

**SPECIFICATIONS, PROPOSAL AND CONTRACT**

**For**

**2025 RESURFACING OF MEMORIAL PARK TENNIS COURTS**

For the Borough of Waynesboro

**ISSUED**

**March 6, 2025**

Bids for **2025 Resurfacing of Memorial Park Tennis Courts** as covered by attached specifications must be received by Borough Council of the Borough of Waynesboro before 10:00 a.m., legal time, April 7, 2025, at the office of the Borough Manager and Borough Secretary, 55 East Main Street, Waynesboro, Pennsylvania 17268.

**BOROUGH COUNCIL OF THE BOROUGH OF WAYNESBORO**

For further information, please contact:

Jason Stains, Borough Manager  
717-762-2101  
jason@waynesboropa.gov

## 2025 Resurfacing of Memorial Park Tennis Courts

The Borough of Waynesboro is accepting sealed bids for:

### 2025 Resurfacing of Memorial Park Tennis Courts

A complete proposal packet may be obtained from:

Jason Stains, Borough Manager  
Borough of Waynesboro  
55 East Main Street  
Waynesboro, PA 17268  
Phone: (717) 762-2101  
<https://waynesboropa.gov>

Borough Council intends to award the contract to the overall lowest responsible bidder, as determined by Borough Council in the best interest of the Borough of Waynesboro.

Bids shall be submitted only on the enclosed Bid Form included in the Bidding Documents. While Bidders may make comments to clarify their bid, Bidders cannot change, modify, delete or make additions to the wording to any of the Bidding Documents, including but not limited to the Agreement. Unauthorized conditions, exceptions, limitations, or provisions attached to a bid may be cause for rejection of the bid. Any questions regarding the Bidding Documents shall be submitted as Requests for Interpretation and the Bidding Documents may only be modified by Addendum issued by the Borough prior to the Bid opening date.

A bid bond, with approved surety, or certified or bank cashier's check, payable to Borough of Waynesboro, equal to \$40,000.00, is required and must accompany all bids. Pursuant to the provisions of the Public Works Contractors Bond Law of 1967, both a performance bond and payment bond shall be required. A performance bond or other security guaranteeing performance of the Contract, in an amount equal to 100% of the total resurfacing of the Memorial Park tennis court charges, will be due to the Borough of Waynesboro within twenty (20) days after notice of intent to issue the award. A payment bond, in an amount equal to 100% of the total resurfacing of the Memorial Park Tennis Court Contract amount, will be due to the Borough of Waynesboro within twenty (20) days after intent to issue the award, and shall be issued for the protection of claimants supplying labor or materials to the prime Contractor to whom the contract was awarded, or to any of its subcontractors, in the prosecution of the work provided for in the Contract, and shall be conditioned for the prompt payment of all such material furnished or labor supplied or performed in the prosecution of the work.

The Borough Council of the Borough of Waynesboro reserves the rights to reject any or all bids; to waive any defects, errors, omissions, irregularities or informalities in a bid or the bid procedure; and to accept any bid which it may deem to be for or in the best interest of the Borough of Waynesboro.

Bids will be received at the above address until 10:00 a.m. on April 7, 2025. Any bid received after said date and time will be returned unopened. All bids must be in a sealed envelope clearly marked "Bid for Borough of Waynesboro", bearing the name of the Bidder and "**2025 Resurfacing of Memorial Park Tennis Courts**". If the bid is sent through the mail or other delivery system, the sealed envelope shall be enclosed in a separate envelope with the notation "BID ENCLOSED" on the face of it. Please mail bids to Attention: Jason Stains, Borough Manager.

Bids may be taken under advisement and the award of the contract, if awarded, will be made within sixty (60) days after the date of the opening of the bids, or up to 120 days if the sale of bonds, award of grant, or governmental approval is required. The Borough Council reserves the right to formally accept a bid and award a contract by public announcement at a regular meeting of the Borough Council.

The Borough of Waynesboro is an Equal Opportunity Employer. Minority and women-owned businesses and those defined as SERB's under State regulations are encouraged to submit proposals.

A mandatory post-bid meeting will take place with the successful Bidder at a time and location to be announced.

# INSTRUCTIONS TO BIDDERS

## 1. Project Overview

The Borough of Waynesboro (the “Borough”) is seeking bids from qualified bidders for the following service (the “Work”) and as further described in the Specifications herein:

### 2025 Resurfacing of Memorial Park Tennis Courts

The tennis courts will be resurfaced at Memorial Park by a method suitable to and approved by the Borough and as further defined in the Specifications (the “Work”).

## 2. Bidding Documents

The Bidding Documents include the following documents:

- Notice / Advertisement
- Instructions to Bidders
- General Terms and Conditions
- Specifications
- Non-Discrimination Notice
- Bidder Affidavit
- Non-Collusion Affidavit
- Proposal
- Agreement
- W-9 Form
- Receipt of Confirmation of Bidding and Contract Documents
- Addenda (if released by Borough)
- Receipt of Addenda (if Addenda is released by the Borough)

## 3. Copies of Bidding Documents

A complete set of Bidding Documents may be obtained by the Bidder at:

Borough of Waynesboro, 55 East Main Street, Waynesboro, PA 17268.

The Bidding Documents may also be obtained electronically at <https://waynesboropa.gov>. All prospective Bidders who obtain the Bidding Documents electronically must fax a “Receipt of Confirmation” form no later than 10:00 a.m. on April 7, 2025 to Jason Stains at (717) 762-4707.

Complete sets of the Bidding Documents shall be used in preparing the bid. The Borough does not assume responsibility for any errors or misinterpretations resulting from the use of incomplete sets of Bidding Documents.

## 4. Contractor

The Successful Bidder will be known as the Contractor. The Successful Bidder to whom a Contract is awarded will be required to comply with all applicable federal and state laws, rules, regulations, orders and approvals, and all applicable Borough ordinances, rules and regulations.

## 5. Qualifications of Bidders

Upon the Borough’s request, Bidder may be required to provide the Borough with at least three (3) references for similar work, services or products, with applicable contact information within five (5) calendar days after the bid opening date. These references shall verify that Bidder has successfully delivered or performed similar projects or commodities. Submission of financial information is not

required with the bid; however, the Borough reserves the right to request such information within five (5) calendar days after the bid opening date.

Each bid must contain evidence of Bidder's qualification to do business in the Commonwealth of Pennsylvania, or covenant to obtain such qualification prior to and as a condition of the award for the Contract.

No bid will be accepted from, nor will any contract be awarded to any person who is in arrears with the Borough upon debt or contract, or who is in default as surety or otherwise, upon any obligation to said Borough or whose work has heretofore proved unsatisfactory or dilatory.

## **6. Interpretations and Addenda**

Any questions or requests for interpretation of any provision of the Bidding Documents and/or Specifications shall be made to Jason Stains, Borough Manager, at 717-762-2101, or [jason@waynesboropa.gov](mailto:jason@waynesboropa.gov) no later than Wednesday, April 2, 2025 at 4:00 p.m.

The Borough may issue an Addendum if deemed necessary by the Borough to address or clarify the Bidding Documents prior to the submission deadline. Questions received after Wednesday, April 2, 2025 at 4:00 p.m. may not be answered. Only questions answered by formal written Addenda will be binding. Oral statements, interpretations or clarifications will not be binding or legally effective. Addenda shall be posted electronically at <https://waynesboropa.gov>. It is the responsibility of the Bidder to check the website before submitting a bid. A Bidder who fails to acknowledge receipt of any such Addendum with its bid, as documented in a "Receipt of Addenda" form will be construed as though the Addendum had been received and acknowledged.

## **7. Security**

7.1 **Bonds**. All bonds shall be in the form and substance prescribed by the Bidding Documents, except as provided otherwise by laws and/or regulations, and shall be executed by such sureties as are named in the list of "Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies" as published in Circular 570 (amended) by the Financial Management Service, Surety Bond Branch, U.S. Department of the Treasury. All bonds signed by an agent or attorney-in-fact must be accompanied by a certified copy of that individual's authority to bind the surety. The evidence of authority shall show that it is effective on the date the agent or attorney-in-fact signed each bond.

If the surety on any bond furnished by Contractor is declared bankrupt or becomes insolvent or its right to do business is terminated in any state where any part of the Project is located or it ceases to meet the requirements of this Paragraph, Contractor shall promptly notify the Borough and, within twenty (20) days after the event giving rise to such notification, provide another bond and surety.

7.2 **Bid Bond**. All bids shall be submitted in the place, time and manner set forth in the advertisement of bids. Bidders must provide a Bid Bond, in the form attached, made payable to the Borough of Waynesboro, in the amount of \$40,000.00, to be submitted with the bids. The bid shall remain in effect for at least one hundred twenty (120) days from the date of bid opening. Any bid submitted without a Bid Bond will not be considered in this bid process. Failure or refusal to negotiate in good faith or enter into a contract or withdrawal of the bid prior to acceptance, or other similar action by the Bidder named herein, within the specified timeframe, will result in forfeiture of the Bid Bond as liquidated damages to the Borough. The prices in the bids are neither directly, nor indirectly, the result of any agreement with any other bidders. All bidders must sign and return the attached non-collusion certificate as part of their bid package.

The bid security of the Successful Bidder will be retained until said Successful Bidder has executed the Agreement and furnished acceptable bonds and insurance certificates, if required, whereupon the bid security will be returned. If the Successful Bidder fails to execute and deliver the Agreement and furnish acceptable bonds and insurance certificates, if required, within fifteen (15) days after the Notice of Intent to Award, the Borough may annul the Notice of Intent to Award and the full amount of the bid security of Successful Bidder will be forfeited.

The Borough will return the bid security and financial information, if any, of all Bidders, except the three (3) apparent lowest responsible, responsive Bidders as determined by the Borough upon evaluation, within thirty (30) days after the date of the bid opening; and upon execution of the Agreement and furnishing of acceptable Contract bonds, if applicable, and insurance certificates by the Successful Bidder, the remaining bid securities and financial information, if any, of the each of the three (3) lowest Bidders will also be returned.

7.3 Performance and Payment Bonds. When the apparent Successful Bidder delivers the signed Agreement to the Borough, it must be accompanied by the required performance and payment bonds on the forms provided in the Bidding Documents. **Substitute bond forms are not acceptable.**

Within twenty (20) days after the Contract is awarded, the Contractor shall furnish a performance Bond to the Borough in an amount equal to 100% of the total resurfacing of the Memorial Park Tennis Court charges, to remain in full force and effect for the life of the Contract.

## **8. Proposal Form**

The bid price of each item on the Proposal Form must be stated in numerals and, if required, in words. Subject to the Borough's right to correct a Bidder's mathematical totals, a discrepancy between the word and numeral for a particular item will be resolved in favor of the word.

The Proposal Form (hereinafter the "bid") of an individual must be signed by the individual person. The bid of a partnership must state the names of each partner, and it must be signed by at least one (1) partner. The bid of a corporation must show the State of incorporation and must be signed by the President, Vice-President or any other employee duly authorized pursuant to a corporate resolution. All names must be typed or printed below each signature. Bid prices shall be inclusive and shall include, if applicable, all taxes of whatever nature.

The following should be considered by the Bidder with bid submission, if applicable:

**Tax:** Pennsylvania sales tax is **not** to be included in the bid. Tax exemption certificate will be furnished to the Contractor. The Borough is sales tax exempt. However, the Contractor is not exempt from the obligation to follow appropriate tax laws in the procurement of materials and services used in the performance of this Agreement. Bidder shall obtain legal advice to determine how and to what extent the Borough's tax exemption may be utilized by the Contractor. The Borough will provide, at the Contractor's request, documentation required to obtain applicable tax exemptions.

## **9. Submission of Bids**

Bids shall be submitted no later than the time and place indicated in the Notice. All bids must be in a sealed envelope clearly marked "**Bid for Borough of Waynesboro**", bearing the name of the bidder and "**2025 Resurfacing of Memorial Park Tennis Courts**". If the bid is sent through the mail or other delivery system, the sealed envelope shall be enclosed in a separate envelope with the notation "**BID ENCLOSED**" on the face of it. Please mail bids to Attention: Jason Stains, Borough Manager. The Bidder is solely responsible for delivering bid to the Borough at the location of, and by the time of, the bid opening designated in the Notice.

The following completed documents are to be submitted with the bid and will become a condition of the bid:

- Proposal
- Bidder Affidavit
- Non-Collusion Affidavit
- Receipt of Addenda (if applicable)

Bidders may provide comments to clarify or describe their technical offer, but Bidders cannot change, modify, delete or make additions to the wording to any of the Bidding Documents, including but not limited to the Agreement, General Conditions, or the Proposal form. **Unauthorized conditions, exceptions, limitations, or provisions attached to the bid may be cause for rejection of the bid.** Any questions regarding the Bidding Documents shall be submitted as a request for interpretation and the Bidding Documents may only be modified by Addendum issued by the Borough prior to the bid opening date.

It is the responsibility of each Bidder before submitting a bid to:

- A. Examine and carefully study the Bidding Documents, including any Addenda or Memoranda and the related data identified in the Bidding Documents;
- B. If specified, or if, in Bidder's judgment, any local condition may affect cost, progress, or performance of the Work, visit the Point of Destination to become familiar with the local conditions;
- C. Become familiar with and satisfy Bidder as to all federal, state, and local laws and regulations that may affect cost, progress, or the performance of the Work;
- D. Carefully study and correlate the information known to Bidder, and information and observations obtained from Bidder's visits, if any, to the Point of Destination, with the Bidding Documents;
- E. Promptly give the Borough written notice of all conflicts, errors, ambiguities, or discrepancies that Bidder discovers in the Bidding Documents and confirm that the written resolution thereof by the Borough is acceptable to Bidder;
- F. Determine that the Bidding Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performing the Work.

#### **10. Modification and Withdrawal of Bids**

Bids may be modified or withdrawn by an appropriate document duly executed (in the manner that a bid must be executed) and delivered to the place where bids are to be submitted at any time prior to the opening of bids.

After the bid opening, Bidder may withdraw its bid only by complying with applicable federal, state, or local laws and regulations. Unless prohibited by such applicable laws and regulations, or if there are no applicable laws and regulations, Bidder shall forfeit the entire amount of bid security upon withdrawal of its bid, if bid security is required.

#### **11. Bids to Remain Subject to Acceptance**

Bids shall remain open for a period of sixty (60) days from the date of bid opening unless award is delayed by a required approval from a governmental agency, the sale of bonds or notes, or the award of a grant or grants, in which event the bids shall remain open for a period of one hundred twenty (120) days from the date of bid opening. The Borough will either award the Agreement within the applicable time period or reject all bids, returning the bid security to the Bidders. Thirty (30) day extensions of the date for the award may be made by the mutual written consent of the Borough and the apparent Successful Bidder.

## **12. Award of Contract**

The Borough reserves the right, without limitation, to reject any or all bids, including without limitation the rights to reject any or all nonconforming, nonresponsive, unbalanced or conditional bids and to reject the bid of any Bidder, if the Borough believes that it would not be in the best interest of the project to make an award to that Bidder, whether because the Bidder is not responsive or the Bidder is unqualified or of doubtful financial ability or fails to meet any other pertinent standard or criteria established by the Borough. The Borough also reserves the right to waive all irregularities or informalities not involving price, time, or changes in the Work and to negotiate contract terms with the Successful Bidder.

The Borough will correct discrepancies in Bidder's mathematical totals. Discrepancies in the multiplication of units of Work and unit prices will be resolved in favor of the unit prices. Discrepancies between the indicated sum of any column of figures and the correct sum thereof will be resolved in favor of the correct sum. Discrepancies between words and figures will be resolved in favor of the words.

In evaluating bids, the Borough may conduct such investigations as the Borough deems necessary to assist in the evaluation of any bid and to establish the responsibility, qualifications, and financial ability of Bidders, proposed sub-contractors, suppliers, and other persons and organizations to perform and furnish the Goods in accordance with the Bidding Documents to the Borough's satisfaction within the prescribed time. The Borough reserves the right to interview Bidders.

If the Contract is to be awarded, the Borough will give the apparent Successful Bidder a Notice of Intent to Award.

## **13. Signing of Agreement**

When the Borough gives a Notice of Intent to Award to the apparent Successful Bidder, it will be accompanied by three (3) unsigned counterparts of the Agreement (each with a copy of the bid submission). Within fifteen (15) days thereafter, apparent Successful Bidder shall sign and deliver to the Borough the three (3) signed counterparts of the Agreement accompanied by the required insurance certificate(s) and completed W-9 form. The Agreement may be cancelled, at the discretion of the Borough, if the apparent Successful Bidder does not execute, and deliver to the Borough, the Agreement and insurance certificate(s) and completed W-9 form, within fifteen (15) days from the date of the Notice of Intent to Award.



## **GENERAL TERMS AND CONDITIONS**

### **1. Labor and Equipment**

The Contractor agrees to furnish all labor, tools, and equipment, and to pay all expenses necessary for, and/or in connection with, the Work and/or Services to be done, hereunder in consideration of the payments hereinafter provided to be paid to the Contractor by the Borough.

### **2. Inspection of Work or Goods**

The Borough reserves the right to inspect the Contractor's Work, Goods, or other deliverables, and direct changes to the Contractor's methods and procedures within the scope of this Contract. Periodic inspections will be performed by the Borough or its agents.

### **3. Termination and Suspension**

Should the Contractor fail to perform the Work and/or Services to the satisfaction of the Borough or to comply with any of the provisions of the Contract and Agreement, the Borough may terminate the Contract and Agreement for cause upon seven (7) days written notice of intent to terminate to the Contractor. Contractor's services will not be terminated if the Contractor begins within seven (7) days of receipt of the notice of intent to terminate to correct and cure the deficiencies set forth in said notice and it proceeds in a diligent manner to cure such deficiencies within no more than fifteen (15) days of receipt of said notice, unless the Borough in its sole and absolute discretion extends such time to cure in writing.

Notwithstanding the foregoing, the Borough may terminate the Contract and Agreement without cause and without prejudice to any other right or remedy of the Borough upon ten (10) days' written notice to Contractor.

Contractor may only terminate this Contract and Agreement in the event the Borough is in default and fails to cure said default within thirty (30) days from the date the Borough receives written notice from Contractor, which said notice shall set forth the alleged default.

In the event that the Borough terminates the Contract and Agreement as provided for herein, Contractor agrees that Contractor shall not be entitled to, and shall not be paid, an amount for loss of anticipated profits or revenue or other economic loss arising out of and/or resulting from such termination. Contractor agrees that its sole remedy shall be payment for services rendered prior to termination of the Contract, provided however that the Borough may offset any amount owed to the Contractor for services rendered by Contractor prior to termination for any damages, and/or costs suffered and/or incurred by the Borough as a result of any breach or failure by Contractor.

The Borough has the right to suspend performance of the Contract, at any time and without cause, by written notice, upon which the Contractor shall be entitled to an increase in the contract time and contract price caused by the suspension, as determined by the Borough in its sole and absolute discretion.

### **4. Warranty**

The Contractor shall warrant and guarantee that the Work and/or Services shall conform to the express statements in the Contract Documents, including but not limited to the Specifications; the Work and/or Services will be provided in compliance with any and all applicable federal, state and local laws and regulations and in a reasonably safe manner using the highest standards of nationally recognized and industry-accepted practices and procedures; that the Contractor is in the business of providing the Work and/or Services agreed to in the Contract and has the requisite experience, expertise, facilities (or access to), equipment, qualified personnel and legal right to perform the Work and/or Services; and any

facilities or equipment used by the Contractor to perform the Work and/or Services shall be licensed and/or permitted as required for compliance with any and all applicable federal, state and local laws and regulations.

**5. Permits, Licenses, etc.**

All permits, licenses, inspections, ratings, or approvals related to the performance of the Work and/or Services, or delivery of such Goods, are the responsibility of the Contractor and all expenses for such should be included in the bid proposal.

**6. Assignment**

The Contractor shall not sublet this Agreement or any portion of it without first obtaining the written consent of the Borough. The Contractor shall not obligate the Borough to make any payments to another party for, or on behalf of the Borough, without the approval of the Borough.

**7. Invoices and Payment**

All payments will be processed through the Borough's standard accounts payable system. The Contractor invoices should be marked NET 30 DAYS.

If the Borough objects to any portion of an invoice, the Borough shall so notify the Contractor in writing within twenty (20) days of receipt of the invoice. The Borough shall identify the specific cause of the disagreement and shall pay when due that portion of the invoice not in dispute. Interest as stated above shall be paid by the Borough on all disputed invoiced amounts resolved in the Contractor's favor and unpaid for more than forty-five (45) days after date of the notice of the dispute.

**8. Quantities Awarded**

For requirements contracts only, the items and quantities of such items, if set forth in the Bidding Documents, are only estimates. The Borough, in its sole discretion, may make an award for some or all of the items bid and in such quantities as the Borough shall deem appropriate.

**9. Delivery and Prices**

All items must be delivered at the price(s) bid, FOB Point of Destination, unless otherwise approved by the Borough.

**10. Insurance**

Unless otherwise specified, the Contractor shall, at its sole cost and expense, maintain the following minimum types of insurance as specified herein. The Borough of Waynesboro, its officers, and employees, are to be named as additional insured on all policies required herein, except Workmen's Compensation. The insurance shall provide for at least thirty (30) days' prior written notice to be given to the Borough in the event the insurance is materially changed, canceled, or non-renewed. Before starting Work and/or Services, the Contractor shall furnish to the Borough for its examination and approval such policies of insurance with all endorsements, or a conformed specimen thereof certified by the agent of the insurance company, together with certificates of the insurance company of such insurance.

A. WORKMEN'S COMPENSATION – Statutory limit as required by the Commonwealth of Pennsylvania.

B. BUSINESS AUTOMOBILE – Covering Any Automobile (Symbol I)

Bodily Injury Liability and Property Damage Liability	\$1,000,000 (CSL)
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C. COMMERCIAL GENERAL LIABILITY (CGL)

General Aggregate Limit	\$1,000,000
Products-Completed Operations Aggregate Limit	\$1,000,000
Personal & Advertising Injury Limit	\$1,000,000
Each Occurrence Limit	\$1,000,000
Fire Damage Limit	\$ 50,000
Medical Expense Limit	\$ 5,000

**11. Indemnification**

The Contractor and its sub-contractors, if any, shall release, hold harmless, and indemnify the Borough, its officers, elected officials, agents, representatives, and employees acting within the scope of their official duties from and against damages, costs, and expenses (including reasonable attorneys' fees) to the extent caused by the negligent acts, errors, or omissions of the Contractor, its employees, sub-contractors, agents, servants, and/or anyone acting under the Contractor's control and/or the Contractor's direction, in the performance of the requirements of this Agreement. The Contractor shall defend any lawsuit commenced against the Borough and shall pay any judgments and costs connected with such proceeding which are based upon the negligent acts or omissions of the Contractor or its sub-contractors. If the Contractor is successful in defending such a lawsuit, then the Borough will reimburse the Contractor for its costs and expenses associated with such defense only to the extent that such liabilities arise from an action which can be properly brought against the Borough as an exception to governmental immunity in accordance with the Political Subdivision Tort Claims Act, 42 Pa.C.S.A. § 8541 *et seq.* and in accordance with such limits of liability set forth in the Act, along with payment for any withheld invoices.

**12. Taxes**

All taxes of whatsoever kind, nature and description payable and due as a result of this Contract are to be paid by the Contractor unless otherwise provided by law. The Borough is sales tax exempt. A tax exemption certificate will be furnished to the Contractor. Contractor, however, is not exempt from the obligation to follow appropriate tax laws in the procurement of materials and services used in the performance of this contract. Contractor may obtain legal advice to determine how and to what extent the Borough's tax exemption may be utilized by the Contractor. The Borough will provide, at the Contractor's written request, documentation required to obtain applicable tax exemptions.

Contractor is required to complete an Internal Revenue Service Form (W-9) providing Contractor's taxpayer identification number (TIN), address, and, if applicable, certification regarding backup withholding prior to and as a condition of the award of the Contract. The Borough may waive this provision in the event the Borough is in possession of an accurate and up-to-date W-9 form from the Contractor.

**13. Disputes**

Before any litigation is brought pursuant to this Contract, the parties hereto agree to submit any dispute between them to mediation. Such mediation shall be a condition precedent to either party instituting litigation unless a stay of an applicable statute of limitations or repose is necessary. Such mediation may be initiated by written request and will occur within thirty (30) days of such request. A mutually agreeable impartial mediator may be retained, if requested by either party, to assist in the mediation process. In the event the parties cannot agree to a mediator, the parties will continue to put forth names for a mutually agreeable time, after which litigation may be commenced in Franklin County Court of Common Pleas if a mediator is not agreed upon. In the event mediation does not result in the successful

resolution of the dispute, either party may institute any, and all actions necessary to protect their rights at law and/or equity in accordance with this Contract.

#### **14. Compliance with Laws**

All Work and/or Services performed under this Contract shall conform with all applicable federal, state, and local laws, which may include but not be limited to the following:

- A. Pennsylvania Act 247 of 1972, as amended, relating to the prevention of environmental pollution and the preservation of public natural resources.
- B. The Pennsylvania Human Relations Act No. 222 of 1955, as amended.
- C. The Pennsylvania Public Works Contract Regulation Law, as amended by Act 142 of 1994 as it relates to timely payment by Contractor and Subcontractor to its Subcontractors.
- D. The Pennsylvania Antbid-Rigging Act, 73 P.S. 1611 *et seq.*, regarding contracts for the purchase of equipment, goods, services, or materials or for construction or repair let or to be let by a government agency.

## SPECIFICATIONS

### **1. SCOPE OF WORK**

The Borough of Waynesboro is seeking bids for resurfacing of the Memorial Park Tennis Courts by a method suitable to and approved by the Borough. This Contract is for the time period of May 1, 2025 through September 1, 2025.

The Contractor shall be responsible for the inspection and evaluation of each of the tennis courts in their current conditions, the resurfacing of the tennis courts, and the painting of each tennis court, which shall also include the painting of lines on the tennis courts for pickle ball use at the appropriate location(s) listed.

Location

Memorial Park

Address

220 Memorial Park Drive, Waynesboro, PA 17268

Contractor agrees to inspect each of the four (4) tennis courts located at Memorial Park and provide resurfacing services to the Borough for each tennis court. Contractor further agrees to provide subsequent painting services to each of the four (4) tennis courts, which shall also include the painting of the appropriate lines for pickle ball use on each court.

The work to be performed under this Contract shall consist of all items contained in the bid forms, including the provision of all labor, equipment, materials, tools, insurance, supervision, and all other items necessary to provide the service as set forth in the Specifications attached hereto (the "Work").

As part of the Scope of Work, **the Contractor shall provide a management plan and approach for the satisfactory performance of the Contract. An organizational chart shall be included in showing the roles and responsibilities of personnel involved in management of the Contract and their contact information.** The Contractor shall educate all employees involved in the management/servicing of the Contract as to the specific requirements of the Borough. The Contractor shall also provide a mobilization schedule (public announcements and other key milestones) starting from the date of the Contract forward.

The Scope of Work under the Contract for 2025 Resurfacing of Memorial Park Tennis Courts consists of the resurfacing and painting of the tennis courts in the manner herein described by a method suitable to and approved by the Borough.

### **2. INSPECTION OF TENNIS COURTS**

The Borough of Waynesboro Memorial Park Tennis Courts must be inspected and evaluated by the Contractor. Contractor is responsible for the complete resurfacing and painting of each of the tennis courts in a manner suitable to and approved by the Borough.

Access to the Memorial Park Tennis Courts and other relevant equipment required for the inspection, evaluation, repairing, resurfacing, and painting of the tennis courts shall be provided to the Contractor and Contractor's drivers as appropriate to complete the Work.

### **3. RESURFACING AND PAINTING TIMES**

Contractor agrees to inspect all tennis courts located at Memorial Park and provide resurfacing and painting services of said courts in accordance with a schedule submitted by the Contractor and approved by the Borough.

Resurfacing and painting services at each of the Memorial Park Tennis Courts shall be made between the hours of 8:00 a.m. and 5:00 p.m. unless otherwise agreed upon by the Borough or in accordance with municipal ordinances regulating such activities, except in the case of mechanical breakdown or extreme or unusual circumstances. The Contractor shall provide the Borough with a schedule/calendar showing the days of the week in which the resurfacing and painting services for the Memorial Park Tennis Courts will be conducted. The Contractor shall also provide this information on its website no later than 20 days following the Notice of Award to the Contractor.

The Contractor is required to make a good-faith effort in providing the regularly scheduled resurfacing and painting services; however, **if the Contractor is unable to perform the resurfacing and painting services because of severe weather conditions, equipment failure or for any other reason, the Contractor shall notify the Borough** and perform the resurfacing and painting services on the next working day. If resurfacing and painting services still cannot be safely performed the next working day because of continuing severe weather conditions, then it is understood that the Contractor shall provide the resurfacing and painting services on the next scheduled working day. This provision shall only apply to severe weather-related hazardous conditions.

#### **4. SERVICE RATES / RECORD KEEPING REQUIREMENTS**

Resurfacing and painting service rates shall be an hourly fee inclusive of all applicable taxes, surcharges, fees, etc. The Contractor shall be responsible for providing resurfacing and painting services of all tennis courts located at Memorial Park.

The Contractor shall be required to create, keep, and maintain accurate records stating the progress of the resurfacing and painting of the Memorial Park Tennis Courts on a bi-weekly and monthly basis.

The Contractor shall furnish copies of each of the aforementioned weekly and monthly records to the Borough on the 1<sup>st</sup> and 16<sup>th</sup> day of each month. If either the 1<sup>st</sup> or the 16<sup>th</sup> day of the month falls on a weekend or holiday, Contractor shall furnish the aforementioned records to the Borough on the next business day.

#### **5. TERM**

The Contract shall be in full force and effect for a term beginning on the Effective Date of the Agreement and shall continue thereafter to December 31, 2025 (the "Term").

## **NON-DISCRIMINATION**

During the term of the Contract, the Contractor agrees as follows:

- A. Contractor shall not discriminate against any employee, applicant for employment, independent contractor, or any other person because of race, color, religious creed, ancestry, national origin, age, sex, or disability. Contractor shall take affirmative action to ensure that applicants are employed, and that employees or agents are treated during employment, without regard to their race, color, religious creed, ancestry, national origin, age, or sex. Such affirmative action shall include, but is not limited to, the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training. Contractor shall post in conspicuous places, available to employees, agents, applicants for employment and other persons, a notice to be provided by the contracting agency setting forth the provisions of this non-discrimination clause.
- B. Contractor shall in advertisements or requests for employment placed by it or on its behalf state all qualified applicants will receive consideration for employment without regard to race, color, religious creed, ancestry, national origin, age, sex, or disability.
- C. Contractor shall send each labor union or workers' representative with which it has a collective bargaining agreement or other contract or understanding, a notice advising said labor union or workers' representative of its commitment to this non-discrimination clause. Similar notice shall be sent to every other source of recruitment regularly utilized by Contractor.
- D. It shall be no defense to a finding of a noncompliance with Contract Compliance Regulations issued by the Pennsylvania Human Relations Commission or this non-discrimination clause that Contractor has delegated some of its employment practices to any union, training program, or other source of recruitment which prevents it from meeting its obligations. However, if the evidence indicates that the Contractor was not on notice of the third-party discrimination or made a good faith effort to correct it, such factor shall be considered in mitigation in determining appropriate sanctions.
- E. Where the practices of a union or any training program or other source of recruitment will result in the exclusion of minority group persons, so that Contractor will be unable to meet its obligations under the Contract Compliance Regulations issued by the Pennsylvania Human Relations Commission or this non-discrimination clause, Contractor shall then employ and fill vacancies through other non-discrimination employment procedures.
- F. Contractor shall comply with the Contract Compliance Regulations of the Pennsylvania Human Relations Commission, 16 Pa. Code Chapter 49 and with all laws prohibiting discrimination in hiring or employment opportunities. In the event of Contractor's non-compliance with the non-discrimination clause of this Contract or with any such laws, this Contract may, after hearing and adjudication, be terminated or suspended, in whole or in part, and Contractor may be declared temporarily ineligible for Commonwealth of Pennsylvania

- contracts, and such other sanctions may be imposed and remedies invoked as provided by the Contract Compliance Regulations.
- G. Contractor shall furnish all necessary employment documents and records to, and permit access to its books, records and accounts by, the Borough and the Human Relations Commission, for purposes of investigation to ascertain compliance with the provisions of the Contract Compliance Regulations, pursuant to §49.35 (relating to information concerning compliance by contractors). If Contractor does not possess documents or records reflecting the necessary information requested, it shall furnish such information on reporting forms supplied by the Borough or the Commission.
  - H. Contractor shall actively recruit minority subcontractors or subcontractors with substantial minority representation among their employees.
  - I. Contractor shall include the provisions of this non-discrimination clause in every subcontract, so that such provisions will be binding upon each subcontractor.
  - J. The terms used in this non-discrimination clause shall have the same meaning as in the Contract Compliance Regulations issued by the Pennsylvania Human Relations Commission, 16 Pa. Code Chapter 49.
  - K. Contractor obligations under this clause are limited to the Contractor's facilities within Pennsylvania, or, where the Contract is for purchase of goods manufactured outside of Pennsylvania, the facilities at which such goods are actually produced.



**BIDDER AFFIDAVIT**

The Specifications and all papers required by it and submitted herewith, the Contract, and all papers made a part hereof by its terms, are hereby made a part of this Proposal.

The undersigned Bidder hereby represents as follows:

- A. That he has carefully examined the Proposal, the Contract, and the Specifications.
  - B. That no officer, agent, or employee of the Borough of Waynesboro is personally interested directly or indirectly in this Proposal and the accompanying Contract or the compensation to be paid herein under.
  - C. That the Proposal is made without connection with any person, firm or corporation making a Proposal for the same work, and is in all respects fair and without collusion or fraud; and
  - D. That should this Proposal be accepted by the Borough of Waynesboro within sixty (60) days of the opening of bids, he will execute the Contract and furnish any other documents within the time and in the forms and amount required by the Contract and Specifications, and that upon his failure, neglect or refusal to do so, the Borough of Waynesboro shall have any and all remedies, at law and/or in equity, available to it.
- 

\_\_\_\_\_  
Name of Bidder, Corporation, Firm or Individual

By: \_\_\_\_\_  
Authorized Representative

\_\_\_\_\_  
Please Print Signature

\_\_\_\_\_  
Title

\_\_\_\_\_  
Business Address of Bidder

\_\_\_\_\_  
Phone #

### **INSTRUCTIONS FOR NON-COLLUSION AFFIDAVIT**

1. This Non-Collusion Affidavit is material to any contract awarded pursuant to this bid. According to the Pennsylvania Antibid-Rigging Act, 62 Pa. C.S.A. §4501 et seq., governmental agencies may require Non-Collusion Affidavits to be submitted together with bids.
2. This Non-Collusion Affidavit must be executed by the member, officer or employee of the Bidder who makes the final decision on prices and the amount quoted in the bid.
3. Bid-rigging, and other efforts to restrain competition, and the making of false sworn statements in connection with the submission of bids, are unlawful and may be subject to criminal prosecution. The person who signs the Affidavit should examine it carefully before signing and assure himself or herself that each statement is true and accurate, making diligent inquiry, as necessary, of all other persons employed by or associated with the bidder with responsibilities for the preparation, approval or submission of the bid.
4. In the case of a bid submitted by a joint venture, each party to the venture must be identified in the bid documents and an Affidavit must be submitted separately on behalf of each party.
5. The term “complementary bid”, as used in the Affidavit, has the meaning commonly associated with that term in the bidding process and includes the knowing submission of bids higher than the bid of another firm, any intentionally high or non-competitive bid and any other form of bid submitted for the purpose of giving a false appearance of competition.
6. Failure to file an Affidavit, in compliance with these instructions, will result in disqualification of the bid.

**NON-COLLUSION AFFIDAVIT**

Contract/Bid No. \_\_\_\_\_

**State of**        :

**County of**    :

I state that I am \_\_\_\_\_ (Title) of  
\_\_\_\_\_ (Name of Firm),

and that I am authorized to make this Affidavit on behalf of my firm and its owners, directors, and officers. I am the person responsible in my firm for the price(s) and the amount of this bid.

I state that:

- (1) The price(s) and amount of this bid have been arrived at independently and without consultation, communication or agreement with any other contractor, bidder, or potential bidder.
- (2) Neither the price(s) nor the amount of this bid, and neither the approximate price(s) nor approximate amount of this bid, have been disclosed to any other firm or person who is a bidder or potential bidder, and they will not be disclosed before bid opening.
- (3) No attempt has been made or will be made to induce any firm or person to refrain from bidding on this contract, or to submit a bid higher than this bid, or to submit any intentionally high or non-competitive bid or other form of complementary bid.
- (4) The bid of my firm is made in good faith and not pursuant to any agreement or discussion with, or inducement from, any firm or person to submit a complementary or other non-competitive bid.
- (5) (Name of Firm) \_\_\_\_\_ its affiliates, subsidiaries, officers, directors and employees are not currently under investigation by any governmental agency and have not, in the last four (4) years, been convicted or found liable or any act prohibited by State or Federal law in any jurisdiction involving conspiracy or collusion with respect to bidding on any public contract, except as follows:

I state that \_\_\_\_\_ (Name of Firm) understands and acknowledges that the above representations are material and important and will be relied on by the Borough of Waynesboro in awarding the contract(s) for which this bid is submitted.

**NON-COLLUSION AFFIDAVIT CONTINUED**

I understand, and my firm understands, that any misstatement in this Affidavit is and shall be treated as fraudulent concealment from the Borough of Waynesboro of the true facts relating to the submission of bid for this contract.

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Print Name)

\_\_\_\_\_  
(Company Position)

SWORN TO AND SUBSCRIBED  
BEFORE ME THIS

\_\_\_\_\_  
(Date)

\_\_\_\_\_

Notary Public  
My Commission Expires:

\_\_\_\_\_  
(Date)

**BID BOND**

**BIDDER (Name and Address)**

**SURETY (Name and Address)**

**OWNER (Name and Address)**

Borough of Waynesboro  
55 East Main Street  
Waynesboro, PA 17268

**PROJECT**

**2025 RESURFACING OF MEMORIAL PARK TENNIS COURTS**

**Bid Date:** \_\_\_\_\_, 2025

**Project Identification:** 2025 Resurfacing of Memorial Park Tennis Courts

**Contract Number and Identification**

**BOND**

**Date:**

**Amount:**

1. Bidder and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors and assigns to pay to Owner upon default of Bidder the full-face amount of this Bond.
2. Default of Bidder shall occur upon the failure of Bidder to deliver within the time required by the Bidding Documents the executed Agreement required by the Bidding Documents and any Performance Bonds, Payment Bonds, Certificates of Insurance, or other documents required by the Bidding Documents and Bidding Documents.
3. This obligation shall be null and void if:
  - 3.1 Owner accepts Bidder’s Bid and Bidder delivers within the time required by the Bidding Documents (or any extension thereof agreed to in writing by Owner) the executed Agreement required by the Bidding Documents and any Performance Bonds, Payment Bonds, Certificates of Insurance, or other documents required by the Bidding Documents and Bidding Documents, or

- 3.2 All Bids are rejected by Owner, or
- 3.3 Owner fails to issue a Notice of Award to Bidder within the time specified in the Bidding Documents (or any extension thereof).
4. Payment under this Bond will be due and payable upon default of Bidder and within thirty (30) calendar days after receipt of Bidder and Surety of written notice of default from Owner, which notice will be given with reasonable promptness, identifying this Bond and the Project and including a statement of the amount due.
5. Surety waives notice of and any and all defenses based on or arising out of any time extension to issue Notice of Award, provided that the time for issuing Notice of Award shall not in the aggregate exceed one hundred twenty (120) days from Bid opening date without Surety's direct written consent.
6. No suit or action shall be commenced under this Bond prior to thirty (30) calendar days after the notice of default required in paragraph 4 above is received by Bidder and Surety, and in no case later than one (1) year after Bid opening date.
7. Any suit or action under this Bond shall be commenced only in a court of competent jurisdiction located in the state in which the Project is located.
8. Notice required hereunder shall be in writing and sent to Bidder and Surety at their respective addresses shown on the first page of this Bond. Such notices may be sent by personal delivery, commercial courier or by United States Registered or Certified Mail, return receipt requested, postage pre-paid and shall be deemed to be effective upon receipt by the party concerned.
9. Surety shall cause to be attached to this Bond a current and effective Power of Attorney evidencing the authority of the officer, agent, or representative who executed this Bond on behalf of Surety to execute, seal, and deliver such Bond and bind the Surety thereby.
10. This Bond is intended to conform to all applicable statutory requirements. Any applicable requirement of any applicable statute that has been omitted from this Bond shall be deemed to be included herein as if set forth at length. If any provision of the Bond conflicts with any applicable provision of any applicable statute, then the provision of said statute shall govern and the remainder of this Bond that is not in conflict therewith shall continue in full force and effect.

**(If Bidder is an Individual)**

\_\_\_\_\_  
Signature of Witness

\_\_\_\_\_  
Signature of Individual

Trading and doing business as:

\_\_\_\_\_  
Name of Business

\_\_\_\_\_  
Address of Business

**(If Bidder is a Partnership – All General Partners Must Sign)**

\_\_\_\_\_  
Name of Partnership

\_\_\_\_\_  
Address of Partnership

\_\_\_\_\_  
Signature of Witness

\_\_\_\_\_  
Signature of Partner

\_\_\_\_\_  
Signature of Witness

\_\_\_\_\_  
Signature of Partner

\_\_\_\_\_  
Signature of Witness

\_\_\_\_\_  
Signature of Partner

**(If Bidder is a Corporation)**

Attest:

\_\_\_\_\_  
Name of Corporation

\_\_\_\_\_  
Signature of Secretary or  
Assistant Secretary

\_\_\_\_\_  
Address of Principal Office

(Corporate Seal)

\_\_\_\_\_  
State of Incorporation

\_\_\_\_\_  
Signature of President or Vice President

Type or print name below each signature.

(Corporation Surety)

\_\_\_\_\_  
Name of Corporation

\_\_\_\_\_  
Address of Office

\_\_\_\_\_  
Signature of Witness

\_\_\_\_\_  
Signature of Attorney-in-fact

Attach an appropriate Power of Attorney, dated as of the same date as the Bond, evidencing the authority of the Attorney-in-fact to act in behalf of the corporation.

Type or print name below each signature.

**NOTE: Substitute Bid Bond Form is not acceptable. Failure to submit Bond on this form will be reason for rejection of Bid.**

**END OF PROPOSAL BOND**



# PROPOSAL

DATE \_\_\_\_\_

## Project: 2025 Resurfacing of Memorial Park Tennis Courts

### ARTICLE 1 - BID RECIPIENT

1.01 This Bid is submitted to:  
Borough of Waynesboro  
55 East Main Street  
Waynesboro, PA 17268  
Attn: Jason Stains

1.02 The undersigned Bidder proposes and agrees, if this Bid is accepted, to enter into an Agreement with the Borough in the form included in the Bidding Documents to perform the Work as specified or indicated in the Bidding Documents for the prices and within the times indicated in this Bid and in accordance with the other terms and conditions of the bidding Documents.

### ARTICLE 2 – BIDDER’S ACKNOWLEDGMENTS

2.01 Bidder accepts all of the terms and conditions of the Notice / Advertisement, Instructions to Bidders, and General Terms and Conditions, including without limitation those dealing with the disposition of Bid security, if applicable. The Bid will remain subject to acceptance for sixty (60) days after the Bid opening, or for such longer period of time that Bidder may agree to in writing upon request of the Borough.

### ARTICLE 3 – BIDDER’S REPRESENTATIONS

3.01 In submitting this Bid, Bidder represents, as set forth in the Bidding Documents that the Bidder has:

- A. Examined and carefully studied the Bidding Documents, including any Addenda, and the related data identified in the Bidding Documents;
- B. If specified, or if, in Bidder’s judgment, any local condition may affect cost, progress or the performance of the Work, Bidder has visited the Point of Destination to become familiar with the local conditions;
- C. Bidder is familiar with and satisfied as to all federal, state, and local laws and regulations that may affect cost, progress, or the performance of the Work;
- D. Bidder has carefully studied and correlated the information known to Bidder, and information and observations obtained from Bidder’s visits, if any, to the Point of Destination, with the Bidding Documents;
- E. Promptly given the Borough written notice of all conflicts, errors, ambiguities, or discrepancies that Bidder discovered in the Bidding Documents and confirmed that the written resolution thereof by the Borough is acceptable to Bidder; and
- F. Determined that the Bidding Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance of the Work.

### ARTICLE 4 – BASIS OF BID

4.01 Under the Bid Form, the Contractor shall be responsible for the inspection and evaluation of each of the tennis courts in their current conditions, the resurfacing of the tennis courts, and the painting of each tennis court. Contractor specifically agrees to inspect each of the four (4) tennis courts

located at Memorial Park and provide resurfacing services to the Borough for each tennis court. Contractor further agrees to provide subsequent painting services to each of the four (4) tennis courts, which shall also include the painting of the appropriate lines for pickle ball use on each court.

The Instructions to Bidders and Specifications attached hereto are incorporated by reference herein and made a part hereof.

4.02 Bidder will perform the Work as noted below in accordance with the Bidding and Contract Documents (indicate quantity where none is currently given) at the following FIRM prices:

**Resurfacing and Painting**

**Item #1 - Resurfacing and Painting of Memorial Park Tennis Courts**

	2025 Resurfacing and Painting Charges
Hourly Rate	\$

TOTAL BID PRICE (words) for Item 1:

---

BID PRICE (Figures) \$ \_\_\_\_\_

NOTE: The Contract shall be in full force and effect on the effective date of the Agreement. The term of the Agreement shall be for \_\_\_\_\_, beginning on the effective date of the Agreement and terminating on \_\_\_\_\_, 2025 (the “Term”).

**ARTICLE 5 – TIME OF COMPLETION**

5.01 Bidder agrees that the provision of the Services will conform to the schedule set forth in the Agreement, as identified by the Borough of Waynesboro.

**ARTICLE 6 – ATTACHMENTS TO THIS BID**

6.01 The following documents are attached to and made a condition of this Bid:

- A. Required Non-Collusion Affidavit, Bidder Affidavit, and Non-Discrimination Affidavit

## AGREEMENT

THIS AGREEMENT made this \_\_\_\_\_ day of \_\_\_\_\_ 2025 by and between the Borough of Waynesboro, a Municipal Corporation organized and existing under the laws of the Commonwealth of Pennsylvania, (hereinafter the “Borough”) and \_\_\_\_\_ (hereinafter the “Contractor”).

### WITNESSETH

**WHEREAS**, the Borough has authorized certain items of work in connection with Specifications, Proposal, and Contract for “2025 Resurfacing of Memorial Park Tennis Courts” (hereinafter the “Specifications”), as required, all in accordance with said Contract Documents as further defined below, attached hereto and made a part herein; and

**WHEREAS**, the Contractor has submitted to the Borough a Bid in conformity with said Specifications, a copy of which Proposal is hereto attached and made a part hereof (hereinafter the “Proposal”); and

**WHEREAS**, the Borough, after due consideration and appropriate action, has determined that it is in the best interest of the Borough to award a Contract to the Contractor for said Item(s) of work included in said Bid in accordance with the terms and conditions as set forth herein.

**NOW THEREFORE**, the Borough and the Contractor in consideration of the requirements, terms and conditions of said Specifications and the offers, promises and representations made by the Contractor in said Proposal, by each of the parties hereto, on their parts, to be observed and fulfilled and intending to be legally bound, do hereby agree as follows:

**1. Recitals**

The above recitals are incorporated herein by reference therefor and made a part of this Agreement.

**2. Contract Documents**

The Contract Documents include the following documents issued under the title “Specifications, Proposal, and Contract for “2025 Resurfacing of Memorial Park Tennis Courts”: Notice / Advertisement, Instructions to Bidders, General Terms and Conditions, Specifications, Non-Discrimination Notice, Bidder Affidavit, Non-Collusion Affidavit, Proposal, Agreement, Receipt of Confirmation of Bidding and Contract Documents (if applicable), any and all Addenda (if applicable), Receipt of Addenda (if applicable), the Contractor’s completed Proposal, any required attachments or written amendment(s) and Notice to Proceed (hereinafter the “Contract Documents”), which documents are incorporated into this Agreement by reference.

**3. Basis of Agreement**

The parties hereto recognize that the Contract Documents are the basis of this Agreement, and the parties accept the same, and declare that there are no understandings, representations or promises, written or verbal, having any bearing on this Agreement which are not expressed in said Contract Documents and Contractor’s Proposal or written in this Agreement.

**4. Scope of Work**

The Contractor agrees to furnish all labor, superintendence, materials, necessary equipment, other utilities and facilities, and to otherwise perform all work and services necessary for or incidental to and otherwise perform all obligations imposed by this Agreement and to faithfully perform and

complete all of said work connected therewith in full and strict conformity with the Contract Documents and this Agreement and to demonstrate and make good any guarantees and warranties therein required and contained, for all of which things faithfully and fully performed and completed for the following items (hereinafter the “Work”):

SEE TABULATION SHEET

Item	Name	Price
------	------	-------

**5. Payment / Substantial Completion / Final Completion / Damage**

**5.1 Contract Price**

The Borough shall pay and the Contractor shall receive and accept as full payment for the performance of the Contractor’s obligations hereunder, the price(s) stipulated in the Proposal attached hereto and in the manner as specified in the Contract Documents and this Agreement, subject to the provisions set forth in this Paragraph 5. All payments will be processed through the Borough’s standard accounts payable system.

**5.2 Payment Procedures**

Contractor shall submit invoices in accordance with and subject to the payment provisions as indicated in the General Terms and Conditions. In no event shall the total price exceed the amount set forth in the Proposal, unless the parties agree in writing to a modification of the amount set forth in the Proposal.

**5.3 Damage, Injury or Loss Caused by Contractor**

Contractor shall take any and all necessary precautions to prevent damage, injury or loss to real property, personal property, and/or to the person in the performance of the Work by Contractor. Contractor is solely responsible for any and all damages, injuries, costs, expenses, and/or losses to the person, real property and/or personal property that is caused and/or related to, directly and/or indirectly, the performance of the Work by Contractor. Any and all damage, injury, or loss to any property caused, directly or indirectly, in whole or in part, by Contractor, any Subcontractor, Supplier, or any other individual or entity directly or indirectly employed by any of them to perform any of the Work, or anyone for whose acts any of them may be liable, shall be remedied by Contractor at its sole cost and expense and subject to the approval of the Borough. In the event that Contractor does not remedy the damage or otherwise make the Borough and/or other property owner whole, the Borough, in its sole and absolute discretion, may remedy the damage, injury or loss, or otherwise compensate a private property owner for the amount of damage, injury or loss, and deduct the amount(s) incurred plus ten (10%) percent from the Contractor’s final payment.

**6. Contract Times & Term**

**6.1 Term / Extended Term(s).**

The Contract shall commence on the Effective date and terminate on December 31, 2025, unless otherwise terminated or extended as provided for herein. The Contractor shall begin providing the Services beginning on May 1, 2025 and shall continue for a period of four (4) months thereafter through September 1, 2025 (the “Term”).

**6.2 Time is of the Essence.**

The time for completion of all work contemplated herein is deemed to be of the essence and a material part of this Agreement.

## **7. Contractor's Representations**

In order to induce the Borough to enter into this Agreement, Contractor makes the following representations:

- 7.1 Contractor has examined and carefully studied the Contract Documents and the other related data identified in the Contract Documents including any applicable "technical data".
- 7.2 Contractor has become familiar with the Memorial Park Tennis Courts intended for resurfacing and painting and is satisfied as to the general quality and conditions that may affect cost, progress, performance, and furnishing of the Work.
- 7.3 Contractor is familiar with and is satisfied as to all federal, state, and local laws and regulations that may affect cost, progress, performance, and furnishing of the Work.
- 7.4 Contractor is aware of the general nature of work to be performed by the Borough and others at the site that relates to the Work as indicated in the Contract Documents.
- 7.5 Contractor has correlated the information known to Contractor, information and observations obtained from visits to the site, reports, and drawings identified in the Contract Documents and all additional examinations, investigations, explorations, tests, studies, and data with the Contract Documents.
- 7.6 Contractor has given the Borough written notice of all conflicts, errors, ambiguities, or discrepancies that Contractor has discovered in the Contract Documents, prior to executing this Agreement, and the written resolution thereof by the Borough is acceptable to Contractor, and the Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.
- 7.7 Contractor acknowledges the Borough may apply for funding assistance for the Work and if such funding is awarded, Contractor and/or subcontractors may be required to submit additional information or documentation, and Contractor and/or Subcontractors may be required to adhere to additional criteria necessary to satisfy additional funding requirements.
- 7.8 Contractor is authorized to do business in Pennsylvania and that the person signing on behalf of the Contractor is authorized to bind Contractor to the terms and conditions set forth herein, and shall submit with this Agreement a copy of a corporate resolution indicating the same.

## **8. Independent Contractors**

Any services for the Work to be performed by the Contractor or its Subcontractors, if any, under this Agreement are provided as independent contractors. Nothing in this Agreement shall be considered to create the relationship of employer and employee between the parties. All persons engaged in any of the services for the Work to be performed pursuant to this Agreement shall at all times and places be subject to the Contractor's sole direction, supervision, and control. The Contractor shall exercise control over the means and manner in which it, its employees, and Subcontractors perform the Services. The Contractor does not have the power or authority to bind the Borough in any promise, agreement, or representation unless expressly provided with a written agreement to do so. The Contractor also hereby represents and warrants that it and any Sub-

contractors has and will continue to maintain all licenses and approvals required to conduct its business and to provide the services for the Work as required pursuant to this Agreement.

**9. Warranty**

The Contractor shall warrant and guarantee that the Work and/or Services shall conform to the express statements in the Contract Documents, including but not limited to the General Terms and Conditions and Specifications: the Work and/or Services will be provided in compliance with any and all applicable federal, state and local laws and regulations and in a reasonably safe manner using the highest standards of nationally recognized and industry-accepted practices and procedures; that the Contractor is in the business of providing the Work and/or Services agreed to in the Contract and has the requisite experience, expertise, facilities (or access to), equipment, qualified personnel and legal right to perform the Work and/or Services; and any facilities or equipment used by the Contractor to perform the Work and/or Services shall be licensed and/or permitted as required for compliance with any and all applicable federal, state and local laws and regulations.

**10. Force Majeure**

The Borough, the Contractor, and Subcontractors shall not be held responsible for any delay, default, or nonperformance directly caused by an act of God, unforeseen adverse weather events, accident, labor strike, fire, explosion, riot, war, rebellion, terrorist activity, sabotage, flood, epidemic, act of federal or state government, labor, material, equipment, or supply shortage. Notwithstanding the foregoing, such delays, defaults, or nonperformance shall result from matters that would not be reasonably foreseen by a Contractor exercising reasonable due diligence and/or care.

**11. Governing Law / Venue / Jurisdiction**

This Agreement shall be construed according to, be subject to, and be governed by the laws of the Commonwealth of Pennsylvania. The Court of Common Pleas in and for Franklin County, Pennsylvania shall have exclusive jurisdiction and venue for any legal and/or equitable action arising out of or relating to, directly or indirectly, this Agreement.

**12. Entire Agreement**

This Agreement, with the other Contract Documents, contains the entire Agreement between the parties and no other agreements, oral or otherwise, regarding the subject matter of this Agreement, shall be deemed to exist or bind any of the parties. No modification, amendment, change or addition to this Agreement shall be binding on the parties unless reduced in writing mutually agreed to, and signed by the parties' authorized representatives.

**13. Remedies**

No remedy herein conferred upon any party is exclusive of any other remedy, and each and every remedy shall be cumulative and shall be in addition to every other remedy given hereunder or provided by law, equity, statute, or unless otherwise stated herein. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other exercise or further exercise thereof. Notwithstanding the foregoing, Contractor waives any and all claims to consequential, incidental, compensatory or punitive damages that may arise out of and/or resulting from this Agreement, including but not limited to loss of anticipated profits or revenue or other economic loss in the event this Agreement is terminated. Further, Contractor agrees that Contractor's sole remedy for any claim arising out of or relating to this Agreement shall be payment for services rendered prior to any termination of the Agreement, provided however that the Borough may offset any amount owed to the Contractor for services rendered by Contractor prior to

termination of the Agreement for any damages, and/or costs suffered and/or incurred by the Borough as a result of any breach or failure by Contractor.

**14. Severability**

If any term, provision, covenant, or condition of this Agreement is held by a court of competitive jurisdiction to be invalid, void or unenforceable, the remainder of the provisions hereof shall remain in full force and effect and shall in no way be affected, impaired, or invalidated as a result of such decision.

**15. Counterparts**

This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original, but all of which together shall constitute the same instrument.

**16. Interpretation**

The parties have had the opportunity to review this Agreement with their respective legal counsel and therefore, the parties agree that this Agreement shall not be construed against or in favor of either party as the drafter of this Agreement.

**17. Successors and Assigns**

The Borough and Contractor each binds itself, its successors and assigns, to all covenants, agreements, and obligations contained in the Contract Documents.

**18. Assignment**

No assignment by a party hereto of any rights under or interests in this Agreement or the Contract Documents will be binding on another party hereto without the written consent of the party sought to be bound; and, specifically but without limitation, moneys that may become due and moneys that are due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment no assignment will release or discharge the assignor from any duty or responsibility under this Agreement or the Contract Documents.

**19. Termination / Suspension**

Should the Contractor fail to perform the Work and/or Services to the satisfaction of the Borough or to comply with any of the provisions of the Agreement, the Borough may terminate the Agreement for cause upon seven (7) days written notice of intent to terminate to the Contractor. Contractor's services will not be terminated if the Contractor begins within seven (7) days of receipt of the notice of intent to terminate to correct and cure the deficiencies set forth in said notice and it proceeds in a diligent manner to cure such deficiencies within no more than fifteen (15) days of receipt of said notice, unless the Borough in its sole and absolute discretion extends such time to cure in writing.

Notwithstanding the foregoing, the Borough may terminate this Agreement without cause and without prejudice to any other right or remedy of the Borough upon ten (10) days written notice to Contractor.

Contractor may only terminate this Agreement in the event the Borough is in default and fails to cure said default within thirty (30) days from the date the Borough receives written notice from Contractor, which said notice shall set forth the alleged default.

In the event that the Borough terminates the Agreement as provided for herein, Contractor agrees that Contractor shall not be entitled to, and shall not be paid, an amount for loss of anticipated

profits or revenue or other economic loss arising out of and/or resulting from such termination. Contractor agrees that its sole remedy shall be payment for services rendered prior to termination of the Contract, provided however that the Borough may offset any amount owed to the Contractor for services rendered by Contractor prior to termination for any damages, and/or costs suffered and/or incurred by the Borough as a result of any breach or failure by Contractor.

The Borough has the right to suspend performance of the Agreement, at any time and without cause, by written notice, upon which the Contractor shall be entitled to an increase in the Contract time and Contract price caused by the suspension, as determined by the Borough in its sole and absolute discretion.

**20. Non-Discrimination**

Contractor shall not discriminate against any employee, applicant for employment, or any person seeking the Services of Contractor to be provided under this Agreement on the basis of race, color, religion, creed, sex, age, national origin, marital status, or presence of any sensory, mental, or physical handicap.

**(SIGNATURES APPEAR ON FOLLOWING PAGE)**



IN WITNESS WHEREOF the parties hereto have set their hands and seals as of the date first above written.

**(If Contractor is an Individual)**

_____ Signature of Witness	_____ Signature of Individual
	Trading and doing business as:
	_____ Name of Business
	_____ Address of Business
	_____ Date

**(If Contractor is a Partnership - All General Partners Must Sign)**

	_____ Name of Partnership
	_____ Address of Partnership
_____ Signature of Witness	_____ Signature of Partner
_____ Signature of Witness	_____ Signature of Partner
_____ Signature of Witness	_____ Signature of Partner
	_____ Date

**(If Contractor is a Corporation)**

Attest:

\_\_\_\_\_  
Name of Corporation

\_\_\_\_\_  
Signature of Secretary or  
Assistant Secretary

\_\_\_\_\_  
Address of Principal Office

(Corporate Seal)

\_\_\_\_\_  
State of Incorporation

\_\_\_\_\_  
Signature of  
President or Vice President

\_\_\_\_\_  
Date

Attest:

**BOROUGH OF WAYNESBORO**

55 East Main Street,  
Waynesboro, PA 17268

\_\_\_\_\_  
Borough Secretary

\_\_\_\_\_  
President of Borough Council

\_\_\_\_\_  
Date

**END OF AGREEMENT**

**PERFORMANCE BOND**

**KNOWN ALL MEN BY THESE PRESENT**, that we

\_\_\_\_\_, as Contractor,

and \_\_\_\_\_, a corporation incorporated under the laws of the State of

\_\_\_\_\_, as surety, are jointly and severally held firmly bound unto the Borough of Waynesboro, a Municipal Corporation of the Commonwealth of Pennsylvania, with its principal office at 55 East Main Street, Waynesboro, PA 17268, in the full and just sum of \_\_\_\_\_ Dollars (\$ \_\_\_\_\_) lawful money of the United States of America, to be paid to the said Municipality, in payment well and truly made, we do bind ourselves, our successors, assigns, heirs, executors and administrators, jointly and severally, firmly by these present.

**WHEREAS**, the above bounded Principal will be providing certain Resurfacing and Painting of the Memorial Park Tennis Courts Services to the Borough of Waynesboro, the Contract for which the Resurfacing and Painting of the Memorial Park Tennis Courts Services require the posting of financial security to ensure that the Resurfacing and Painting of the Memorial Park Tennis Courts Services are provided as set forth in the Agreement.

**NOW THEREFORE**, the condition of this obligation is such that if the above bounded Principal, as Contractor shall in all respects comply with the Contract for Resurfacing and Painting of the Memorial Park Tennis Courts Services then this Obligation shall be void, but otherwise the same shall be and remain in full force, virtue and effect.

The Performance Bond may be drawn upon by the Municipality if a notarized statement signed by a Municipal representative is presented to the surety stating that the Contract for the Resurfacing and Painting of the Memorial Park Tennis Courts Services has not been completed as required. This Performance Bond must be presented at the time of any drawing hereunder.

The bond shall in all respects conform to the requirements of the laws of the Commonwealth of Pennsylvania and be in a form satisfactory to the Municipality.

**(If Bidder is an Individual)**

\_\_\_\_\_  
Signature of Witness

\_\_\_\_\_  
Signature of Individual

Trading and doing business as:

\_\_\_\_\_  
Name of Business

\_\_\_\_\_  
Address of Business

**(If Bidder is a Partnership – All General Partners Must Sign)**

\_\_\_\_\_  
Name of Partnership

\_\_\_\_\_  
Address of Partnership

\_\_\_\_\_  
Signature of Witness

\_\_\_\_\_  
Signature of Partner

\_\_\_\_\_  
Signature of Witness

\_\_\_\_\_  
Signature of Partner

\_\_\_\_\_  
Signature of Witness

\_\_\_\_\_  
Signature of Partner

**(If Bidder is a Corporation)**

Attest:

\_\_\_\_\_  
Name of Corporation

\_\_\_\_\_  
Signature of Secretary or  
Assistant Secretary

\_\_\_\_\_  
Address of Principal Office

(Corporate Seal)

\_\_\_\_\_  
State of Incorporation

\_\_\_\_\_  
Signature of President or Vice President

Type or print name below each signature.

(Corporation Surety)

\_\_\_\_\_  
Name of Corporation

\_\_\_\_\_  
Address of Office

\_\_\_\_\_  
Signature of Witness

\_\_\_\_\_  
Signature of Attorney-in-fact

Attach an appropriate Power of Attorney, dated as of the same date as the Bond, evidencing the authority of the Attorney-in-fact to act in behalf of the corporation.

Type or print name below each signature.

**NOTE: Substitute Performance Bond Form is not acceptable. Failure to submit Bond on this form will be reason for rejection of Bid.**

INSERT W-9 FORM

# Receipt of Confirmation of Bidding Documents

For

## 2025 RESURFACING OF MEMORIAL PARK TENNIS COURTS

All prospective Bidders who obtained the Bidding Documents electronically must fax this "Receipt of Confirmation" form no later than 10:00 a.m., April 7, 2025 EST to:

Jason Stains, Borough Manager at (717) 762-4707.

The undersigned confirms receipt of all 39 pages of the Bidding and Contract Documents dated March 6, 2025 for the project referenced above as posted electronically at <https://waynesboropa.gov>.

Name of Company \_\_\_\_\_

Name of Recipient \_\_\_\_\_

Signature of Recipient \_\_\_\_\_

Title of Recipient \_\_\_\_\_

Phone No: \_\_\_\_\_

Fax No: \_\_\_\_\_

E-mail: \_\_\_\_\_

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