

TOWN OF COLCHESTER

Request for Proposal

***POST TENSION CONCRETE
TENNIS COURT PROJECT***

AT COLCHESTER RECPLEX

Due AUGUST 10, 2022 at 2:00 p.m.

Bid #2022-008

127 Norwich Avenue
Colchester, Connecticut. 06415
(860) 537-7200

BACKGROUND

The Town of Colchester is soliciting Proposals from qualified POST AND TENSION TENNIS COURT designers/installers. In general, the Town is looking for a company to replace the existing asphalt tennis courts with concrete post and tension tennis courts.

Vendors are invited to submit Proposals with tennis court designs identified in this RFP.

SCOPE OF WORK

Selected Vendor(s) will be responsible for the design, provision, and installation of tennis courts at the Colchester RecPlex, within the designated budget. The budget and desired equipment is detailed in the Request for Proposal.

LOCATION

Colchester RecPlex, 215 Old Hebron Road

BASIC REQUIREMENTS

Vendors must be prepared to comply with all state, federal and local requirements. Vendors are responsible for verifying site conditions. No allowances will be made if a Vendor fails to adequately examine a location before submitting a Proposal.

BIDS

Bid Documents shall be enclosed in a sealed envelope addressed to the Colchester First Selectman and clearly marked "SEALED BID – POST TENSION CONCRETE TENNIS COURT PROJECT 2022-08" along with the name of Bidder, date, and time of Bid opening in order to guard against premature opening of the Bid.

SITE VISIT

Site visits will be held for any interested Vendor. Vendors are encouraged to review site conditions to familiarize themselves with the existing park area. Vendors may visit the site independently or call the Recreation Office to schedule a visit.

PROPOSAL PROCESS

The proposal process will consist of a written proposal, which shall include the following items:

1. An introduction containing the following information:
 - a. A complete description of capability and history of the contractor.
 - b. History of similar projects completed, including cost and client contact information.
 - c. A brief description of the proposed schedule including how the project would be organized and built.
 - d. A list of sub-contractors to be used on the project.
2. Identify any state contract numbers or certifications. Such pricing is to be incorporated in the cost proposal(s).
3. Drawings and manufacturer's printed literature and specifications for each item or component of the modular equipment being proposed.

- a. A detailed breakdown of cost including, but not limited to:
 - i. Design
 - ii. Equipment (inclusive of all structures, components, signage, hardware, equipment manuals and operations manuals)
 - iii. Installation
 - iv. Any other equipment-related improvements necessary to complete the project.
 - b. Proof of Manufacturer's Product Liability Insurance
 - c. Proof of installer certification and insurance
4. Anticipated lead time for construction and estimated date of completion

BID SECURITY

Each Bid must be accompanied by a surety bond in the amount of 5% of the total of the Bid with the forms supplied by the Vender. A certified check will not be acceptable. Bid security of the successful Bidder will be retained until such Bidder has executed the Agreement, furnished the required contract security, and met the other conditions of the Notice of Award, whereupon the Bid security will be returned. The Bid security of other Bidders whom Vender believes to have a reasonable chance of receiving the award may be retained by Vender until the earlier of the seventh day after the Effective Date of the Agreement or the sixty-first day after Bid opening, whereupon the Bid security furnished by such Bidders will be returned. Bid security with Bids which are not competitive will be returned within seven (7) days of Bid opening.

SECURITY FOR FAITHFUL PERFORMANCE

In addition to the Agreement, a successful Bidder shall also provide, within the time stipulated, a Construction Performance Bond by a company satisfactory to the Vender in an amount equal to One Hundred Percent (100%) of Estimated Total Contract Price recorded in the Proposal section of the Contract as executed, and a Construction Payment Bond in like amount will be required from the successful Bidder for faithful performance of the Contract.

PROPOSAL SUBMITTAL

By submitting a Proposal pursuant to this RFP, Vendor is indicating willingness to enter into the Agreement in the form attached to this RFP and is agreeing to furnish the insurance certificates and endorsements as required by the Agreement and this RFP. Furthermore, Vendor is deemed to have provided its assurance that it is able to meet the insurance requirements described in the Agreement. Bidder understands that failure to sign the Agreement and/or provide the insurance certificates and endorsements will cause Town to terminate the bid award.

EVALUATION OF PROPOSALS

Town of Colchester departments will review the written proposals and will determine the top Vendor(s). Evaluation of the proposals will be conducted, based on the following:

- Responsiveness to the RFP and the criteria
- Proposed site designs and concepts
- Safety
- Accessibility (focus on access and play for all abilities)
- Durability and ease of maintenance of the proposed tennis courts
- Ability to put together a design and construction plan to perform all aspects of the project, possess appropriate certifications, licenses, and meet insurance requirements.
- Ability of proposed design to meet all requirements and comply with current ADA guidelines.

Based on the proposal evaluations, the staff will make Vendor/design recommendation(s) to the Parks and Recreation Commission who will make final recommendations to the Town of Colchester Board of Selectman. The Board of Selectman will make the final determination and select the Vendor(s) for this project. Upon acceptance, the Town reserves the right to make minor changes to the selected design within the project scope and budget.

OTHER CONSIDERATIONS

This RFP does not commit the Town of Colchester to award a contract, to defray any costs incurred in the preparation of a proposal pursuant to this RFP, or to procure or contract for work. No payment of any kind will be provided to a Vendor for responding to this RFP. The Town is not bound to select any of the Vendors submitting proposals, and may, at its discretion, waive any irregularities in Proposals and their submittal. The Town reserves the right to reject any or all proposals, and to reissue the RFP in part or in its entirety.

The Town reserves the right to cancel or modify, for any or no reason, in part or in its entirety, this RFP including, but not limited to, selection schedule, submittal date, and submittal requirements, without prior notice. Notification of revisions to the RFP will be made by addendum posted on the bid webpage.

The Town reserves the right to verify the information received in the Proposal. If a Vendor knowingly and willfully submits false information or data, the Town reserves the right to reject that Proposal. If it is determined that a contract was awarded as a result of false statements or other data submitted in response to this RFP, the Town reserves the right to terminate the contract. The Town reserves the right to request additional information at any time from any and all Vendors which the Town deems necessary to evaluate Proposals.

All documentation and materials submitted in response to this RFP, will remain the property of the Town and will become a public record subject to the requirements of the State of Connecticut.

PROPOSAL DEADLINE

The deadline for receiving proposals is **2:00 p.m. on August 10, 2022**. Proposals must be marked **"RFP- POST TENSION CONCRETE TENNIS COURT PROJECT 2022-08"** and be submitted in a sealed envelope as outlined, prior to the proposal deadline. Proposals should be signed by an authorized individual to bind the firm and must be valid for at least 90 days. Please submit proposals to:

Town of Colchester, Office of the First Selectman
127 Norwich Ave., Colchester, CT 06415

TENTATIVE SCHEDULE

- | | |
|----------------------------------|---------------------------|
| • Request for Proposals released | July 13, 2022 |
| • Proposals Due | August 10, 2022, 2:00p.m. |
| • Anticipated Contract award | September 2022 |

*Vendor agrees to hold the date(s) for the installation once agreed upon with the Town. **Vendor is to coordinate activities to ensure that no park location is closed for more than three (3) weeks.**

ADDITIONAL INFORMATION

All requests for clarification or additional information must be submitted in writing via e-mail to the Town's Recreation Director, Tiffany Quinn at tquinn@colchesterct.gov. Requests for clarification must be received no later than August 5, 2022, at 4:30 p.m.

Telephone communication with Town staff is not encouraged, and the Town is not bound by any clarifications, interpretations, corrections, or changes to the RFP that are made verbally or in any manner other than by written addendum. Interpretation or correction of the RFP will be made by addendum posted on the Town website and any addendum will be considered a part of the RFP and will be incorporated therein.

POST TENSION CONCRETE TENNIS COURT PROJECT SPECIFICATIONS

SCOPE OF WORK:

The Town of Colchester is seeking to secure a highly qualified Firm to provide all the labor, materials, supplies, furnishings, services, shop drawings review, equipment, expertise, and supervision to develop plans and specifications and construct post tension concrete tennis courts. The Contractor shall, at its expense, obtain any and all required permits, inspections, and testing as well as pay any fees required for the development of the Facility, to be located 215 Old Hebron Rd., Colchester CT. The goal of this project is to rebuild the current tennis facility at 215 Old Hebron Rd., Colchester CT using post tension concrete.

The Scope of Work for the design and construction of this Project consists of the following components:

- a. Construct new post tension concrete tennis courts with a 20-year warranty.
- b. Update fencing to accommodate new court perimeter and height.
- c. Provide an acrylic based sports surface suitable to be installed on top of concrete with a 10 year warranty.

1.2 CONTRACTOR OBLIGATIONS

The Contractor shall be responsible for all Work, including but not limited to and only as approved by the Town of Colchester, survey, geotechnical investigation, design, acquisition of all permits not already acquired by the town, any and all information required to secure permits acquired by the town, demolition, environmental compliance, paving, grading, drainage, and construction on or before the Project completion date ("Contract Time") set under the Contract. The Contractor will coordinate, among other things, all utility work, with other Town of Colchester agencies and entities as required for the tennis court construction project.

1.2 A Contractor Qualifications to be submitted:

1. Contractor must have a minimum of twenty-five (25) years of experience in the construction of tennis courts.
2. Contractor must employ a staff member with a minimum of ten (15) years of experience in the installation of post tension concrete.
3. Contractor to provide a minimum of ten (10) different references from Connecticut Schools and/or Municipalities where the same or similar scope of work was completed in the last three (3) years. Projects listed must have been completed by the Bidder.

4. Bidder must employ a full-time staff member having an Unbonded Level 1 Certification from the Post Tensioning Institute for the installation of the post tensioning cables. The certification and documentation of the credentials must be provided with the bid.
5. Bidder must employ a full-time staff member having an Unbonded Level 2 Certification from the Post Tensioning Institute for the inspection of the post tensioning cables prior to the placement of the concrete. The certification and documentation of the credentials must be provided with the bid.
6. Contractor shall employ a Certified Tennis Court Builder as certified by the American Sports Builders Association who will be present at the site regularly throughout the project to supervise and inspect all phases of the court construction project. The identity of the certified builder and documentation of the credentials must be provided with the bid documents. The Certified Tennis Court Builder must be on full time staff of the Bidder.
7. Contractor shall provide a list of at least twenty (20) municipal projects that demonstrate concrete acrylic coating system (installation of Prime Coating System or equal to).
8. The contractor who installs the post tension concrete slabs and the tennis court surfacing must be the same contractor.
9. Contractor shall submit a preliminary schedule and sequence of work to demonstrate the contractor can complete the work in a timely manner.
10. Be able to furnish references from at least three (3) Architects or Engineers indicating the contractor has completed similar contract work to the owner's satisfaction.
11. Have adequate physical facilities in which and from which the work can be performed. Bidder must provide of detailed list of company facilities and equipment.
12. The awarded contractor is responsible for the submission of stamped and sealed engineered drawings for the post tension concrete slab design.

1.2 B. Tennis Court Construction Contractor Engineer Drawings and Specifications

1. After the contract is awarded, the selected contractor shall provide a State of Connecticut licensed engineering drawing and specification for post tension concrete system and fencing along with necessary construction details. Documents shall be referenced as exhibit to contract.
2. Certified Engineering Firm – The Contractor team must follow the engineering design and specifications approved by the Town of Colchester. The design and specifications must be prepared by a Professional Engineer licensed in the State of Connecticut.
3. The Contractor and Engineering Firm shall provide an electronic copy of the final approved Design Documents in both CADD and PDF formats and the specifications in Word format to the Town of Colchester. The Design-Builder shall also provide an electronic copy and hard copy of the final as-built documents in both CADD and PDF formats and the specifications to the Town of Colchester.

1.3 Post Tension Concrete Tennis Court Installation and Construction

1.3 A. Site Preparation: Prior to Concrete Pour for Tennis courts:

1. Existing asphalt, fencing system, tennis nets and net post, and all associated concrete footings are to be removed from the site.
2. The finished elevation of the new tennis courts should be within 2" of the existing tennis court elevations.

1.3 B. Post Tension Concrete Slab:

Contractor to provide complete set of specifications and stamped engineering drawings for the post tension concrete design prior to the start of any work. The post tension concrete slab should be designed with a minimum residual compression in the center of the slab of 130 psi.

1.3 C. Surface Acrylic Coating System:

SYSTEM DESCRIPTION: Prime Coating Sports Surface (or equal)

The Prime Coating Sports Surface is designed to be used for tennis courts, basketball courts, roller hockey and multiuse courts over post tension concrete slabs. The Prime Coating Sports Surface combines state of the art polyurethane technology with state-of-the-art acrylic technology. When the system is complete the post-tension concrete slabs are sealed, waterproofed, and then finished with high strength acrylic color coats. This surface does not have to be removed prior to any re-coating.

PRODUCTS

PRIMER & SEALER

The concrete primer and sealer need to be a one part, moisture curing, waterproof polyurethane mixed with texture or approved equal. Product specifications to be included in Engineered Drawing Specifications.

ACRYLIC COATING

Court Surface Material shall be: Novacrylic Novaplay Base and Novacrylic Novaplay, as manufactured by Nova Sports U.S.A Inc., 6 Industrial Rd, Bld 2, Milford, MA 01757 or approved equal. All Coatings shall be 100% pure acrylic, containing no asphaltic emulsions, nor any vinyl, alkyd or nonacrylic resins. The color surface system shall be factory mixed in a ready to use (RTU) format. All materials shall be delivered to the job site in sealed containers with the manufacturers label affixed. Novaplay Base Coat is a heavy duty ready to use 100% acrylic resurfacer or approved equal. Novaplay is a high performance 100% acrylic ready to use textured color surface or approved equal.

1.4 D. Concrete Curbing:

A 12' wide x 12" deep concrete curb shall be installed along all fence lines. Fence lines should be centered in the concrete curb. The finished elevation of the concrete curb shall be at the same elevation as the post tension slab.

1.3 E. Accessories:

New Net Posts, Nets, and Center Straps will be provided and installed for the tennis courts. Net posts should be 3" SQ.

1.4 Warranty, and Inspection of Defects:

- 20-year warranty for post tension concrete slab for structural cracking, heaving, or settling.
- 10-year warranty for the Prime Coating Sports Surface or approved equal for bubbling or peeling.

***** All warranties listed in the RFP are excluded from all bid bonds and performance bonds. *****

NOTES

- 2 The location of all existing utilities shall be confirmed prior to beginning construction. Call "Call Before You Dig", 1-800-922-4455.
- 3 All Dimensions and Elevations shall be verified in the field prior to construction to ensure proper draining of court surfaces.
- 4 The Contractor shall be responsible for verifying utility locations in the field and taking all necessary steps to protect them from damage. Any utility that is damaged through the negligence of the contractor shall be repaired by the controlling utility company at the contractor's expense.
- 5 All disturbed areas shall receive a minimum of 6" topsoil and be hydroseeded or sodded.
- 6 Any public or private property disturbed as a result of Construction operations shall be restored as quickly as possible to the satisfaction of the owner.

RFP ATTACHEMENTS

ATTACHMENT 1- INSURANCE REQUIREMENTS

ATTACHMENT 2- INSURANCE REQUIREMENTS

ATTACHMENT 1
SAMPLE AGREEMENT DOCUMENTS / INSURANCE REQUIREMENTS

AGREEMENT BETWEEN THE TOWN OF COLCHESTER AND _____,
FOR POST TENSION CONCRETE TENNIS COURT PROJECT SPECIFICATIONS

THIS AGREEMENT, executed as of this _____ day of _____, 2022, between the Town of COLCHESTER, a municipal corporation ("Town") and _____, a ("Contractor"). In consideration of the mutual covenants and conditions set forth herein, the parties agree as follows:

WHEREAS, the Town has the need for construction services related to the POST TENSION CONCRETE TENNIS COURT PROJECT design and installation at the Colchester RecPlex; and

WHEREAS, the Contractor specializes in providing such services and has the proper work experience, certifications, licenses, and background to carry out the duties involved; and

WHEREAS, on _____, 2022, the Board of Selectman of the Town of COLCHESTER authorized the First Selectman to enter into this Agreement after public bidding in accordance with the Town purchasing policy.

NOW, THEREFORE, in consideration of the mutual covenants, benefits, and premises herein stated, the parties hereto agree as follows:

TERM

The term of the Agreement shall be from the date of execution until completion of the work identified in the Scope of Services and in conformance with Attachments unless this Agreement is terminated or suspended consistent with Section 6 of this Agreement.

SCOPE OF SERVICES

Town does hereby retain Contractor in a contractual capacity to provide construction services related to design and installation of post and tension tennis courts at Colchester RecPlex as set forth in Attachment 1, Contractor's Bid Proposal, dated _____, which is attached hereto and incorporated herein by this reference as though set forth in full and hereinafter referred to as the "Proposal", Bid Documents, attached hereto and incorporated herein by this reference as "Bid Documents". Where said Scope of Services as set forth are modified by this Agreement, or in the event there is a conflict between the provisions of said Scope of Services and this Agreement, the language contained in this Agreement shall take precedence.

Contractor shall perform the tasks described and set forth in Attachment 1. Contractor shall complete the tasks according to the schedule of performance which is also set forth in Attachment 1.

Town and Contractor acknowledge that this project is a public work to which prevailing wages apply, and that a public work project is subject to compliance monitoring and enforcement. For every subcontractor who will perform work on this project, Contractor shall be responsible for subcontractor's compliance and Contractor shall take all necessary actions to ensure subcontractor's compliance.

PERFORMANCE

Contractor shall at all times faithfully, competently, and to the best of Contractor's ability, experience, and talent, perform all tasks described herein. Contractor shall employ, at a minimum, generally accepted standards and practices utilized by persons engaged in providing similar services as are required of Contractor hereunder in meeting its obligations under this Agreement.

MANAGEMENT

The individual directly responsible for Contractor's overall performance of the Agreement provisions herein above set forth and to serve as principal liaison between Town and Contractor shall be _____, and no other individual may be substituted without the prior written approval of the First Selectman.

The Town's contact person in charge of administration of this Agreement, and to serve as principal liaison between Contractor and Town, shall be the First Selectman, or their designee.

PAYMENT

The Town agrees to pay Contractor in accordance with the terms and the schedule of payment as set forth in Attachment 2, attached hereto and incorporated herein by this reference as though set forth in full, based upon actual time spent on the above tasks. This amount shall not exceed _____ dollars (\$XXX,XXX) for the total term of the Agreement unless additional payment is approved as provided in this Agreement.

Contractor shall not be compensated for any additional services rendered in connection with its performance of this Agreement, unless such additional services and compensation are authorized, in advance, in a written amendment to this Agreement executed by both parties.

TERMINATION OR SUSPENSION WITHOUT CAUSE

The Town may at any time, for any reason, with or without cause, suspend, or terminate this Agreement, or any portion hereof, by serving upon the Contractor at least ten (10) days prior written notice. Upon receipt of said notice, the Contractor shall immediately cease all work under this Agreement, unless the notice provides otherwise. If the Town suspends or terminates a portion of this Agreement such suspension or termination shall not make void or invalidate the remainder of this Agreement.

The Contractor may terminate this Agreement only by providing Town with written notice no less than thirty (30) days in advance of such termination. In the event of such termination, Contractor shall be compensated for such services up to the date of termination. Such compensation for work in progress shall be prorated as to the percentage of progress completed at the date of termination.

DEFAULT OF CONTRACTOR

The Contractor's failure to comply with the provisions of this Agreement shall constitute a default. In the event that Contractor is in default for cause under the terms of this Agreement, Town shall have no obligation or duty to continue compensating Contractor for any work performed after the date of default and can terminate this Agreement immediately by written notice to the Contractor. If such failure by the Contractor to make progress in the performance of work hereunder arises out of causes beyond the Contractor's control, and without fault or negligence of the Contractor, it shall not be considered a default.

If the First Selectman or the First Selectman's designee determines that the Contractor is in default in the performance of any of the terms or conditions of this Agreement, he/she shall cause to be served upon the Contractor a written notice of the default. The Contractor shall have five (5) working days after service upon it of said notice in which to cure the default by rendering a satisfactory performance. In the event that the Contractor fails to cure its default within such period of time, the Town shall have the right, notwithstanding any other provision of this Agreement, to terminate this Agreement without further notice and without prejudice to any other remedy to which it may be entitled at law, in equity or under this Agreement.

OWNERSHIP OF DOCUMENTS

Contractor shall maintain complete and accurate records with respect to sales, costs, expenses, receipts, and other such information required by Town that relate to the performance of services under this Agreement. Contractor shall maintain adequate records of services provided in sufficient detail to permit an evaluation of services. All such records shall be maintained in accordance with generally accepted accounting principles and shall be clearly identified and readily accessible. Contractor shall provide free access to the representatives of Town or its designees at reasonable times to such books and records; shall give the Town the right to examine and audit said books and records; shall permit Town to make transcripts therefrom as necessary; and shall allow inspection of all work, data, documents, proceedings, and activities related to this Agreement. Notification of audit shall be provided at least thirty (30) days before any such audit is conducted. Such records, together with supporting documents, shall be maintained for a period of ten (10) years after receipt of final payment.

Upon completion of, or in the event of termination or suspension of this Agreement, all original documents, designs, drawings, maps, models, computer files, surveys, notes, and other documents prepared in the course of providing the services to be performed pursuant to this Agreement shall become the sole property of the Town and may be used, reused, or otherwise disposed of by the Town without the permission of the Contractor. With respect to computer files, Contractor shall make available to the Town, at the Contractor's office and upon reasonable written request by the Town, the necessary computer software and hardware for purposes of accessing, compiling, transferring, and printing computer files.

INDEMNIFICATION AND HOLD HARMLESS

To the extent provided by law, the Contractor shall indemnify, defend with legal counsel approved by Town, and hold harmless Town, its officers, officials, employees, and volunteers from and against all liability, loss, damage, expense, cost (including without limitation reasonable legal counsels' fees, expert fees and all other costs and fees of litigation) of every nature arising

out of or in connection with Contractor's negligence, recklessness, or willful misconduct in the performance of work hereunder or its failure to comply with any of its obligations contained in this Agreement, except such loss or damage which is caused by the sole or active negligence or willful misconduct of the Town. Should conflict of interest principles preclude a single legal counsel from representing both Town and Contractor, or should Town otherwise find Contractor's legal counsel unacceptable, then Contractor shall reimburse the Town its costs of defense, including without limitation reasonable legal counsels' fees, expert fees and all other costs and fees of litigation. The Contractor shall promptly pay any final judgment rendered against the Town (and its officers, officials, employees, and volunteers) with respect to claims determined by a trier of fact to have been the result of the Contractor's negligent, reckless, or wrongful performance. It is expressly understood and agreed that the foregoing provisions are intended to be as broad and inclusive as is permitted by the law of the state of Connecticut and will survive termination of this Agreement.

Contractor obligations under this section apply regardless of whether or not such claim, charge, damage, demand, action, proceeding, loss, stop notice, cost, expense, judgment, civil fine or penalty, or liability was caused in part or contributed to by an Indemnitee. However, without affecting the rights of Town under any provision of this agreement, Contractor shall not be required to indemnify and hold harmless Town for liability attributable to the active negligence of Town, provided such active negligence is determined by agreement between the parties or by the findings of a court of competent jurisdiction. In instances where Town is shown to have been actively negligent and where Town active negligence accounts for only a percentage of the liability involved, the obligation of Contractor will be for that entire portion or percentage of liability not attributable to the active negligence of Town.

Contractor agrees to obtain executed indemnity agreements with provisions identical to those set forth here in this Section from each and every subcontractor or any other person or entity involved by, for, with, or on behalf of Contractor in the performance of this Agreement. In the event Contractor fails to obtain such indemnity obligations from others as required here, Contractor agrees to be fully responsible according to the terms of this Section.

Failure of Town to monitor compliance with these requirements imposes no additional obligations on Town and will in no way act as a waiver of any rights hereunder. This obligation to indemnify and defend Town as set forth here is binding on the successors, assigns, or heirs of Contractor and shall survive the termination of this Agreement or Section.

This Indemnity shall survive termination of the Agreement or Final Payment hereunder. This Indemnity is in addition to any other rights or remedies that the Indemnitees may have under the law or under any other Contract Documents or Agreements. In the event of any claim or demand made against any party which is entitled to be indemnified hereunder, Town may, in its sole discretion, reserve, retain, or apply any monies to the Contractor under this Agreement for the purpose of resolving such claims; provided, however, Town may release such funds if the Contractor provides Town with reasonable assurance of protection of the Indemnitees' interests. Town shall, in its sole discretion, determine whether such assurances are reasonable.

INSURANCE

Contractor shall maintain prior to the beginning of and for the duration of this Agreement insurance coverage as specified in Exhibit A attached hereto and incorporated herein by this reference as though set forth in full.

INDEPENDENT CONTRACTOR

Contractor is and shall at all times remain as to the Town a wholly independent Contractor. The personnel performing the services under this Agreement on behalf of Contractor shall at all times be under Contractor's exclusive direction and control. Neither Town nor any of its officers, employees, or agents shall have control over the conduct of Contractor or any of Contractor's officers, employees, or agents, except as set forth in this Agreement. Contractor shall not at any time or in any manner represent that it or any of its officers, employees, or agents are in any manner officers, employees, or agents of the Town. Contractor shall not incur or have the power to incur any debt, obligation, or liability against Town, or bind Town in any manner.

No employee benefits shall be available to Contractor in connection with the performance of this Agreement. Except for the fees paid to Contractor as provided in the Agreement, Town shall not pay salaries, wages, or other compensation to Contractor for performing services hereunder for Town. Town shall not be liable for compensation or indemnification to Contractor for injury or sickness arising out of performing services hereunder.

LEGAL RESPONSIBILITIES

The Contractor shall keep itself informed of local, state, and federal laws and regulations which in any manner affect those employed by it or in any way affect the performance of its service pursuant to this Agreement. The Contractor shall at all times observe and comply with all such laws and regulations, including but not limited to the Americans with Disabilities Act and Occupational Safety and Health Administration laws and regulations.

ANTI DISCRIMINATION

Neither the Contractor, nor any subcontractor under the Contractor, shall discriminate in employment of persons upon the work because of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status of such person; or any other basis protected by applicable federal, state, or local law, except as provided in Section 12940 of the Government Code. The Contractor shall have responsibility for compliance with this Section, if applicable [Labor Code Section 1735].

UNDUE INFLUENCE

Contractor declares and warrants that no undue influence or pressure is used against or in concert with any officer or employee of the Town in connection with the award, terms, or implementation of this Agreement, including any method of coercion, confidential financial arrangement, or financial inducement. No officer or employee of the Town will receive compensation, directly or indirectly from Contractor, or any officer, employee, or agent of Contractor, in connection with the award of this Agreement or any work to be conducted as a result of this Agreement. Violation of this Section shall be a material breach of this Agreement entitling the Town to any and all remedies at law or in equity.

NO BENEFIT TO ARISE TO LOCAL EMPLOYEES

No member, officer, or employee of the Town, or their designees or agents, and no public official who exercises authority over or responsibilities with respect to the Project during his/her tenure or for one (1) year thereafter, shall have any interest, direct or indirect, in any agreement or sub-agreement, or the proceeds thereof, for work to be performed in connection with the Project performed under this Agreement.

CONFLICT OF INTEREST

Contractor covenants that neither they nor any officer or principal of their firm have any interests, nor shall they acquire any interest, directly or indirectly, which will conflict in any manner or degree with the performance of their services hereunder. Contractor further covenants that in the performance of this Agreement, they shall employ no person having such interest as an officer, employee, agent, or subcontractor. Contractor further covenants that Contractor has not contracted with nor is performing any services directly or indirectly, with the developer(s) and/or property Vender(s) and/or firm(s) and/or partnership(s) and/or public agency(ies) owning property and/or processing an entitlement application for property in the Town or its Area of Interest, now or within the past one (1) year, and further covenants and agrees that Contractor and/or its subcontractors shall provide no service or enter into any contract with any developer(s) and/or property Vender(s) and/or firm(s) and/or partnership(s) and/or public agency(ies) owning property and/or processing an entitlement application for property in the Town or its Area of Interest, while under contract with the Town and for a one (1) year time period following termination of this Agreement.

NOTICE

Any notice to be given pursuant to this Agreement shall be in writing, and all such notices and any other document to be delivered shall be delivered by personal service or by deposit in the United States mail, certified or registered, return receipt requested, with postage prepaid, and addressed to the party for whom intended as follows:

To: First Selectman
Town of Colchester
127 Norwich Ave
Colchester, CT 06415

Either party may, from time to time, by written notice to the other, designate a different address or contact person, which shall be substituted for the one above specified. Notices, payments, and other documents shall be deemed delivered upon receipt by personal service or as of the third (3rd) day after deposit in the United States mail.

CHANGE IN NAME

Should a change be contemplated in the name or nature of the Contractor's legal entity, the Contractor shall first notify the Town in order that proper steps may be taken to have the change reflected in the Agreement documents.

ASSIGNMENT

Contractor shall not assign this Agreement or any of the rights, duties, or obligations hereunder. It is understood and acknowledged by the parties that Contractor is uniquely qualified to perform the services provided for in this Agreement.

LICENSES

At all times during the term of this Agreement, Contractor shall have in full force and effect, all licenses and certifications required of it by law for the performance of the services in this Agreement.

VENUE AND GOVERNING LAW

This Agreement is made, entered into, and executed in New London County, CT and any action filed in any court or for arbitration for the interpretation, enforcement or other action of the terms, conditions, or covenants referred to herein shall be filed in the applicable court in New London, CT county. The Town and Contractor understand and agree that the laws of the state of Connecticut shall govern the rights, obligations, duties, and liabilities of the parties to this Agreement and also govern the interpretation of this Agreement.

ENTIRE AGREEMENT

This Agreement contains the entire understanding between the parties relating to the obligations of the parties described in this Agreement. All prior or contemporaneous agreements, understandings, representations, and statements, oral or written, are merged into this Agreement and shall be of no further force or effect. Each party is entering into this Agreement based solely upon the representations set forth herein and upon each party's own independent investigation of any and all facts such party deems material.

CAPTIONS OR HEADINGS

The captions and headings of the various Articles, Paragraphs, Sections, and Exhibits of this Agreement are for convenience and identification only and shall not be deemed to limit or define the content of the respective Articles, Paragraphs, Sections, and Exhibits hereof.

AMENDMENTS

Any amendment, modification, or variation from the terms of this Agreement shall be in writing and shall be effective only upon approval by both parties to this Agreement.

TIME OF COMPLETION

Town and Contractor agree that time is of the essence in this Agreement. Town and Contractor further agree that Contractor's failure to perform on or at the times set forth in this Agreement will damage and injure Town, but the extent of such damage and injury is difficult or speculative to ascertain. Consequently, Town and Contractor agree that any failure to perform by Contractor at or within the times set forth herein shall result in liquidated damages as defined in this Agreement for each and every day such performance is late. Town and Contractor agree that such sum is reasonable and fair.

CLEANING

Cleaning shall be conducted during progress of work and at the completion of the work. It is the Contractor's responsibility to remove construction debris from the site and to obtain waste receptacles as required. Cleaning and disposal operations are to comply with codes, ordinances, regulations, and antipollution laws. If the Contractor fails to clean up during construction or at the completion of the work, the Town may do so, and the cost thereof shall be charged to the contractor.

PRESERVING AND PROTECTING NEIGHBORING SITES

All neighboring sites are to be preserved and protected by the Contractor during the entire duration of the construction process. The Town reserves the right to stop the work at any time it feels correct measures are not being employed to protect neighboring sites. The Contractor will be notified to resume work after the necessary revisions are made.

PRECEDENCE

Contractor is bound by the contents of Town's Bid Package and Proposal, Exhibit attached hereto and incorporated herein by this reference as though set forth in full. In the event of conflict, the requirements of the Town's Bid Package and this Agreement shall take precedence over those contained in the Proposal.

INTERPRETATION OF AGREEMENT

Should interpretation of this Agreement, or any portion thereof, be necessary, it is deemed that this Agreement was prepared by the parties jointly and equally and shall not be interpreted against either party on the ground that the party prepared the Agreement or caused it to be prepared.

WAIVER

No waiver of any provision of this Agreement shall be deemed, or shall constitute, a waiver of any other provision, whether or not similar, nor shall any such waiver constitute a continuing or subsequent waiver of the same provision. No waiver shall be binding unless executed in writing by the party making the waiver.

AUTHORITY TO EXECUTE

The person or persons executing this Agreement on behalf of the Contractor warrants and represents that he/she has the authority to execute this Agreement on behalf of the Contractor and has the authority to bind Contractor to the performance of obligations hereunder.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed the day and year first above written.

TOWN OF COLCHESTER

CONTRACTOR

Andreas Bisbikos, First Selectman

Name, Title

Attest:

ATTACHMENT 2

INSURANCE REQUIREMENTS

Prior to the beginning of and throughout the duration of the Work, Contractor will maintain insurance in conformance with the requirements set forth below. Contractor will use existing coverage to comply with these requirements. If that existing coverage does not meet the requirements set forth here, it will be amended to do so. Contractor acknowledges that the insurance coverage and policy limits set forth in this section constitute the minimum amount of coverage required. Any insurance proceeds available to Town in excess of the limits and coverage required in this Agreement and which is applicable to a given loss, will be available to the Town.

Contractor shall provide the following types and amounts of insurance:

Commercial General Liability

Commercial General Liability Insurance shall be provided by an Insurance Services Office "Commercial General Liability" policy form CG 00 01 or the exact equivalent. The Town of Colchester shall be named as additional insured. Defense costs must be paid in addition to limits. There shall be no cross-liability exclusion for claims or suits by one insured against another. Employers' liability limits shall be no less than \$500,000 bodily injury per each accident, \$500,000 bodily injury by disease for each employee, \$500,000 bodily injury disease aggregate. Per project aggregate shall apply.

Contractor's policy shall contain no endorsements limiting coverage beyond the basic policy coverage grant for any of the following:

- a. Explosion, collapse, or underground hazard (XCU)
- b. Products and completed operations
- c. Pollution liability
- d. Contractual liability

Coverage shall be applicable to Town for injury to employees of contractors, subcontractors, or others involved in the project. Policy shall be endorsed to provide a separate limit applicable to this project.

Workers' Compensation

Workers' Compensation insurance shall be provided on a state-approved policy form providing statutory benefits as required by law with employers' liability limits no less than \$500,000 bodily injury for each accident, \$500,000 bodily injury by disease for each employee, \$500,000 bodily injury disease aggregate.

Business Auto Coverage

Business Auto Coverage or the exact equivalent shall be provided. Limits shall be no less than \$1,000,000 per accident, combined single limit. If Contractor owns no vehicles, this requirement may be satisfied by a non-owned auto endorsement to the general liability policy described above. If Contractor or Contractor's employees will use personal autos in any way on this project, Contractor shall provide evidence of personal auto liability coverage for each such person.

Excess or Umbrella Liability

Excess or Umbrella Liability insurance (Over Primary) if used to meet limit requirements, shall provide coverage at least as broad as specified for the underlying coverages. Minimum coverage limit of \$2,000,000 per occurrence, \$2,000,000 annual aggregate to apply. Coverage shall be provided on a "pay on behalf" basis, with defense costs payable in addition to policy limits. There shall be no cross-liability exclusion precluding coverage for claims or suits by one insured against another. Coverage shall be applicable to Town for injury to employees of contractor, subcontractors, or others involved in the Work. The scope of coverage provided is subject to the approval of Town following receipt of proof of insurance as required herein. Limits are subject to review.

Insurance procured pursuant to these requirements shall be written by insurers that are admitted carriers in the state of Connecticut and with A.M. Best rating of A- or better and a minimum financial size of VII.

Contractor and Town agree as follows:

1. Contractor agrees to endorse the third-party general liability coverage required herein to include as additional insureds Town, its officials, employees, agents, using standard ISO endorsement No. CG 2010 with an edition date prior to 1992. Contractor also agrees to require all contractors, subcontractors, and anyone else involved in any way with the project contemplated by this Agreement to do likewise.
2. Any waiver of subrogation expressed or implied on the part of the Town to any party involved in this Agreement or related documents applies only to the extent of insurance proceeds actually paid. Town, having required that it be named as an additional insured to all insurance coverage required herein, expressly retains the right to subrogate against any party for sums not paid by insurance. For its part, Contractor agrees to waive subrogation rights against Town regardless of the applicability of any insurance proceeds, and to require all contractors, subcontractors, or others involved in any way with the project contemplated by this Agreement to do likewise.
3. All insurance coverage maintained or procured by Contractor or required of others by Contractor pursuant to this Agreement shall be endorsed to delete the subrogation condition as to the Town, or to specifically allow Contractor or others providing insurance herein to waive subrogation prior to a loss. This endorsement shall be obtained regardless of existing policy wording that may appear to allow such waivers.
4. It is agreed by Contractor and Town that insurance provided pursuant to these requirements is not intended by any party to be limited to providing coverage for the vicarious liability of Town, or to the supervisory role, if any, of Town. All insurance coverage provided pursuant to this or any other Agreement (express or implied) in any way relating to Town is intended to apply to the full extent of the policies involved. Nothing referred to here or contained in any agreement involving Town in relation to the project contemplated by this Agreement is intended to be construed to limit the application of insurance coverage in any way.

5. None of the coverages required herein will be in compliance with these requirements if they include any limiting endorsement of any kind that has not been first submitted to Town and approved of in writing.
6. All coverage types and limits required are subject to approval, modification, and additional requirements by the Town, as the need arises. Contractor shall not make any reductions in scope of coverage (e.g. elimination of contractual liability or reduction of discover period) that may affect Town's protection without Town's prior written consent.
7. Proof of compliance with these insurance requirements, consisting of binders of coverage, or endorsements, or certificates of insurance, shall be delivered to Town at or prior to the execution of this Agreement. In the event such proof of insurance is not delivered as required, or in the event such insurance is canceled or reduced at any time and no replacement coverage is provided, Town has the right, but not the duty, to obtain any insurance it deems necessary to protect its interests under this or any other Agreement and to pay the premium. Any premium so paid by Town shall be charged to and promptly paid by Contractor or deducted from sums due Contractor, at Town option.
8. Contractor agrees to endorse, and to require others to endorse, the insurance provided pursuant to these requirements, to require 30 days' notice to Town and the appropriate tender prior to cancellation or reduction of such liability coverage and notice of any material alteration or non-renewal of any such coverage, and to require contractors, subcontractors, and any other party in any way involved with the project contemplated by this Agreement to do likewise.
9. It is acknowledged by the parties of this Agreement that all insurance coverage required to be provided by Contractor or any subcontractor, and any other party involved with the project who is brought onto or involved in the project by Contractor, is intended to apply first and on a primary non-contributing basis in relation to any other insurance or self-insurance available to the Town.
10. Contractor agrees to ensure that subcontractors, and any other party involved with the project who is brought onto or involved in the project by Contractor, provide the same minimum insurance coverage required of Contractor. Contractor agrees to monitor and review all such coverage and assumes all responsibility for ensuring that such coverage is provided in conformity with the requirements of this Agreement. Contractor agrees that upon request, all agreements with subcontractors and others engaged in this project will be submitted to Town for review.
11. Contractor agrees not to self-insure or to use any self-insured retentions or deductibles on any portion of the insurance required herein and further agrees that it will not allow any contractor, subcontractor, architect, engineer, or other entity or person in any way involved in the performance of Work on the project contemplated by this Agreement to self-insure its obligations to Town. If Contractor's existing coverage includes a deductible or self-insured retention, the deductible or self-insured retention must be declared to the Town. At that time the Town shall review options with the Contractor, which may include reduction or elimination of the deductible or self-insured retention, substitution of other coverage, or other solutions.

12. The Town reserves the right at any time during the term of this Agreement to change the amounts and types of insurance required by giving the Contractor 90 days advance written notice of such change. If such change results in substantial additional cost to the Contractor, the Town will negotiate additional compensation proportional to the increased benefit to Town.
13. For purposes of applying insurance coverage only, all contracts pertaining to the project will be deemed to be executed when finalized and any activity commences in furtherance of performance under this Agreement.
14. Contractor acknowledges and agrees that any actual or alleged failure on the part of Town to inform Contractor of non-compliance with any insurance requirement in no way imposes any additional obligations on Town nor does it waive any rights hereunder in this or any other regard.
15. Contractor will renew the required coverage annually as long as Town, or its employees or agents face an exposure from operations of any type of pursuance to this Agreement. This obligation applies whether or not the Agreement is canceled or terminated for any reason. The insurance shall include but not be limited to products and completed operations and discontinued operations, where applicable. Termination of this obligation is not effective until Town executes a written statement to that effect.
16. Contractor agrees to waive its statutory immunity under any workers' compensation statute or similar statute, in relation to the Town, and to require all subcontractors and any other person or entity involved in the project contemplated by this Agreement to do likewise.
17. Requirements of specific coverage features are not intended as limitations on other requirements or as a waiver of any coverage normally provided by any given policy. Specific reference to a given coverage feature is for purposes of clarification only as it pertains to a given issue and is not intended by any party or insured to be all-inclusive.
18. Any provision in any of the construction documents dealing with the insurance coverage provided pursuant to these requirements, is subordinate to and superseded by the requirements contained herein. These insurance requirements are intended to be separate and distinct from any other provision in this Agreement and are intended by the parties to be interpreted as such.
19. All liability coverage provided according to these requirements must be endorsed to provide a separate aggregate limit for the project that is the subject of this Agreement and evidencing products and completed operations coverage for not less than two years after issuance of a final certificate of occupancy by all appropriate government agencies or acceptance of the completed work by Town.

20. Contractor agrees to be responsible for ensuring that no contract used by any party involved in any way with the project reserves the right to charge Town or Contractor for the cost of additional insurance coverage required by this Agreement. Any such provisions are to be deleted with reference to Town. It is not the intent of Town to reimburse any third party for the cost of complying with these requirements. There shall be no recourse against Town for payment of premiums or other amounts with respect thereto.
21. Contractor agrees to obtain and provide to Town a copy of Professional Liability coverage for Architects or Engineers on this project, when required by Town. Town shall determine the liability limit.
22. Contractor shall be responsible for builders' risk insurance coverage for the project materials until accepted by the Town. Payment of premiums and deductibles shall be the responsibility of the Contractor.

ATTACHMENT 3

**Town of Colchester
127 Norwich Avenue
Colchester, Connecticut 06415**

Submission Check List

This form need not be returned with your submittal. It is suggested that you review and check off each action as you complete it.

1. _____ The submission has been signed by a duly authorized representative of the company.
2. _____ Any fee schedule you have offered has been reviewed and verified.
3. _____ Bid and Performance bonds are included.
4. _____ Proposal Summary
5. _____ Required insurance, certifications and licenses are included.
6. _____ Any addenda to this document have been acknowledged and included.
7. _____ The submission has been addressed to:

Town of Colchester
First Selectman's Office

FOR POST TENSION CONCRETE TENNIS COURT PROJECT SPECIFICATIONS- RFP 2022-008
127 Norwich Avenue, Suite 201
Colchester, CT 06415

8. _____ The submission is submitted in time to be received no later than the designated opening date and time. Late responses are NOT accepted under any circumstances. Please allow enough time if mailing your submission.