shall consist of 55 gallons (260 kg) of ColorFlex, 38 to 41 gallons (144 -155 kg) of potable water and 225 to 300 pounds (102 -136 kg) of clean, bagged silica sand (70 to 100 mesh). The application rate shall be 0.04-0.05 gal/yd² (0.23-0.29 kg/m² – 160-200 ft²/gal) of undiluted ColorFlex per coat.

Apply one coat of Laykold ColorFlex and/or equal finish batch mixture using a 24", 30" or 36" 50 Durometer flexible rubber squeegee. Batch mix shall consist of 55 gallons (260 kg) of ColorFlex and 55 gallons (210 kg) of potable water.

The application rate shall be 0.03-0.04 gal/yd² (0.17-0.23 kg/m² -225-300 ft²/gal) of undiluted ColorFlex per coat.

Each coat should be completely dry before applying subsequent coats. Allow topcoat to cure a minimum of 24 hours before applying game lines.

E. Game Lines:

- 1 Wait a minimum of 24 hours after final color coat before applying line paint.
- 2 All lines are to be applied by painting between masking tape with a paintbrush or roller according to U.S.T.A. and A.S.B.A. specifications.
- 3 Prime masked lines and allow a minimum drying time of 1-hour.
- 4 Apply 1 to 2 coats as needed of White Line Paint with a brush or roller.
- 5 Remove masking tape immediately after lines are dry.
- 6 Allow lines to dry a minimum of 24 hours before allowing play on court.

F. Remove all excess and waste materials from the area of work. Dispose of empty containers in accordance with federal and local statutes.

3.3 PROTECTION

- A. Cure Time. No traffic or other trades shall be allowed on the surface for a period of one week following completion to allow for complete and proper cure of the finish.
- B. Other Trades. It is the responsibility of the general contractor to protect the surface from damage by other trades before acceptance by the owner or the owner's authorized agent.
- C. Do not allow surrounding sprinkler systems to spray water on the newly applied court surface for a period of one week after completion.
- D. Do not place any benches, chairs, ball baskets, or any other type of court equipment on the newly applied court surface for a period of one week after completion.
- E. Do not allow black soled shoes, bicycles, rollerblades, etc. on the court surface.

A. NON-COLLUSIVE BIDDING CERTIFICATION

This Non-Collusive Bidding Certificate is made pursuant to Section 103-d of the General Municipal Law of the State of New York.

By submission of this bid, Bidder and each person signing on behalf of Bidder certifies, and in the case of a joint bid each party thereto certifies as to its own organization, under penalty of perjury, that to the best of his or her knowledge and belief:

The prices in this bid have been arrived at independently without collusion, consultation, communication, or agreement for the purpose of restricting competition, as to any matter relating to such prices with any other Bidder or with any competitor;

Unless otherwise required by law, the prices which have been quoted in this bid have not been knowingly disclosed by Bidder and will not knowingly be disclosed by Bidder prior to opening, directly or indirectly, to any other bidder or to any competitor; and

No attempt has been made or will be made by the bidder to induce any other person, partnership or corporation to submit or not to submit a bid for the purpose of restricting competition.

A bid shall not be considered for award nor shall any award be made where (1) (2) and (3) above, have not been complied with; provided, however, that if in any case Bidder cannot make the foregoing certification, Bidder shall so state and shall furnish with the bid a signed statement which sets forth in detail the reasons therefore. Where (1) (2) and (3) above have not been complied with, the bid shall not be considered for award nor shall any award be made unless the head of the purchasing unit of the political subdivision, public department, agency or official thereof to which the bid is made, or his designee, determines that such disclosure was not made for the purpose of restricting competition.

Dated: _____

Bidder: _____
(Legal name of person, firm or corporation)

BY: _____
(Signature)

(Please Print Name)

(Title)

State of New York)
Town of _____)ss.:

On the _____ day of _____ in the year 2022 before me, the undersigned, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

(Notary Public)