



City of Hendersonville

Invitation for Bids # G22051502001

City of Hendersonville Patton Park Tennis and Pickle ball Courts



Date Issued: May 9, 2023

Bid Opening Date: June 8, 2023

Direct all inquiries via email concerning this IFB to:

Mark Stierwalt

Superintendent of Properties, Buildings and Cemetery

mstierwalt@hvlnc.gov



I. Purpose and Background

The purpose of this Invitation for Bids (IFB) is to contract with one qualified firm to construct two tennis/pickle ball courts. The Scope of Services is reviewed in detail in Section IV. The project timeline is expected is 6 months between contract execution and completion.

The contract will be awarded to the Contractor deemed to have submitted the best overall bid on the basis of the factors included in this IFB. The city may cancel this IFB or reject bids at any time prior to an award and is not required to furnish a statement of the reason why a particular bid was not selected. The award document will be a contract incorporating by reference all the requirements, items, and conditions of the IFB. **The City of Hendersonville reserves the right to reject any and all submissions.**

Mark Stierwalt will serve as the point of contact for implementation.

There will be an optional site visit with City staff on May 19, 2023 at 2:00pm. You must notify Mr. Stierwalt via email (mstierwalt@hvlnc.gov) if you plan to attend.

II. Procurement Process

2.A Timeline/Schedule

- | | |
|--------------------------------------|--------------------------------------|
| • Release of IFB: | May 9, 2023 |
| • Optional Site visit | May 19, 2023 |
| • Deadline for Contractor Questions: | May 22, 2023 |
| • IFB Due Date: | June 8, 2023 |
| • Anticipated Award Date: | June 24, 2023 (City Council Meeting) |

2.B Interpretations and Clarifications

Requests for information or clarification of this IFB must be at the email address listed below. IFB Number, Page Number (if applicable), and Topic of Question should be addressed to:

Mark Stierwalt
Public Works Department
E-mail: mstierwalt@hvlnc.gov



Per Section 2.A, all questions must be received by 4:00 pm EST (Eastern Time) on May 22, 2023. The answers to questions submitted that require a response will be available to all Contractors in the form of an addendum posted on the COH website IFB page. There will be no last date of addendum for this solicitation.

2.C Submission of Bid

Three (3) paper copies, and (1) one pdf file on a thumb drive submitted with the bid. The bid shall be submitted by 2:00 pm on June 8th, 2023, to:

Mark Stierwalt
Public Works Department
305 Williams Street
Hendersonville, NC 28792

- Bids should be clearly marked “IFB for Tennis /Pickle ball Courts.”
- When received, all bids and supporting materials, as well as correspondence relating to the IFB, shall become the property of the City of Hendersonville. Bids sent by fax will not be accepted.
- Contractors must conduct a site visit prior to submitting a bid.
- Bids will not be made available to inspect or copy until the contract has been awarded.
- The City of Hendersonville reserves the right to reject any and all bids as non-responsive, and to waive any irregularities or informalities in bids when to do so is in the best interest of the city.
- If a bid includes any propriety data or information, such data or information must be specifically identified as such on every page on which it is found. Data or information so identified will remain confidential to the extent allowed by North Carolina law pursuant to GS 132-1.2 and will be used by city personnel solely for the purposes of evaluating bids and conducting contract negotiations. The practice of labeling unqualified pages as confidential, including the bid form, may result in a bid being dismissed from evaluation.
- All proposing firms or individuals shall comply with all conditions, requirements, and specifications contained herein, with any departure constituting sufficient cause for rejection of the bid.



- No bids will be accepted from any person or organization that is in arrears for any obligation to the city, or that otherwise may be deemed irresponsible or unresponsive by the City.
- The cost of preparing a response to the IFB will not be reimbursed by the city.
- No agreements with any selected Contractor shall be binding until a contract is signed and executed by City Council or City Manager and authorized representatives of the Contractor.

2.D Bid Content

Bids should also contain the following information:

- Cover letter presenting the Contractor's understanding of the project and a summary of the approach to be undertaken to provide the product/services. It must be signed by an individual authorized to execute binding legal documents on behalf of the Contractor and include the name, address, telephone number and fax number of the Contractor along with the name, title, address, telephone, and fax numbers of the executive that has the authority to contract.
- Identification of the dedicated Company Point of Contact that will serve the city.
- The Contractor shall provide a concise description of the company, including origin, state of incorporation, background, and current size. Include information concerning experience with similar projects. In addition, Contractors shall describe why their products/services, from a technical and functional perspective, are the best fit for the City.
- Describe your company's ability to adapt and respond to changes in the scope of services provided that may arise as the process proceeds, from both an administrative and operational standpoint.
- A copy of your NC General Contractor's License
- Section VI (Bid Response Sheet) This must be completed in its entirety.

III. Selection Process

3.A Purpose

- The purpose of the IFB is to select a Contractor to construct Tennis and Pickle Ball courts for the City of Hendersonville, NC at Patton Park.



- Upon review of bids, the city will select a single Contractor to provide the services sought within the content of this IFB.

3.B Selection Criteria

If awarded, the bid will be awarded to the lowest responsive, responsible bidder, taking into account quality, performance and time.

3.C Award Procedures

It is understood that any bid submitted will become part of the public record if and when the City awards the contract.

A bid will be rejected if it is incomplete. The city may reject any or all bids and may waive any immaterial deviation in a bid.

More than one bid from an individual, firm, partnership, corporation, or association under the same or different names will not be considered.

The award document will be a Contract, in form and substance acceptable to the city, incorporating, the terms and conditions of the city's solicitation and the Contractor's bid (or portions thereof).

IV. Required Specifications/Requirements

4.A General Information

The minimum specifications in this(these) section(s) are broken down into the areas in which they relate. It is understood that the Contractor has examined these specifications and agrees to conform therewith. Exceptions may be made in some cases in situations where the intended purpose for a given requirement is met via an alternately acceptable and equally effective Contractor bid. Further details regarding exceptions must be thoroughly detailed.

4.B General Requirements – Scope of Services

4.B.1 – Internal Project Status Meetings: The Contractor is expected to meet regularly with staff. When appropriate, these meetings may be via telephone or video conference.



4.B.2 - Quote #1 Western Court

Deliverable: Finished complete 121'x90 court, ready for play built to A.S.B.A. Guidelines for Tennis Court Construction

Scope:

109'x120' Existing Court conversion to 120'x120' single tennis court with 4 Pickle ball courts

Provide appropriate permits

Remove fencing roll and store on pallets on site, save gates. Pull and dispose of fence posts.

Install and maintain appropriate silt fence duration of project, then remove at end of project.

Remove and dispose of 110'X120' of asphalt.

Expand pad to 121'X121' remove topsoil, grade and compact dirt. Install BXG110 Geogrid or equivalent. Apply ABC stone to a total of 8" deep for new sections (2000 sqft). Compact dirt/rock for rest of slab and add 4" of ABC stone to make 8" of stone total. Compact stone to 98% compaction for entire slab.

Add 2" of binder asphalt and 2" of surface mix to 121'x121' slab on 1% grade for drainage and within 1/8" tolerance for tennis courts. Allow asphalt to cure for

Apply acrylic coatings, court lines, nets, and practice wall and per details below.

Lighting will be handled by the City of Hendersonville.

South East Corner of near the creek should be stabilized with landscaping block using BMPs as needed. Block to be provide by City f Hendersonville.



4.B.3 - Quote #2 - Eastern Court

Deliverable : Finished and complete 90'x121' new court built to A.S.B.A. Guidelines for Tennis Court Construction

Scope:

Provide appropriate permits.

New court - Complete turnkey court with single tennis court and two pickle ball courts, fencing, and pickle ball wall. Reuse chain link fencing curtain, and gates from Boyd Park.

Regrade and build pad to 90'X121' remove topsoil, grade and compact dirt. Install Tensar BX1100 Geogrid or equivalent. Apply and compact ABC stone to a total of 8" deep.

Add 2" of binder asphalt and 2" of surface mix to 121'x121' slab on 1% grade for drainage and within 1/8" tolerance for tennis courts. Allow asphalt to cure for 30 days

Apply acrylic coatings, court lines, nets, posts, and practice wall and per details below

Lighting will be handled by the City of Hendersonville.

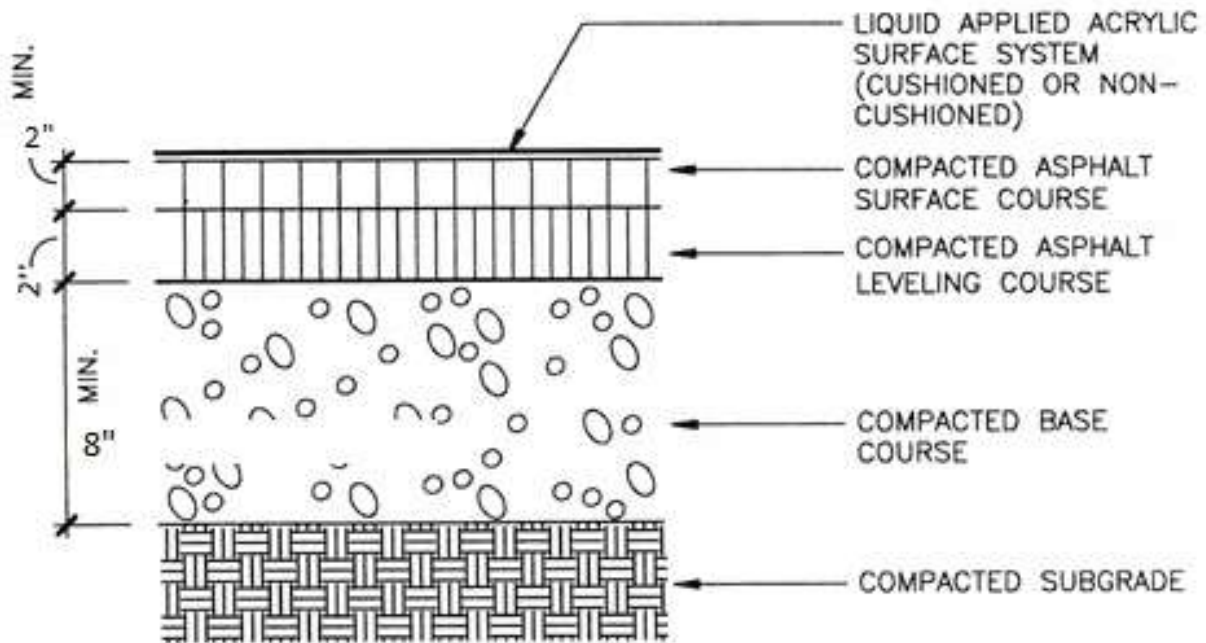
Install BXG110 Geogrid or equivalent. Add 8" of ABC stone and compact to .

Add 2" of binder asphalt and 2" of surface mix to 121'x121' slab and 94'x120' slab on 1% grade for drainage and within 1/8" tolerance for tennis courts.

Paving and grading must meet tennis court contractor's approval for quality control.



NOTE:
RECOMMENDED COURT SLOPE:
MINIMUM - 0.833 %
MAXIMUM - 1%



ASPHALT COURT FOR FREEZE/THAW CLIMATE

TYPICAL ASPHALT COURT SECTION

NOT TO SCALE



4.C Court must be built to A.S.B.A Guidelines unless otherwise noted.

A.S.B.A. Guidelines for Tennis Court Construction

Hot Mix Asphalt Tennis Courts

1.0 Slope Requirement

All excavating, filling and grading requirements and compacting work of the subbase should be performed so that the finished subgrade is 4"-6" above the surrounding ground and slopes not less than 0.83% (1:120) and not more than 1% (1:100). Each court must slope on a true plane, preferably from side to side (but from end to end or from corner to corner are also acceptable), or in the shortest direction for good drainage and water runoff. The court should never be sloped from the net line to the baseline, from the baseline to the net line, from the sides to the centerline or from the centerline to the sides.

2.0 Perimeter Edging

A. Curbing (for decorative purposes)

An optional edging of brick, concrete, steel or treated wood may be installed around the entire perimeter of the court area. Sections may be left open to allow trucks and other equipment to enter and leave the court area, until other work specified herein has been completed. Top elevation of the edging should be approximately 1/2" below the finished grade level and the court's surface should be tapered out to meet it.

B. Apron

The overall dimensions of an individual court should be 61' x 121' to provide a 6" apron around the court or 122' by 122' to provide a 1' apron around the court. This additional footage helps prevent vegetation intrusion from the perimeter, facilitates landscape maintenance and adds to the overall cosmetics. Fencing should remain 120' by 120' and should be installed after paving and prior to surfacing.

3.0 Aggregate Base Course

**A. Material**

A base course of bituminous concrete mixture; crushed aggregate; processed/recycled asphalt or processed/recycled concrete should be installed over the subgrade, preceded by Tensar BX-1100 or equivalent geogrid layer. The specified materials should meet applicable ASTM specifications. Compacted thickness will depend on local soil and climatic conditions, but in no case should the thickness be less than the equivalent of 8" of thoroughly compacted crushed stone.

B. Spreading and Compacting

The material should be spread by methods and in a manner that produces a uniform density and thickness. The material thus spread should be compacted to 95% minimum Proctor Test with equipment that provides uniform density.

C. Tolerances

Surface of the base course as compacted should not vary more than 1/2" from the true plane of the court.

4.0 Intermediate Pavement Course

A leveling course of a hot plant mix having a maximum aggregate size of 3/8" to 3/4" in accordance with specifications of the state's Department of Transportation and/or the Asphalt Institute should be constructed over the base course to a compacted thickness of not less than 2".

This hot plant mix should be spread and compacted by methods and in a manner that produces a uniform density and thickness. The finished intermediate course should not vary more than 1/4" in 10', when measured in any direction.

5.0 Modified Base Construction

A modified base course is sometimes used, particularly in areas not subject to freeze/thaw action. The modified base may consist of one course of suitable material as described above and may be installed to a uniform thickness of 2 1/2" to 4". The modified base should be compacted to provide a smooth, true plane surface, and should not vary more than 1/4" in 10', when measured in any direction.

- The larger court will need to have the corner nearest to the stream built up with one to 2 layers of landscaping block supplied by the owner. Proper



installation will need to be executed by manufacturer recommendations. The length of the block retaining wall is approximately 40'. See addendum #1

6.0 Asphaltic Surface Course

A. General Description

A surface course of a hot plant mix having a maximum aggregate size of 3/8" and a minimum aggregate size of 1/4" should be constructed over the hot mix intermediate course to a compacted thickness of not less than 2.0"*.

Suggested Mix Design:

<u>Screen</u>	<u>% Passing</u>
50mm	100
37.5mm	100
25.0mm	100
19.0mm	100
12.5mm	100
9.5mm	92
4.75mm	70
2.36mm	54
1.18mm	42
.60mm	32
.30mm	23
.15mm	14
.075mm	6.0



NCDOT Hot Mix Asphalt Job Mix Formula (Super Pave) is required.

Total Thickness: Not less than 4".

Liquid Asphalt Bitumen: Minimum 5.7% by weight.

Aggregate Type: Crushed stone, gravel, shale, limestone, etc. Foreign materials, i.e., pyrite, clay, ferrous compounds, dirt and organic material are not acceptable.

Cure Time: Minimum 30 days before application of playing surface.

Voids Content: Minimum as specified by the Department of Transportation or State Highways Department, but in no case should void content exceed 7%.

B. Spreading and Compacting

This hot plant mix should be spread and compacted by methods and in a manner that produces a uniform density and thickness.

C. Surface Tolerance

The finished surface of the court should not vary more than 1/8" in 10' when measured in any direction.

Finish Work

Install and supply fencing gates, court surface, lines, nets and wind breaks.

The fence curtain and gates from Boyd bark should be reused on the smaller court.

Four Coats of acrylic based court materials should be used.

Drainage should be excellent with minimal to no puddling.

Black plastic-coated chain link fencing should be height of 10' 0" with top, middle, and bottom pipe supports.



3.1 Chain link fence material:

Type of chain link fabric coating:

- Type IV: polymer-coated steel chain-link fence fabric, Class 1, Class 2a, or Class 2b coating.

Colors for polymer-coated: black.

Notice: The same type and color black for polymer-coated chain link fence materials such as chain link fence fabric, framework, tension wire, posts, rails, gate frames, and fittings.

Materials of chain link fabric tennis fence:

- Size of core wire: 0.120 in. (3.05 mm) 11 gauge or 0.148 in. (3.76 mm) 9 gauge.
- Size of fabric mesh: 13/4 in. (44 mm).
- Height of fence: 10 ft.
- Ground clearance: no more than 1 in. (25.4 mm).
- Fabric selvage: knuckled top and bottom.

* Chain link fencing mesh and gates for the smaller court will be supplied by the owner.

Horizontal rails.

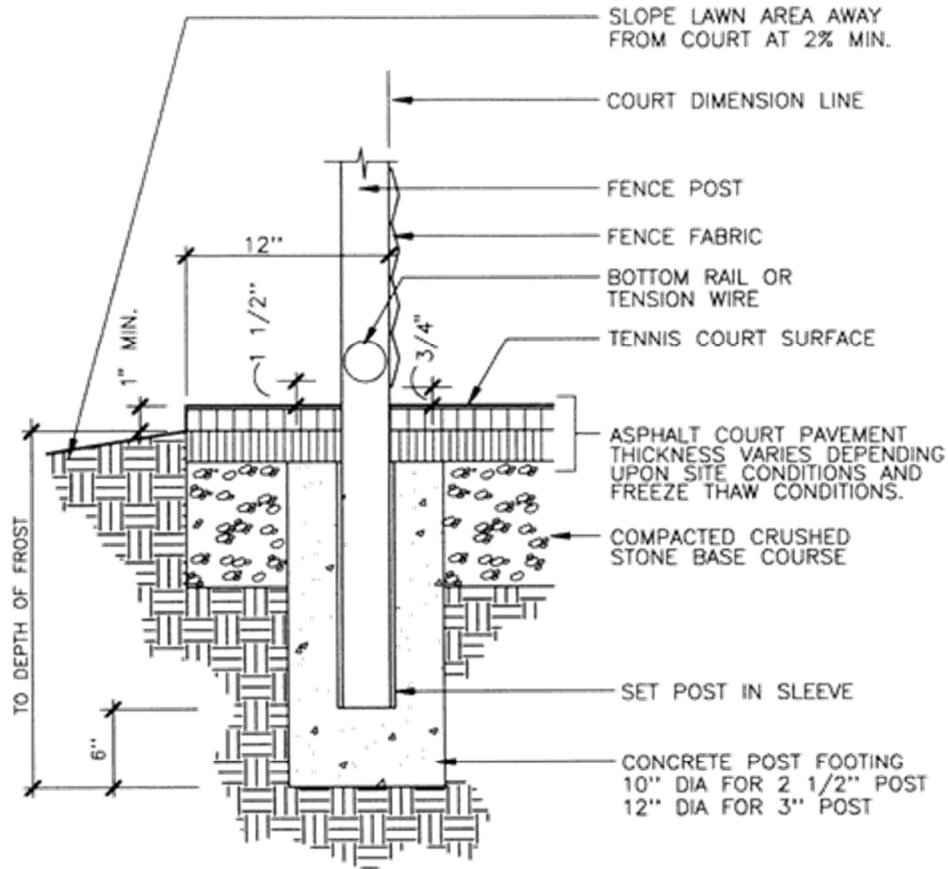
- All fences shall have a top, middle and lower rails.

Fittings: line cap, brace ends, top rail sleeves, tie wire and clips, tension bands, brace bands, tension bars.

Tennis court fence gates:

- Chain Link Gate Fabric
 - Size of core wire: 0.148 in. (3.76 mm) 9 gauge.
 - Size of fabric mesh: 13/4 in. (44 mm).
- Gate fabric and frame coating as specified for chain link fencing.
- The base materials of the gate frame: round or rectangular tubular members, welded at all corners or assembled with corner fittings.
- Gate #1, #2, #3, #4 opening width: no less than 4 ft (914 mm).
- Gate height: Single walk gates is 7 ft (2133 mm) high with a transom panel above the gate extending to full height of the fence. Vehicular Gates #5, #6 should be full height so large vehicles can access courts. The opening will not be less than (9' 6") formed by two gate panels.
- Gate hinges: gates have hinges to provide a full 180° swing from the closed to the open position
- Gate latch: has provision for secure locking with a padlock. Gate latch has a built-in provision to permit the gate to open outward only.





SECTION EXTENDED APRON AT ASPHALT COURT EDGE

NOT TO SCALE



3.2 Wind screens: 9'0" tall Covering all sides and gates. Grommets should be spaced at 12" for attachment. Should have a warranty of at least 5 years.

Surface Coatings execution

3.3 EXAMINATION

- A. Examine asphalt tennis court surfaces to receive color coating system.
- B. Verify asphalt tennis courts meet ASBA construction requirements.
- C. Notify Architect of conditions that would adversely affect application or subsequent use.
- D. Do not begin surface preparation or application until unacceptable conditions are corrected.

3.4 SURFACE PREPARATION

- A. Protection of In-Place Conditions: Protect adjacent surfaces and landscaping from contact with asphalt tennis court surface color coating system.
- B. Prepare surfaces in accordance with manufacturer's instructions.
- C. Cure new asphalt surfaces a minimum of 14 to 30 days before application of asphalt tennis court surface color coating system.
- D. Remove dirt, dust, debris, oil, grease, vegetation, loose materials, and other surface contaminants which could adversely affect application of asphalt tennis court surface color coating system. Pressure wash entire surface.
- E. Repair cracks, depressions, and surface defects in accordance with manufacturer's instructions before application of filler course and color coating.
- F. Level depressions 1/8 inch and deeper with patch binder in accordance with manufacturer's instructions.
- G. Apply 1 or 2 coats of filler course as required by surface roughness and porosity to provide smooth underlayment for application of color coating.
- H. Ensure surface repairs are flush and smooth to adjoining surfaces.



3.5 APPLICATION

- A. Apply asphalt tennis court surface color coating system in accordance with manufacturer's instructions at locations indicated on the Drawings.
- B. Mix materials in accordance with manufacturer's instructions.
- C. Apply Filler Course and Color Coating with a 50-60 durometer, soft rubber squeegee.
- D. Filler Course:
 - 1. Apply 2 coats on new asphalt or existing acrylic surfaces with extensive cracks or low spot repair.
 - 2. Apply 1 coat on existing acrylic surfaces with minimal repairs.
- E. Color Coating: Apply a minimum of 2 coats of color coating to prepared surfaces in accordance with manufacturer's instructions.
- F. Allow material drying times in accordance with manufacturer's instructions before applying other materials or opening completed surface to foot traffic.

3.6 LINE MARKINGS

- A. Lay out tennis court line markings in accordance with USTA Rules of Tennis.
- B. Apply line markings primer, after masking tape has been laid, to seal voids between masking tape and tennis court surface to prevent bleed-under when line paint is applied.
- C. Apply a minimum of 1 coat of line paint in accordance with manufacturer's instructions.

3.7 PROTECTION

- A. Allow a minimum of 24 hours curing time before opening tennis courts for play.
- B. Protect applied asphalt tennis court surface color coating system to ensure that, except for normal weathering, coating system will be without damage or deterioration at time of Substantial Completion.



4.0 HARDWARE

- A. Nets and wind guards should be high quality material guaranteed for at least 5 years.

V. Additional City Requirements

5.A Contract

Contractor who submits the awarded bid will be required to enter into the City's standard construction contract, attached hereto as Appendix A.

5.B Performance and Payment Bonds

Performance and Payment Bonds, each in an amount equal to 100 percent of the contract price, and executed by a surety company legally authorized to do business in North Carolina are required to be furnished by the Contractor.

VI. Reference List

References for which you have done business in the last (3) three years.

Name of Contact Project	Company Name	Phone #	Email Address	Title of
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____



VII. Bid Response Sheet

City of Hendersonville - Patton Park Tennis and Pickle Ball Courts

City of Hendersonville, North Carolina

Bid furnished by: _____

Address: _____

Telephone #: _____ Fax# _____

Tax ID# _____

I (we) have carefully examined the Bid Information, reviewed the Bid Specifications, and all Addenda and therefore furnished the bid as shown below.

BID:

Include List of Services Provided Below and Proposed Price for providing each service listed below as you have described it in your response to this IFB. Please note that you are not required to bid on each proposed service; however not bidding on a service may result in a bidder receiving an overall lower evaluation as compared to bidders submitting a bid for all services. If you are not bidding on a particular service, please state "No Bid" in the proposed price column.

Service	Proposed Price
1. Eastern Court	
2. Western Court	
TOTAL (before alternates)	

Attach additional sheets as necessary to provide the information requested.

The City will not award this contract based on the location of the Contractor; however, every effort will be made to encourage qualified local Contractors and suppliers to compete for City business.

**Name of Point of Contact dedicated to the City of Hendersonville:**

Name	Phone Number	Email Address	Title

Additional personnel and responsibilities who will be dedicated to the City:

Name	Phone Number	Email Address	Responsibility

Date of Bid: _____

By: _____

Authorized signature

Printed Name: _____

Title: _____

Address: _____

Phone: _____

Fax: _____

E-mail: _____

The following signatures acknowledge Contractor receipt of all IFB addenda. Signature further acknowledges that Contractor has read the IFB and appendices and is familiar with the requirements and specifications thereof. Contractor agrees that upon acceptance of this bid, they will execute a Contract with the City and provide any bonds or guarantees and certificates of insurance required by the Contract Documents within ten (10) days of notification by the City. Failure to sign this portion of the bid will result in an unresponsive bid.

By: _____

Authorized signature

Date of Signature: _____

**APPENDIX A****THE CITY OF HENDERSONVILLE**160 6TH Avenue East

Hendersonville, NC 28792

CONSTRUCTION CONTRACT**CONTRACTOR:****PROJECT:****PROJECT****ADDRESS:****PROJECT CIVIL ENGINEER:** [if applicable]**PROJECT ARCHITECT:** [If applicable]

This Construction Contract, and all exhibits, (collectively this "Contract") is entered into this ____ day of _____, 20____ by and between, the City of Hendersonville, a municipal corporation of the State of North Carolina, (the "City" or "Owner") and, _____ (the "Contractor") having an address of _____.

WITNESSETH:

That for and in consideration of the mutual promises set forth in this Contract, the sufficiency of which is acknowledged by the parties hereto, the parties agree as follows:

1. Scope of Services. The Contractor agrees to provide the professional construction services needed to complete the Project in accordance with the Project Drawings and Specifications and the Contract Documents for the price stated in the Contractors Proposal Form, plus or minus the substitutions listed on the Substitution Listing which are accepted by the City. The Scope of Services is set out in Exhibit B, attached hereto and incorporated by reference.
2. Contract Documents. The Contract Documents consist of, in addition to this Contract, the Invitation to Bid, Instructions to Bidders, Bid Proposal Form, Non-collusion Affidavit, Substitution Listing, all Addenda issued, the Contract Drawings, and the General Conditions of the Construction Contract, all of the foregoing being incorporated herein by reference as if fully set forth herein, and all parties agree to be bound thereby.
3. Time for Performance of the Work. The Work shall be completed within sixty (60) consecutive calendar days of receipt of the Notice to Proceed from the City.
4. Payment for Services. For the performance of the Work Contractor shall be paid the lump sum of _____ Dollars (\$_____) in accordance with the terms and conditions provided in the General Conditions of the Construction Contract and Exhibit B, attached hereto and incorporated

herein by reference.

5. This Contract shall be for a term of _____ consecutive calendar years from the effective date.

In witness thereof, the contracting parties, by their authorized agents, affix their signatures this _____ day of _____, 20_____.

CONTRACTOR

BY: _____

Print Name:

Print Title:

CITY OF HENDERSONVILLE

BY: _____

Print Name:

Print Title:

This instrument has been pre-audited in that manner required by the North Carolina Budget and Fiscal Control Act.

John Buchanan, Finance Director

GENERAL CONDITIONS

1. DEFINITIONS

Owner: "Owner" shall mean, The City of Hendersonville

Contractor: "Contractor" shall mean the entity that will provide the services for the Owner.

Designer: The designer(s) are those referred to within the Contract documents, or their authorized representatives. The Designer(s), as referred to herein, shall mean architect and/or engineer responsible for preparing the Project plans and specifications. They will be referred to hereinafter as if each were of the singular number, masculine gender.

2. Scope of Services. The Contractor agrees to perform for the City the following services according to the following requirements:

The Contractor agrees to complete the construction of the Project in accordance with the Contract Documents. Such construction of the Project shall constitute the "Work." The Contractor agrees to provide all of the personnel, contract personnel, subcontractors, financial resources, materials, supplies, and equipment necessary to complete the Work in a timely and professional manner in accordance with the standards of the profession for similar work in the Henderson County area at the time of the performance of the Work.

3. Contract Documents. The Contract Documents consist of the Invitation to Bid, Instructions to Bidders, Bid Proposal Form, Non-collusion Affidavit, Substitution Listing, all Addenda issued, the Contract Drawings and Specifications, the City's Standard Form Contract, and the General Conditions of the Construction Contract. The drawings and specifications are complementary, one to the other. That which is shown on the drawings or called for in the specifications shall be as binding as if it were both called for and shown. The intent of the drawings and specifications is to establish the scope of all labor, materials, transportation, equipment, and any and all other things necessary to provide a complete job. In case of discrepancy or disagreement in the Contract Documents, the order of precedence shall be the Construction Contract, the Bid Proposal Form, the Substitution Listing (only those items accepted by the City), Addenda, the Contract Drawings, the Instructions to Bidders, the General Conditions of the Contract, the Invitation to Bid, and the Non-collusion Affidavit.
4. Licensure Required. The Contractor must be a licensed General Contractor as required by North Carolina General Statutes Section 87-1, and must have a good ethical and professional standing with the North Carolina General Contractor's Licensing Board. The Contractor will be responsible for providing properly qualified, licensed (if required) personnel to complete the Work in accordance with the standard of care ordinarily used by members of the Contractor's profession practicing under similar circumstances and at the same time in Henderson County.
5. Coordination With Others. The Contractor agrees to coordinate its Work with the work of any other unaffiliated contractors or with the work of the City's own forces to avoid delaying or interfering with their work.
6. Contract Insurance. Contractor shall be required to purchase and maintain during its performance under this Contract insurance coverage as shown on the Insurance Requirements as stated in Exhibit A, which is incorporated herein by reference. With the exception of Worker's Compensation and Professional Liability policies, all insurance purchased shall have a specific endorsement, copy of

which shall be provided to the City, naming the City as an additional insured and for all insurance purchased, an endorsement providing that such insurance will not be cancelled without providing thirty (30) days advance written notice to the City.

7. Time for Performance of the Work. The Work will begin within ten (10) days of receipt of the Notice to Proceed from the City. The Contractor will have 180 consecutive calendar days to complete the Work from the date of Contractor's receipt of the Notice to Proceed.
8. Payment for Services. In consideration of the above services, the City will pay the Contractor, in accordance with the Contractor's, plus reimbursable expenses at the Contractor's actual cost (without markup). Contractor will submit monthly Requests for Payment for Work performed to the Project Engineer who will forward them to the Project Architect for Review. The Request for payment shall be based upon the Contractor's estimate of the percentage of the total Work completed during the period represented on the Request for Payment. The Project Architect must certify that the Work represented in the Contractor's Request for Payment has been completed in accordance with the Contract Documents, and certify that the Request for Payment is appropriate for payment before the City shall be obligated to make such payment to the Contractor. If any Request for Payment is disputed by the City, in whole or in part, the City shall provide a written explanation for such dispute to Contractor within five days of receipt of the certified Request for Payment from the Architect and shall pay all undisputed amounts therein.
 - a. **INVOICES FOR PAYMENT.** Not later than the fifth day of the month, the contractor shall submit to the owner a request for payment for work done during the previous month. The request shall be in the form Application for Payment contained in these documents. The contractor shall substantiate the request with invoices of vouchers or payrolls or other evidence. Executed contract documents, insurance certifications and, upon completion and acceptance of the work, invoices and other information requested are to be sent to:

Tom Wooten., Public Works Director

City of Hendersonville

305 Williams Street

Hendersonville, NC 28792

Ph: 828-697-3084/ Fax: 828-697-3089

It is imperative that contract documents, invoices, etc., be sent only to the above address in order to assure proper and timely delivery and handling.

- b. The designer with the approval of the Owner may withhold payment for the following reasons:
 - (1) Faulty work not corrected.
 - (2) The unpaid balance on the contract is insufficient to complete the work in the judgment of the designer.
 - (3) To provide for sufficient contract balance to cover liquidated damages that will be assessed.

(4) The secretary of the Department of Administration may authorize the withholding of payment for the following reasons:

(5) Claims filed against the Contractor or evidence that a claim will be filed.

(6) Evidence that subcontractors have not been paid.

(7) When grounds for withholding payments have been removed, payment will be released.

Delay of payment due the Contractor without cause will make owner liable for payment of interest to the Contractor as provided in G.S. 143-134.1. As provided in G.S. 143-134.1(e), the owner shall not be liable for interest on payments withheld by the owner for unsatisfactory job progress, defective construction not remedied, disputed work, or third-party claims filed against the owner or reasonable evidence that a third-party claim will be filed.

c. Final payment will be made within forty-five (45) consecutive days after acceptance of the work, receipt of marked-up "as-built" drawings and specifications and the submission both of notarized Contractor's affidavit and final pay request. All pay requests shall be submitted to the Designer/Owner for approval.

THE CONTRACTOR'S FINAL PAYMENT AFFIDAVIT SHALL STATE: "THIS IS TO CERTIFY THAT ALL COSTS OF MATERIALS, EQUIPMENT, LABOR, SUBCONTRACTED WORK, AND ALL ELSE ENTERING INTO THE ACCOMPLISHMENT OF THIS CONTRACT, INCLUDING PAYROLLS, HAVE BEEN PAID IN FULL."

9. Acceptance. Execution of the Contract constitutes an agreement to the terms contained within the Contract Documents. The terms and provisions set forth in the Contract Documents shall constitute the entire agreement between Contractor and the City with respect to the performance of the Work as described in the Contract Documents. The agreements set forth in the Contract Documents are sometimes referred to herein as the "Contract." Except as provided herein, no additional or supplemental provision or provisions in variance with the Contract Documents that may appear in Contractor's proposal, acknowledgment, Requests for Payment, or in any others communication from Contractor to the City shall be deemed accepted by or binding on the City. The City hereby expressly rejects all such provisions which supplement, modify or otherwise vary from the terms of the Contract Documents, and such provisions are superseded by the terms and conditions stated in the Contract Documents, unless and until the City's authorized representatives expressly assent, in writing, to such provisions. Stenographic and clerical errors and omissions by the City are subject to correction.
10. Working Drawings And Specifications At The Job Site. The Contractor shall maintain, in readable condition at his job site one complete set of working drawings and specifications for his work including all shop drawings. Such drawings and specifications shall be available for use by the owner, designer or his authorized representative. The Contractor shall also maintain at the job site, a day-to-day record of work-in-place that is at variance with the contract documents. Such variations shall be fully noted on Project drawings by the Contractor and submitted to the designer upon Project completion and no later than 30 days after acceptance of the Project.
11. Materials, Equipment, Employees. The Contractor shall, unless otherwise specified, supply and pay for all labor, transportation, materials, tools, apparatus, lights, power, fuel, heat, sanitary facilities, water, scaffolding and incidentals necessary for the completion of his work, and shall install, maintain and

remove all equipment of the construction, other utensils or things, and be responsible for the safe, proper and lawful construction, maintenance and use of same, and shall construct in the best and most workmanlike manner, a complete job and everything incidental thereto, as shown on the plans, stated in the specifications, or reasonably implied therefrom, all in accordance with the contract documents.

- a. All materials shall be new and of quality specified, except where reclaimed material is authorized herein and approved for use. Workmanship shall at all times be of a grade accepted as the best practice of the particular trade involved, and as stipulated in written standards of recognized organizations or institutes of the respective trades except as exceeded or qualified by the specifications.
- b. Upon notice, the Contractor shall furnish evidence as to quality of materials.
- c. The Contractor shall assure proper storage, meeting Federal and State regulations, of all potentially toxic and/or harmful chemicals or materials, to prevent possible access to these materials.
- d. Products are generally specified by ASTM or other reference standard and/or by manufacturer's name and model number or trade name. When specified only by reference standard, the Contractor may select any product meeting this standard, by any manufacturer. When several products or manufacturers are specified as being equally acceptable, the Contractor has the option of using any product and manufacturer combination listed. However, the Contractor shall be aware that the cited examples are used only to denote the quality standard of product desired and that they do not restrict bidders to a specific brand, make, manufacturer or specific name; that they are used only to set forth and convey to bidders the general style, type, character and quality of product desired; and that equivalent products will be acceptable. Request for substitution of materials, items, or equipment shall be submitted to the designer for approval or disapproval; the designer prior to the opening of bids shall make such approval or disapproval. Alternate materials may be requested after the award if it can clearly be demonstrated that it is an added benefit to the owner and the designer and owner approves.
- e. The designer is the judge of equality for proposed substitution of products, materials or equipment.
- f. If at any time during the construction and completion of the work covered by these contract documents, the language, conduct, or attire of any workman of the various crafts be adjudged a nuisance to the owner or designer, or if any workman be considered detrimental to the work, the Contractor shall order such parties removed immediately from grounds.
- g. The Contractor shall cooperate with the designer and the owner in coordinating construction activities.
- h. The Contractor shall maintain qualified personnel and effective supervision at the site at all times during the Project, and exercise the appropriate quality control program to ensure compliance with the Project drawings and specifications. The designer is responsible for determining compliance with the drawings and specifications.

12. Cleaning Up And Restoration Of Site. The Contractor shall be responsible, at the completion of each day's work, to leave the site in a clean workmanlike condition. Additionally, Contractor shall keep the sites and surrounding area reasonably free from rubbish at all times and shall remove debris from the site from time to time or when directed to do so by the Owner. Before final inspection and acceptance of the Project, the Contractor shall thoroughly clean the sites, and completely prepare the Project and site for use by the Owner. At the end of construction, the Contractor shall oversee and implement the restoration of the construction site to its original state. Restoration includes but not limited to walks, drives, lawns, trees and shrubs, corridors, stairs and other elements shall be repaired, cleaned or otherwise restored to their original state.

13. Codes, Permits And Inspections. The Contractor shall obtain the required permits, if required, give all notices, and comply with all laws, ordinances, codes, rules and regulations bearing on the conduct of the work under this contract. If the Contractor observes that the drawings and specifications are at variance therewith, he shall promptly notify the Designer in writing. All work under this contract shall conform to the current North Carolina Building Code and other state and national codes as are applicable. If the Contractor performs any work knowing it to be contrary to such laws, ordinances, codes, rules and regulations, and without such notice to the Owner, he shall bear all cost arising there from.

All fire alarm work shall be in accordance with the latest State Construction Office (SCO) Guidelines for Fire Alarm Installation (NFPA72). Where the contract documents are in conflict with the SCO guidelines, the SCO guidelines shall govern. The Contractor shall be responsible for all the costs for the correction of the work where he installs it in conflict with the latest edition of the SCO Guidelines for Fire Alarm Installation..

14. Protection Of Work, Property, The Public And Safety. The Contractor shall be solely responsible for the entire site and the building or construction of the same and provide all the necessary protections, as required by the owner or designer, and by laws or ordinances governing such conditions. The Contractor shall be responsible for any damage to the owner's property or of that of others on the job, by them, their personnel, or their subcontractors, and shall make good such damages. The Contractor shall be responsible for and pay for any damages caused to the owner. Contractor shall have access to the Project at all times.
- a. The Contractor shall provide cover and protect all portions of the structure when the work is not in progress, provide and set all temporary roofs, covers for doorways, sash and windows, and all other materials necessary to protect all the work on the building, whether set by him, or any of the subcontractors. Any work damaged through the lack of proper protection or from any other cause, shall be repaired or replaced without extra cost to the owner.
 - b. No fires of any kind will be allowed inside or around the operations during the course of construction without special permission from the designer and owner.
 - c. The Contractor shall protect all trees and shrubs designated to remain in the vicinity of the operations by building substantial boxes around it. He shall barricade all walks, roads, etc., as directed by the designer to keep the public away from the construction. All trenches, excavations or other hazards in the vicinity of the work shall be well barricaded and properly lighted at night.
 - d. The Contractor shall provide all necessary safety measures for the protection of all persons on the job, including the requirements of the A.G.C. Accident Prevention Manual in Construction, as amended, and shall fully comply with all state laws or regulations and North Carolina State Building Code requirements to prevent accident or injury to persons on or about the location of the work. He shall clearly mark or post signs warning of hazards existing, and shall barricade excavations, elevator shafts, stairwells and similar hazards. He shall protect against damage or injury resulting from falling materials and he shall maintain all protective devices and signs throughout the progress of the work.
 - e. The Contractor shall adhere to the rules, regulations and interpretations of the North Carolina Department of Labor relating to Occupational Safety and Health Standards for the Construction Industry (Title 29, Code of Federal Regulations, Part 1926, published in Volume 39, Number 122, Part II, June 24, 1974, Federal Register), and revisions thereto as adopted by General Statutes of North Carolina 95-126 through 155.

- f. In the event of emergency affecting the safety of life, the protection of work, or the safety of adjoining properties, the Contractor is hereby authorized to act at his own discretion, without further authorization from anyone, to prevent such threatened injury or damage. Any compensation claimed by the Contractor on account of such action shall be determined as provided for under Article 13(b).

Any and all costs associated with correcting damage caused to adjacent properties of the construction site or staging area shall be borne by the Contractor. These costs shall include but not be limited to flooding, mud, sand, stone, debris, and discharging of waste products.

15. As-Built Marked-Up Construction Documents. Contractor shall provide one complete set of legible "as-built" marked-up construction drawings and specifications recording any and all changes made to the original design during the course of construction. In the event no changes occurred, submit construction drawings and specifications set with notation "No Changes." The Designer/Owner must receive "As-built" marked-up construction drawings and specifications before the final pay request can be processed.
16. Entire Agreement. The Contract Documents constitute and represent the complete and entire agreement between the City and Contractor and supersede all previous communications, either written or verbal with respect to the subject matter of this Contract.
17. Changes, Additions, Deletions. No changes, additions, deletions or modifications (other than substitutions accepted by the City at the time the contract is awarded) of the scope of work, specifications, terms and conditions, quantity, unit of issue, delivery date, delivery charges or price will be permitted unless the same are incorporated into a written Change Order, signed by the City and the Contractor. However, the Contractor will not be liable for delays caused by circumstances beyond its control including without limitation, delays caused by acts of God, the City or its other consultants/contractors, federal, state, and local government authorities, strikes, riots, civil unrest, war, or unknown or concealed conditions, and if such delays occur, the Contractor will be entitled to an equitable adjustment in the time for the performance of the Work and compensation.
18. Change Orders. Change orders shall be submitted by the Contractor in writing to the owner/designer for review and approval. The Contractor will provide such proposal and supporting data in suitable format. The designer shall verify correctness. Delay in the processing of the change order due to lack of proper submittal by the Contractor of all required supporting data shall not constitute grounds for a time extension or basis of a claim. Within five (5) days after receipt of the Contractor's accepted proposal including all supporting documentation required by the designer, the designer shall prepare the change order and forward to the Contractor for his signature or otherwise respond, in writing, to the Contractor's proposal. Within five (5) days after receipt of the change order executed by the Contractor, the designer shall, certify the change order by his signature, and forward the change order and all supporting data to the owner for the owner's signature. The owner shall execute the change order, within five (5) days of receipt.
- a. A change order, when issued, shall be full compensation, or credit, for the work included, omitted or substituted. It shall show on its face the adjustment in time for completion of the Project as a result of the change in the work.
- b. If, during the progress of the work, the owner requests a change order and the Contractor's terms are unacceptable, the owner, may require the Contractor to perform such work on a time and material basis whereupon the Contractor shall proceed and keep accurately on such form as specified by the Designer or owner, a correct account of cost together with all proper invoices, payrolls and supporting

data. Upon completion of the work a change order will be prepared with allowances for overhead and profit per paragraph d. above and "net cost" and "cost" per paragraph e. above. Without prejudice, nothing in this paragraph shall preclude the owner from performing or to have performed that portion of the work requested in the change order.

19. Relationship of the Parties. The Contractor is an independent Contractor and not an affiliate of the City. The conduct and control of the work will lie solely with the Contractor. The Contract shall not be construed as establishing a joint venture, partnership or any principal-agent relationship for any purpose between the Contractor and the City. Employees of the Contractor shall remain subject to the exclusive control and supervision of the Contractor, which is solely responsible for their compensation.
20. Sales Taxes. With each invoice Contractor shall submit a sales tax affidavit, on a form provided by the Owner, for all sales tax paid in the performance of the portion of the Project represented by the submitted invoice. Contractor shall include with the affidavit all invoices or other documentation necessary to evidence the sales tax paid..
21. Substitutions. Substitutions proposed by the Contractor on the Substitution Listing Form, submitted with the Contractor's Bid Proposal, which are accepted by the City shall be considered a modification to the Contract Documents. No other substitutions shall be made by the Contractor unless the same is put into a Change Order, signed by the Owner and Contractor.
22. Indemnification. To the greatest extent allowed by the law the Contractor shall indemnify and hold harmless the City, its officers, agents, employees and assigns from and against all claims, losses, costs, damages, expenses, attorneys' fees ("Claims"), but only to the extent the fault of the Consultant or its derivative parties (as defined in N.C.G.S §22B-1) is a proximate cause of the Claim. In the event that any portion of the Work performed under the Contract shall be defective in any respect whatsoever, the Contractor shall indemnify and save harmless the City, its officers, agents, employees and assigns from all loss or the payment of all sums of money, but only to the extent the fault of the Consultant or its derivative parties (as defined in N.C.G.S §22B-1) is a proximate cause of the Claim.
23. Anti-Discrimination. During the performance of the Contract, the Contractor shall not discriminate against or deny the Contract's benefits to any person on the basis of sexual orientation, national origin, race, ethnic background, color, religion, gender, age or disability.
24. Insurance. The Contractor shall provide the insurance coverages shown on Exhibit A, attached hereto and incorporated herein by reference. The Contractor shall provide the City with a North Carolina Certificate of Insurance and such endorsements as may be required by the Contract Documents PRIOR to the commencement of any work under the Contract and agrees to maintain such insurance until the completion of the Contract. Such certificates of insurance shall be considered part of the Contract.
25. Ethics in Public Contracting. By submitting their prices and acceptance of this Contract, the Contractor certifies that their proposal was made without collusion or fraud and that they have not offered or received any kickbacks or inducements from any other supplier, manufacturer or subcontractor in connection with their proposal, and that they have not conferred on any public employee having official responsibility for this procurement transaction any payment, loan, subscription, deposit of money, services or anything of more than nominal value, present or promised, unless consideration of substantially equal or greater value was exchanged.
26. Applicable Laws and Courts. This Contract shall be governed in all respects by the laws of the State of North Carolina. All matters, whether sounding in contract or tort relating to the validity, construction,

interpretation and enforcement of the Contract, shall be governed in all respects by the laws of the State of North Carolina and venue shall be proper only in a court of competent jurisdiction located in Henderson County, North Carolina. The Contractor represents and warrants that it shall comply with all applicable federal, state and local laws, regulations and orders.

27. Strict Compliance. The City may at any time insist upon strict compliance with these terms and conditions notwithstanding any previous course of dealing or course of performance between the parties to the contrary.
28. Assignment. The Contractor shall not assign, subcontract or otherwise transfer any interest in the Contract without the prior written approval of the City.
29. General Provisions. The City's remedies as set forth herein are not exclusive. Any delay or omission by the City in exercising any right hereunder, or any waiver by the City of any single breach or default hereunder, shall not be deemed to be a waiver of such right or of any other right, breach, or default.
30. Risk of Loss. Risk of Loss for all supplies, materials, the Work performed, and the Project as it is being constructed, shall be on the Contractor until such time as substantial completion is achieved, certified by the Architect, and approved by the City.
31. Warranties. The Contractor warrants it shall adhere to all applicable laws, codes, ordinances, and regulations of the United States, the State of North Carolina, the County of Henderson, and the City of Hendersonville in the performance of the Work outlined in this Contract and any attached specifications. The Contractor warrants that any finished Work completed hereunder shall also adhere to all applicable laws, codes, ordinances, and regulations of the United States, the State of North Carolina, the County of Henderson, and the City of Hendersonville. The Contractor warrants that all Work will be performed in accordance with this Contract and the standard of care ordinarily used by members of the Contractor's engineering profession practicing under similar circumstances and at the same time in Henderson County.

Guarantee - The contractor shall unconditionally guarantee materials and workmanship against patent defects arising from faulty materials, faulty workmanship or negligence for a period of twelve (12) months following the final acceptance of the work and shall replace such defective materials or workmanship without cost to the owner. Where items of equipment or material carry a manufacturer's warranty for any period in excess of twelve (12) months, then the manufacturer's warranty shall apply for that particular piece of equipment or material. The contractor shall replace such defective equipment or materials, without cost to the owner, within the manufacturer's warranty period. Additionally, the owner may bring an action for latent defects caused by the negligence of the contractor, which is hidden or not readily apparent to the owner at the time of beneficial occupancy or final acceptance, whichever occurred first, in accordance with applicable law.

The Contractor makes no additional warranties, express or implied, in connection with the Work. In addition to any other rights available at law or in equity, the City shall be entitled to consequential and incidental damages.

32. Default. In the event of a breach by the Contractor, addition to any other remedies available to the City in law or equity, the City may procure upon such terms as the City shall deem appropriate, construction services substantially similar to those so terminated, in which case the Contractor shall be liable to the City for any excess costs for such similar services and any expenses incurred in connection therewith. This Contract shall not terminate if the alleged default is cured within a ten (10) day notice period. In the event this Contract is terminated by the City for the default of the Contractor, the City shall be entitled to keep

and use Work, including materials and supplies on site provided by the Contractor in finishing the construction of the Project.

33. Termination for Convenience. The City shall have the right, without assigning any reason therefore, to terminate any Work under the Contract, in whole or in part, at any time at its complete discretion by providing ten (10) day notice in writing from the City to the Contractor. If the Contract is terminated by the City in accordance with this paragraph, the Contractor will be paid for all Work performed and reimbursable expenses incurred up to the effective date of the termination. The City will not be liable to the Contractor for any costs for materials acquired or contracted for, if such costs were incurred prior to the date of this Contract.
34. Assignment. Contractor may not assign, pledge, or in any manner encumber the Contractor's rights under this Contract, or delegate the performance of any of its obligations hereunder, without the City's prior, express written consent. Hiring a subcontractor to perform any portion of the Work shall be at the Contractor's discretion; however Contractor shall remain liable and responsible to the City for all such Work completed by subcontractors.
35. No Third Party Beneficiaries. There shall be no intended nor incidental third party beneficiaries of this Contract. The Contractor shall include in all contracts, subcontracts or other agreements relating to the Contract an acknowledgment by the contracting parties that the Contract creates no third party beneficiaries.
36. Valid Contract. In order for this Contract to be valid, it must be executed by the City Manager or his or her authorized designee, and must be preaudited in that manner required by the Local Government Budget and Fiscal Control Act, as the same may be amended.
37. Verification of Work Authorization. The Contractor shall comply with, and require all contractors and subcontractors to comply with, the requirements of Article 2 of Chapter 64 of the North Carolina General Statutes, "Verification of Work Authorization," sometimes known as E-verify for all contractors and subcontractors.
38. Iran Divestment List. With the execution hereof, Contractor, certifies that they are not on the Iran Final Divestment List created by the N.C. State Treasurer pursuant to N.C.G.S. § 147-86.58, and will not contract with anyone on such List in performance of the work hereunder.
39. Severability. If any provision of this Contract is found to be invalid or unlawful, then remainder of this Agreement shall not be affected thereby, and each remaining provision shall be valid and enforced to the fullest extent permitted by law.
40. Dispute Resolution. As a precondition for filing a lawsuit related to a dispute under this Agreement, a party must comply with the City of Hendersonville Rules Implementing Mediated Settlement Conferences for City of Hendersonville Construction Projects, the "Dispute Resolution Procedure."

EXHIBIT B

MINIMUM INSURANCE REQUIREMENTS

The Work under this Contract shall not commence until the Firm has obtained all required insurance and verifying certificates of insurance have been approved in writing by the City. The City shall be named as additional insured on all policies, except Worker's Compensation and Professional Liability policies. These certificates shall document that coverages afforded under the policies will not be cancelled until at least thirty (30) days after mailing written notice, by certified mail, return receipt requested, to the insured and the City of such cancellation. If endorsements are needed to comply with the notification or other requirements of this article copies of the endorsements shall be submitted with the certificates.

a. Worker's Compensation and Employer's Liability

The Firm shall provide and maintain, until final acceptance, workmen's compensation insurance, as required by law, as well as employer's liability coverage with minimum limits of \$100,000.

b. Comprehensive General Liability Insurance

The Firm shall provide and maintain, until final acceptance, comprehensive general liability insurance, including coverage for premises operations, independent contractors, completed operations, products and contractual exposures, as shall protect such contractors from claims arising out of any bodily injury, including accidental death, as well as from claims for property damages which may arise from operations under this contract, whether such operations be by the Firm or by any subcontractor, or by anyone directly or indirectly employed by either of them and the minimum limits of such insurance shall be as follows:

Bodily Injury: \$1,000,000 per occurrence / \$2,000,000 aggregate

Property Damage: \$100,000 per occurrence / \$300,000 aggregate

Or,

Bodily Injury and Property Damage, combined single limit (CSL): \$1,000,000 per occurrence / \$2,000,000 aggregate

Such coverage for completed operations must be maintained for at least two (2) years following final acceptance of the Work performed under the contract.

c. Deductible

Any deductible, if applicable to loss covered by insurance provided, is to be borne by the Firm.

d. Other Insurance

The Firm shall obtain such additional insurance as may be required by the City or by the General Statutes of North Carolina including motor vehicle insurance, in amounts not less than the statutory limits.

e. Proof of Carriage

The Firm shall furnish the City with satisfactory proof of carriage of the insurance required before written approval is granted by the City

