



Invitation for Bid

Tennis Court & Track Resurfacing

Mooreville Graded School District

Invitation for Bid # 215-032824:

Invitation for Bid for Tennis Courts & Track Resurfacing

Date of Issue: 3/28/2024

Bid Opening Date: 4/12/2024
9:00 AM EST

Direct all inquiries concerning this IFB to:

Scott Smith
Chief Operations Officer
Email: smith@mgsd.k12.nc.us
Phone: 704.658.2530

EXECUTION

STATE OF NORTH CAROLINA <i>Mooresville Graded School District</i>	
Refer <u>ALL</u> Inquiries regarding this IFB to: Scott Smith Mooresville Graded School District 305 N Main St. Mooresville, NC 28115 ssmith@mgds.k12.nc.us	Invitation for Bid # 215-032824
	Bid will be publicly opened: 4/12/2024 9:00 AM EST
	Description: Invitation for bid for tennis courts & track resurfacing
	Using Agency: Mooresville Graded School District (MGSD)

In compliance with this Invitation for Bid, and subject to all the conditions herein, the undersigned Vendor offers and agrees to furnish and deliver any or all services upon which prices are bid, at the prices set opposite each item within the time specified herein. By executing this bid, the undersigned Vendor certifies that this bid is submitted competitively and without collusion (G.S. 143-54), that none of its officers, directors, or owners of an unincorporated business entity has been convicted of any violations of Chapter 78A of the General Statutes, the Securities Act of 1933, or the Securities Exchange Act of 1934 (G.S. 143-59.2), and that it is not an ineligible Vendor as set forth in G.S. 143-59.1. False certification is a Class I felony. Furthermore, by executing this bid, the undersigned certifies to the best of Vendor's knowledge and belief, that it and its principals are not presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from covered transactions by any Federal or State department or agency. As required by G.S. 143-48.5, the undersigned Vendor certifies that it, and each of its sub-Contractors for any Contract awarded as a result of this IFB, complies with the requirements of Article 2 of Chapter 64 of the NC General Statutes, including the requirement for each employer with more than 25 employees in North Carolina to verify the work authorization of its employees through the federal E-Verify system. G.S. 133-32 and Executive Order 24 (2009) prohibit the offer to, or acceptance by, any State Employee associated with the preparing plans, specifications, estimates for public Contract; or awarding or administering public Contracts; or inspecting or supervising delivery of the public Contract of any gift from anyone with a Contract with MGSD, or from any person seeking to do business with MGSD. By execution of this response to the IFB, the undersigned certifies, for your entire organization and its employees or agents, that you are not aware that any such gift has been offered, accepted, or promised by any employees of your organization.

Failure to execute/sign bid prior to submission shall render bid invalid and it WILL BE REJECTED. Late bids cannot be accepted.

VENDOR:		
STREET ADDRESS:	P.O. BOX:	ZIP:
CITY & STATE & ZIP:	TELEPHONE NUMBER:	TOLL FREE TEL. NO:
PRINCIPAL PLACE OF BUSINESS ADDRESS IF DIFFERENT FROM ABOVE (SEE INSTRUCTIONS TO VENDORS ITEM #10):		
PRINT NAME & TITLE OF PERSON SIGNING ON BEHALF OF VENDOR:		FAX NUMBER:
VENDOR'S AUTHORIZED SIGNATURE:	DATE:	EMAIL:

Offer valid for at least 60 days from date of bid opening, unless otherwise stated here: ____ days. After this time, any withdrawal of offer shall be made in writing, effective upon receipt by the agency issuing this IFB.

ACCEPTANCE OF BID

If any or all parts of this bid are accepted by MGSD, an authorized representative of The Mooresville Graded School District Board of Education shall affix his/her signature hereto and this document and all provisions of this Request for Bid along with the Vendor bid response and the written results of any negotiations shall then constitute the written agreement between the parties. A copy of this acceptance will be forwarded to the successful Vendor.

FOR Mooresville Graded School District USE ONLY:

Offer accepted and Contract awarded this ____ day of _____, 20____, as indicated on the attached certification, by

(Authorized Representative of Mooresville Graded School District).

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1.0 PURPOSE AND BACKGROUND

The purpose of this invitation for bid (IFB) is to award an agency specific contract by Mooresville Graded School District for the resurfacing of the tennis courts and track located at Mooresville Middle School, 233 Kistler Farm Road, Mooresville, NC 28115.

Bids shall be submitted in accordance with the terms and conditions of this IFB and any addenda issued hereto.

2.0 GENERAL INFORMATION

2.1 INVITATION FOR BID DOCUMENT

The IFB is composed of the base IFB document, any attachments, and any addenda released before Contract award. All attachments and addenda released for this IFB in advance of any Contract award are incorporated herein by reference.

2.2 NOTICE TO VENDORS REGARDING IFB TERMS AND CONDITIONS

It shall be the Vendor's responsibility to read the Instructions, MGSD's terms and conditions, all relevant exhibits and attachments, and any other components made a part of this IFB and comply with all requirements and specifications herein. Vendors also are responsible for obtaining and complying with all Addenda and other changes that may be issued in connection with this IFB.

If Vendors have questions, issues, or exceptions regarding any term, condition, or other component within this IFB, those must be submitted as questions in accordance with the instructions in Section 2.4 BID QUESTIONS. MGSD will provide responses to all questions in the form of an IFB addendum. MGSD may also elect to leave open the possibility for later negotiation and amendment of specific provisions of the Contract that have been addressed during the question and answer period. Other than through this process, MGSD rejects and will not be required to evaluate or consider any additional or modified terms and conditions submitted with Vendor's bid. This applies to any language appearing in or attached to the document as part of the Vendor's bid that purports to vary any terms and conditions or Vendors' instructions herein or to render the bid non-binding or subject to further negotiation. Vendor's bid shall constitute a Vendor offer. **By execution and delivery of this IFB Response, the Vendor agrees that any additional or modified terms and conditions, whether submitted purposely or inadvertently, shall have no force or effect, and will be disregarded. Noncompliance with, or any attempt to alter or delete, this paragraph shall constitute sufficient grounds to reject Vendor's bid as nonresponsive.**

2.3 BID SCHEDULE

The table below shows the *intended* schedule for this IFB. The Contract Lead will make every effort to adhere to this schedule.

Event	Responsibility	Date
Issue IFB	MGSD	3/28/2024
Submit Written Questions	Vendor	no later than 4/5/2024
Provide Response to Questions	MGSD	4/6/2024
Submit Bids	Vendor	no later than 4/12/2024 @ 8:59 AM EST

2.4 BID QUESTIONS

Upon review of the IFB documents, Vendors may have questions to clarify or interpret the IFB in order to submit the best bid possible. To accommodate the Bid Questions process, Vendors shall submit any such questions by the above due date.

Written questions shall be emailed to ssmith@mgd.k12.nc.us by the date specified above. Vendors should enter “**IFB #215-032824 Questions**” as the subject for the email. Questions submittals should include a reference to the applicable IFB section and be submitted in a format shown below:

Reference	Vendor Question
IFB Section, Page Number	Vendor question ...?

Answers to the questions received prior to the specified date and any additional terms deemed necessary by MGSD will be posted in the form of an addendum on the North Carolina Interactive Purchasing System (IPS) website and on the Mooresville Graded School District website. No information, instruction or advice provided orally or informally by any MGSD personnel, whether made in response to a question or otherwise in connection with this IFB, shall be considered authoritative or binding. Vendors shall rely *only* on written material contained in an Addendum to this IFB.

2.5 BID SUBMITTAL

Bids must be submitted in electronic format via the North Carolina Interactive Purchasing System website (<https://evp.nc.gov/solicitations/>) using the NC Bids button only. **EMAILED BIDS WILL NOT BE ACCEPTED**. Vendors are encouraged to contact the NC Department of Administration helpdesk if assistance is needed with IPS electronic bid submission.

It is the sole responsibility of the Vendor to have the bid submitted by the specified time and date of opening. Mooresville Graded School District is not responsible for delays due to equipment/technology failure or corrupted data. The information submitted will be as-is with no modifications or post submittal revisions due to technical or other issues.

2.6 DEFINITIONS, ACRONYMS, AND ABBREVIATIONS

- a) **BAFO:** Best and Final Offer, submitted by a Vendor to alter its initial offer, made in response to a request by the issuing agency.
- b) **BUYER:** The employee of MGSD or Other Eligible Entity that places an order with the Vendor.
- c) **CONTRACT LEAD:** Representative of MGSD who corresponds with potential Vendors in order to identify and contract with that Vendor providing the greatest benefit to MGSD and who will administer this contract for the MGSD.
- d) **QUALIFIED BID:** A responsive bid submitted by a responsible Vendor.
- e) **IFB:** Invitation for Bids
- f) **VENDOR:** Supplier, bidder, proposer, company, Vendor, corporation, partnership, individual or other entity submitting a response to an Invitation for Bids.

3.0 METHOD OF AWARD AND BID EVALUATION PROCESS

3.1 METHOD OF AWARD

All qualified bids will be evaluated and awarded to the Vendor meeting the IFB requirements and achieving the highest and best final evaluation, based on pricing first and then on the additional criteria described below. Each vendor will be notified of results after the close and evaluation of the IFB.

3.2 CONFIDENTIALITY AND PROHIBITED COMMUNICATIONS DURING EVALUATION

During the evaluation period—from the date bids are opened through the date the contract is awarded—each Vendor submitting a bid (including its representatives) is prohibited from having any communications with any person inside or outside the using agency, issuing agency, other government agency office, or body (including the purchaser named above, department secretary, agency head, members of the general assembly and/or governor's office), or private entity, if the communication refers to the content of Vendor's bid or qualifications, the contents of another Vendor's bid, another Vendor's qualifications or ability to perform the contract, and/or the transmittal of any other communication of information that could be reasonably considered to have the effect of directly or indirectly influencing the evaluation of bids and/or the award of the contract. A Vendor not in compliance with this provision shall be disqualified from contract award, unless it is determined in the MGSD's discretion that the communication was harmless, that it was made without intent to influence and that the best interest of MGSD would not be served by the disqualification. A Vendor's bid may be disqualified if its employees or supplier engage in any of the foregoing communications during the time that the procurement is active (i.e., the issuance date of the procurement to the date of contract award). Only those discussions, communications or transmittals of information authorized or initiated by the issuing agency for this IFB or general inquiries directed to the purchaser regarding requirements of the IFB (prior to bid submission) or the status of the contract award (after submission) are excepted from this provision.

3.3 BID EVALUATION PROCESS

MGSD shall review all Vendor responses to this IFB to confirm that they meet the specifications and requirements of the IFB. MGSD reserves the right to waive any minor informality or technicality in bids received.

MGSD reserves the right to reject all original offers and request one or more of the Vendors submitting bids within a competitive range to submit a best and final offer (BAFO), based on discussions and negotiations with MGSD, if the initial responses to the IFB have been evaluated and determined to be unsatisfactory.

MGSD reserves the right to interview any potential Vendor during the evaluation process. Vendors are cautioned, however, that the evaluators are not required to request presentations or other clarification—and often do not; therefore, all bids must be complete and reflect the most favorable terms available from the Vendor.

Upon completion of the evaluation process, MGSD will make an Award based on the evaluation and email all Vendors the results. Award of a Contract to one Vendor does not mean that the other bids lacked merit, but that, all factors considered, the selected bid was deemed most advantageous and represented the best value to MGSD.

Vendors are cautioned that this is an invitation for bids, not a request to contract, and MGSD reserves the unqualified right to reject any and all offers at any time if such rejection is deemed to be in the best interest of MGSD.

Bids will be evaluated according to the information below.

Proposal Number:

Vendor: _____

3.4 EVALUATION CRITERIA & RUBRIC

	Points
(1) Total project cost	___/80
(2) References	___/15
(3) Experience with similar projects in North Carolina	___/5
Total:	___/100 points

4.0 REQUIREMENTS

This Section lists the requirements related to this IFB. By submitting a bid, the Vendor agrees to meet all stated requirements in this Section as well as any other specifications, requirements and terms and conditions stated in this IFB. If a Vendor is unclear about a requirement or specification or believes a change to a requirement would allow for MGSD to receive a better bid, the Vendor is urged and cautioned to submit these items in the form of a question during the question and answer period in accordance with Section 2.4.

4.1 CONTRACT TERM

The Contract shall take effect on May 14, 2024 upon approval from MGSD Board of Education and shall continue in force until all deliverables are received.

4.2 PRICING

Bid price shall constitute the total cost to Buyer for complete performance in accordance with the requirements and specifications herein, including all applicable charges handling, administrative and other similar fees. Vendor shall not invoice for any amounts not specifically allowed for in this IFB. Complete ATTACHMENT A: PRICING FORM and include in Bid.

4.3 INVOICES

An invoice must be submitted within 15 days of product deliverables to Mooresville Graded School District, 305 N. Main Street, Mooresville NC 28115.

4.4 PAYMENT TERMS

- a) The Vendor will be paid net thirty (30) calendar days after the Vendor's invoice is approved by MGSD.

4.5 VENDOR EXPERIENCE

In its Bid, the Vendor shall demonstrate experience with public and/or private sector clients with similar needs to MGSD.

Proposal Number:

Vendor: _____

4.6 REFERENCES

Vendors shall provide at least three (3) references for which your company has provided services of similar scope to that proposed herein. MGSD may contact these users to determine the products provided are substantially similar in scope to those proposed herein and Vendor's performance has been satisfactory. The information obtained may be considered in the evaluation of the bid.

COMPANY NAME	CONTACT NAME	TELEPHONE NUMBER

4.7 PERSONNEL

Vendor shall not substitute key personnel assigned to the performance of this Contract without prior written approval by the Contract Lead. Vendor shall notify the Contract Lead of any desired substitution, including the name(s) and references of Vendor's recommended substitute personnel. MGSD will approve or disapprove the requested substitution in a timely manner. MGSD may, in its sole discretion, terminate the services of any person providing services under this Contract. Upon such termination, MGSD may request acceptable substitute personnel or terminate the contract services provided by such personnel.

4.8 VENDOR'S REPRESENTATIONS

- a) Vendor warrants that qualified personnel shall provide products under this Contract in a professional manner. "Professional manner" means that the personnel providing the products will possess the skill and competence consistent with the prevailing business standards in the industry. Vendor agrees that it will not enter any agreement with a third party that may abridge any rights of MGSD under this Contract.
- b) If any services, deliverables, functions, or responsibilities not specifically described in this Contract are required for Vendor's proper performance, provision and delivery of the service and deliverables under this Contract, or are an inherent part of or necessary sub-task included within such service, they will be deemed to be implied by and included within the scope of the contract to the same extent and in the same manner as if specifically described in the contract. Unless otherwise expressly provided herein, Vendor will furnish all of its own necessary management, supervision, labor, facilities, furniture, computer and telecommunications equipment, software, supplies and materials necessary for the Vendor to provide and deliver the Services and Deliverables.
- c) Vendor warrants that it has the financial capacity to perform and to continue perform its obligations under the contract; that Vendor has no constructive or actual knowledge of an actual or potential legal proceeding being brought against Vendor that could materially adversely affect performance of this Contract; and that entering into this Contract is not prohibited by any contract, or order by any court of competent jurisdiction.

5.0 PROJECT SCOPE AND DETAILS

Mooresville Graded School District is seeking bids for the following project details at Mooresville Middle School, 233 Kistler Farm Road, Mooresville, NC 28115.

SCOPE:

Both projects will commence no sooner than May 23, 2024 and should be fully completed and ready for use by August 1, 2024.

Tennis Courts

The intent of this Request for Bid (RFB) is to seek and obtain proposals from North Carolina licensed tennis court contractors to repair and resurface six (6) exterior tennis courts, measuring approximately 4,200sy total. Repairs, resurfacing, playing lines, etc. must meet United States Tennis Association (USTA) specifications.

Repairs and resurfacing of tennis courts must include the following: Surface preparation must include cleaning and scraping all courts of loose material, dirt and debris; patching any depressions holding more than $\frac{1}{8}$ " of water after being allowed to drain for one hour using an acrylic patch material; repair and patch any structural cracks, dings, etc., in the asphalt surface using an acrylic patching material. Court surfacing should include applying two (2) coats of nominal compacted depth of 1.5" surface core asphalt. After a 30-day cure, apply two coats of acrylic resurfacer, two coats of color, and two coats of line paint to match existing colors in accordance with manufacturer's instructions. Paint lines based on ASBA specifications. Reinstall current nets, posts, and center straps and supply a set of new nets and center straps (6) for future use. Reinstall fence in the same location. Backfill edge of courts and seed disturbed area. Clean the surface and leave courts ready for play.

- See Attachment E for photo of existing tennis courts

Track

Track scope of work includes: Demolishing existing track surface & asphalt. Removing millings from sites that aren't used for base and re-grading and stabilization/compacting of stone base. Pave areas with a nominal compacted depth of 2" of surface course asphalt approx. 5,400 SY. Assess, grade, and compact existing stone base (no additional stone included in pricing). Test roll and install 1.5" asphalt base course and 1.5" asphalt finish course. Track should be designed to meet level 5 certification, which ensures 400m length. The scope of work should not include curb or track drains since the existing curbs are in great condition. The new asphalt will be poured to the top of the inside and outside curb, so any deviations in elevation of the curb will be mirrored in the asphalt.

Track Detail:

400 Meter
Equal Quadrant Design
8 (42") Lanes with approx. 6" of surface outside last lane and inside first lane
2 Chutes
1 High Jump Pad
2 Long/Triple Jump Runways
No Raised Curb

After a 30-day cure, paint the track with lines/markings in accordance with manufacturer's instructions. Paint lines and markings based on NFHS specifications.

- See Attachment F for photo of existing track

6.0 CONTRACT ADMINISTRATION

6.1 DISPUTE RESOLUTION

The parties agree that it is in their mutual interest to resolve disputes informally. A claim by the Vendor shall be submitted in writing to MGSD's Contract Lead for resolution. A claim by MGSD shall be submitted in writing to the Vendor's Project Manager for resolution. The Parties shall negotiate in good faith and use all reasonable efforts to resolve such dispute(s). During the time the Parties are attempting to resolve any dispute, each shall proceed diligently to perform their respective duties and responsibilities under this Contract. If a dispute cannot be resolved between the Parties within thirty (30) days after delivery of notice, either Party may elect to exercise any other remedies available under this Contract, or at law. This term shall not constitute an agreement by either party to mediate or arbitrate any dispute.

6.2 CONTRACT CHANGES

Contract changes, if any, shall be implemented by contract amendments agreed to in writing by MGSD and Vendor.

ATTACHMENT A: PRICING

Prices below **should** be all inclusive and not exceed total cost for each project.

Item	Price
Tennis Court Resurfacing	
Track Resurfacing	
Total Price of Both Projects	

ATTACHMENT B: INSTRUCTIONS TO VENDORS

- READ, REVIEW AND COMPLY:** It shall be the Vendor's responsibility to read this entire document, review all enclosures and attachments, and any addenda thereto, and comply with all requirements specified herein, regardless of whether appearing in these Instructions to Vendors or elsewhere in this IFB document.
- LATE BIDS:** Late bids, regardless of cause, will not be opened or considered, and will automatically be disqualified from further consideration. It shall be the Vendor's sole responsibility to ensure electronic delivery by the designated time.
- ACCEPTANCE AND REJECTION:** MGSD reserves the right to reject any and all bids, to waive any informality in bids and, unless otherwise specified by the Vendor, to accept any item in the bid.
- BASIS FOR REJECTION:** Pursuant to 01 NCAC 05B .0501, MGSD reserves the right to reject any and all offers, in whole or in part, by deeming the offer unsatisfactory as to quality or quantity, delivery, price or service offered, non-compliance with the requirements or intent of this solicitation, lack of competitiveness, error(s) in specifications or indications that revision would be advantageous to MGSD, cancellation or other changes in the intended project or any other determination that the proposed requirement is no longer needed, limitation or lack of available funds, circumstances that prevent determination of the best offer, or any other determination that rejection would be in the best interest of MGSD.
- EXECUTION:** Failure to sign EXECUTION PAGE in the indicated space will render the bid non-responsive, and it shall be rejected.
- ORDER OF PRECEDENCE:** In cases of conflict between specific provisions in this solicitation or those in any

resulting contract, the order of precedence shall be (high to low) (1) any special terms and conditions specific to this IFB, including any negotiated terms; (2) requirements and specifications in Sections 4, 5 and 6 of this IFB; (3) North Carolina General Contract Terms and Conditions in ATTACHMENT C: NORTH CAROLINA GENERAL CONTRACT TERMS AND CONDITIONS; (4) Instructions in ATTACHMENT B: INSTRUCTIONS TO VENDORS; and (5) Vendor's Bid.

7. **INFORMATION AND DESCRIPTIVE LITERATURE:** Vendor shall furnish all information requested in the spaces provided in this document. Further, if required elsewhere in this bid, each Vendor must submit with their bid sketches, descriptive literature and/or complete specifications covering the products offered. Reference to literature submitted with a previous bid or available elsewhere will not satisfy this provision. Bids that do not comply with these requirements shall be subject to rejection without further consideration.
8. **HISTORICALLY UNDERUTILIZED BUSINESSES:** MGSD is committed to retaining Vendors from diverse backgrounds, and it invites and encourages participation in the procurement process by businesses owned by minorities, women, disabled, disabled business enterprises and non-profit work centers for the blind and severely disabled. Particularly, MGSD encourages participation by Vendors certified by the State Office of Historically Underutilized Businesses, as well as the use of HUB-certified vendors as subcontractors on State contracts.
9. **RECIPROCAL PREFERENCE:** G.S. 143-59 establishes a reciprocal preference requirement to discourage other states from favoring their own resident Vendors by applying a percentage increase to the price of any bid from a North Carolina resident Vendor. To the extent another state does so, North Carolina applies the same percentage increase to the bid of a vendor resident in that state. Residency is determined by a Vendor's "Principal Place of Business," defined as that principal place from which the overall trade or business of the Vendor is directed or managed.G.S.
10. **INELIGIBLE VENDORS:** As provided in G.S. 147-86.59 and G.S. 147-86.82, the following companies are ineligible to contract with the State of North Carolina or any political subdivision of the State: a) any company identified as engaging in investment activities in Iran, as determined by appearing on the Final Divestment List created by the State Treasurer pursuant to G.S. 147-86.58, and b) any company identified as engaged in a boycott of Israel as determined by appearing on the List of restricted companies created by the State Treasurer pursuant to G.S. 147-86.81. A contract with MGSD by any company identified in a) or b) above shall be void *ab initio*.
11. **CONFIDENTIAL INFORMATION:** To the extent permitted by applicable statutes and rules, MGSD will maintain confidential trade secrets that the Vendor does not wish disclosed. As a condition to confidential treatment, each page containing trade secret information shall be identified in boldface at the top and bottom as "CONFIDENTIAL" by the Vendor, with specific trade secret information enclosed in boxes or similar indication. Cost information shall not be deemed confidential under any circumstances. Regardless of what a Vendor may label as a trade secret, the determination whether it is or is not entitled to protection will be determined in accordance with G.S. 132-1.2. Any material labeled as confidential constitutes a representation by the Vendor that it has made a reasonable effort in good faith to determine that such material is, in fact, a trade secret under G.S. 132-1.2. Vendors are urged and cautioned to limit the marking of information as a trade secret or as confidential so far as is possible. If a legal action is brought to require the disclosure of any material so marked as confidential, MGSD will notify Vendor of such action and allow Vendor to defend the confidential status of its information.
12. **PROTEST PROCEDURES:** When a Vendor wishes to protest a Contract resulting from this solicitation that is awarded by MGSD, a Vendor shall submit a written request emailed to Angie Davis, CFO at aldavis@mgsd.k12.nc.us. The protest request must be received by Angie Davis within thirty (30) consecutive calendar days from the date of the Contract award. Protest letters **shall** contain specific grounds and reasons for the protest, how the protesting party was harmed by the award made and any documentation providing support for the protesting party's claims.
13. **MISCELLANEOUS:** Any gender-specific pronouns used herein, whether masculine or feminine, shall be read and construed as gender neutral, and the singular of any word or phrase shall be read to include the plural and vice versa.
14. **COMMUNICATIONS BY VENDORS:** In submitting its bid, the Vendor agrees not to discuss or otherwise reveal the

contents of its bid to any source, government or private, outside of MGSD until after the award of the Contract or cancellation of this IFB. All Vendors are forbidden from having any communications with MGSD, or any other representative of MGSD concerning the solicitation, during the evaluation of the bids (i.e., after the public opening of the bids and before the award of the Contract), unless MGSD directly contacts the Vendor(s) for purposes of seeking clarification or another reason permitted by the solicitation. A Vendor shall not: (a) transmit to MGSD any information commenting on the ability or qualifications of any other Vendor to provide the advertised good, equipment, commodity; (b) identify defects, errors and/or omissions in any other Vendor's bid and/or prices at any time during the procurement process; and/or (c) engage in or attempt any other communication or conduct that could influence the evaluation and/or award of the Contract that is the subject of this IFB. Failure to comply with this requirement shall constitute sufficient justification to disqualify a Vendor from a Contract award. Only those communications with MGSD authorized by this IFB are permitted.

15. TABULATIONS: Bid tabulations can be received from the Contract Lead.

16. WITHDRAWAL OF BID: A Bid may be withdrawn only in writing and actually received by the office issuing the IFB prior to the time for the opening of Bids identified on the cover page of this IFB (or such later date included in an Addendum to the IFB). A withdrawal request must be on Vendor's letterhead and signed by an official of the Vendor authorized to make such request. Any withdrawal request made after the opening of Bids shall be allowed only for good cause shown and is the sole discretion of Mooresville Graded School District.

17. INFORMAL COMMENTS: MGSD shall not be bound by informal explanations, instructions or information given at any time by anyone on behalf of MGSD during the competitive process or after award. MGSD is bound only by information provided in this IFB and in formal addenda issued.

18. COST FOR BID PREPARATION: Any costs incurred by Vendor in preparing or submitting offers are the Vendor's sole responsibility; MGSD will not reimburse any Vendor for any costs incurred prior to award. These costs include, but are not limited to, any product samples provided.

19. VENDOR'S REPRESENTATIVE: Each Vendor shall submit with its bid the name, address, and telephone number of the person(s) with authority to bind the Vendor and answer questions or provide clarification concerning the Vendor's bid.

ATTACHMENT C: NORTH CAROLINA GENERAL CONTRACT TERMS & CONDITIONS

1. PERFORMANCE AND DEFAULT: If, through any cause, Vendor shall fail to fulfill in timely and proper manner the obligations under this contract, MGSD shall have the right to terminate this contract by giving written notice to the Vendor and specifying the effective date thereof. In that event, all finished or unfinished deliverable items under this contract prepared by the Vendor shall, at the option of MGSD, become its property, and the Vendor shall be entitled to receive just and equitable compensation for any acceptable work completed on such materials. Notwithstanding, Vendor shall not be relieved of liability to MGSD for damages sustained by MGSD by virtue of any breach of this contract, and MGSD may withhold any payment due the Vendor for the purpose of setoff until such time as the exact amount of damages due MGSD from such breach can be determined. MGSD reserves the right to require at any time a performance bond or other acceptable alternative performance guarantees from a Vendor without expense to MGSD.

In case of default by the Vendor, MGSD may procure the goods and services necessary to complete performance hereunder from other sources and hold the Vendor responsible for any excess cost occasioned thereby. In addition, in the event of default by the Vendor under this contract, or upon the Vendor filing a petition for bankruptcy or the entering of a judgment of bankruptcy by or against the Vendor, MGSD may immediately cease doing business with the Vendor, immediately terminate this contract for cause, and may act to debar the Vendor from doing future business with MGSD.

2. GOVERNMENTAL RESTRICTIONS: In the event any Governmental restrictions are imposed which necessitate alteration of the material, quality, workmanship or performance of the goods or services offered prior to their delivery,

it shall be the responsibility of the Vendor to notify, in writing, the Contract Lead at once, indicating the specific regulation which required such alterations. MGSD reserves the right to accept any such alterations, including any price adjustments occasioned thereby, or to cancel the Contract.

3. **AVAILABILITY OF FUNDS:** Any and all payments to the Vendor shall be dependent upon and subject to the availability of funds to the agency for the purpose set forth in this contract.
4. **TAXES:** Any applicable taxes shall be invoiced as a separate item.
 - a. G.S. 143-59.1 bars the Secretary of Administration from entering into Contracts with Vendors if the Vendor or its affiliates meet one of the conditions of G.S. 105-164.8(b) and refuses to collect use tax on sales of tangible personal property to purchasers in North Carolina. Conditions under G.S. 105-164.8(b) include: (1) Maintenance of a retail establishment or office, (2) Presence of representatives in the State that solicit sales or transact business on behalf of the Vendor and (3) Systematic exploitation of the market by media-assisted, media-facilitated, or media-solicited means. By execution of the bid document the Vendor certifies that it and all of its affiliates, (if it has affiliates), collect(s) the appropriate taxes.
 - b. All agencies participating in this Contract are exempt from Federal Taxes, such as excise and transportation. Exemption forms submitted by the Vendor will be executed and returned by the using agency.
 - c. Prices offered are not to include any personal property taxes, nor any sales or use tax (or fees) unless required by the North Carolina Department of Revenue.
5. **SITUS AND GOVERNING LAWS:** This Contract is made under and shall be governed and construed in accordance with the laws of the State of North Carolina, without regard to its conflict of laws rules, and within which State all matters, whether sounding in Contract or tort or otherwise, relating to its validity, construction, interpretation and enforcement shall be determined.
6. **PAYMENT TERMS:** Payment terms are Net not later than 30 days after receipt of correct invoice or acceptance of goods, whichever is later. MGSD is responsible for all payments to the Vendor under the Contract.
7. **AFFIRMATIVE ACTION:** The Vendor will take affirmative action in complying with all Federal and State requirements concerning fair employment and employment of people with disabilities and concerning the treatment of all employees without regard to discrimination by reason of race, color, religion, sex, national origin or disability.
8. **INTELLECTUAL PROPERTY INDEMNITY:** Vendor shall hold and save MGSD, its officers, agents and employees, harmless from liability of any kind, including costs and expenses, resulting from infringement of the rights of any third party in any copyrighted material, patented or unpatented invention, articles, device or appliance delivered in connection with this contract.
 - a. Vendor warrants to the best of its knowledge that:
 - i. Performance under The Contract does not infringe upon any intellectual property rights of any third party; and
 - ii. There are no actual or threatened actions arising from, or alleged under, any intellectual property rights of any third party.
 - b. Should any deliverables supplied by the Vendor become the subject of a claim of infringement of a patent, copyright, trademark or a trade secret in the United States, the Vendor, shall at its option and expense, either procure for MGSD the right to continue using the deliverables, or replace or modify the same to become non-infringing. If neither of these options can reasonably be taken in Vendor's judgment, or if further use shall be prevented by injunction, the Vendor agrees to cease provision of any affected deliverables and refund any sums MGSD has paid the Vendor and make every reasonable effort to assist MGSD in procuring substitute deliverables. If, in the sole opinion of MGSD, the cessation of use by MGSD of any such deliverables due to infringement issues makes the retention of other items acquired from the Vendor under this Agreement impractical, MGSD shall then have the option of terminating the Agreement, or applicable portions thereof, without penalty or termination charge; and Vendor agrees to refund any sums MGSD paid for unused Services or Deliverables.

- c. The Vendor, at its own expense, shall defend any action brought against MGSD to the extent that such action is based upon a claim that the deliverables supplied by the Vendor, their use or operation, infringes on a patent, copyright, trademark or violates a trade secret in the United States. The Vendor shall pay those costs and damages finally awarded or agreed in a settlement against MGSD in any such action. Such defense and payment shall be conditioned on the following:
 - i. That the Vendor shall be notified within a reasonable time in writing by MGSD of any such claim; and
 - ii. That the Vendor shall have the sole control of the defense of any action on such claim and all negotiations for its settlement or compromise provided, however, that MGSD shall have the option to participate in such action at its own expense.
- d. The Vendor will not be required to defend or indemnify MGSD if any claim by a third party against MGSD for infringement or misappropriation results from MGSD's material alteration of any Vendor-branded deliverables or services, or from the continued use of the deliverable(s) or Services after receiving notice of infringement on a trade secret of a third party.

9. TERMINATION FOR CONVENIENCE: If this contract contemplates deliveries or performance over a period of time, MGSD may terminate this contract at any time by providing 60 days' notice in writing from MGSD to the Vendor. In that event, any or all finished or unfinished deliverables prepared by the Vendor under this contract shall, at the option of MGSD, become its property. If the contract is terminated by MGSD as provided in this section, MGSD shall pay for those items for which such option is exercised, less any payment or compensation previously made.

10. ADVERTISING: Vendor agrees not to use the existence of this Contract or the name of MGSD as part of any commercial advertising or marketing of products or services. A Vendor may inquire whether MGSD is willing to act as a reference by providing factual information directly to other prospective customers.

11. ACCESS TO PERSONS AND RECORDS: During and after the term hereof, the State Auditor and any using agency's internal auditors shall have access to persons and records related to this Contract to verify accounts and data affecting fees or performance under the Contract, as provided in G.S. 143-49(9).

12. ASSIGNMENT: No assignment of the Vendor's obligations nor the Vendor's right to receive payment hereunder shall be permitted.

However, upon written request approved by the issuing purchasing authority and solely as a convenience to the Vendor, MGSD may:

- a. Forward the Vendor's payment check directly to any person or entity designated by the Vendor, and
- b. Include any person or entity designated by Vendor as a joint payee on the Vendor's payment check.

In no event shall such approval and action obligate MGSD to anyone other than the Vendor and the Vendor shall remain responsible for fulfillment of all Contract obligations. Upon advance written request, MGSD may, in its unfettered discretion, approve an assignment to the surviving entity of a merger, acquisition or corporate reorganization, if made as part of the transfer of all or substantially all of the Vendor's assets. Any purported assignment made in violation of this provision shall be void and a material breach of this Contract.

13. INSURANCE:

COVERAGE - During the term of the Contract, the Vendor at its sole cost and expense shall provide commercial insurance of such type and with such terms and limits as may be reasonably associated with the Contract.

14. GENERAL INDEMNITY: The Vendor shall hold and save MGSD, its officers, agents, and employees, harmless from liability of any kind, including all claims and losses accruing or resulting to any other person, Vendor, or corporation furnishing or supplying work, services, materials, or supplies in connection with the performance of this Contract, and from any and all claims and losses accruing or resulting to any person, Vendor, or corporation that may be injured or damaged by the Vendor in the performance of this Contract and that are attributable to the negligence or intentionally tortious acts of the Vendor provided that the Vendor is notified in writing within 30 days that MGSD has

knowledge of such claims. The Vendor represents and warrants that it shall make no claim of any kind or nature against MGSD's agents who are involved in the delivery or processing of Vendor goods or services to MGSD. The representation and warranty in the preceding sentence shall survive the termination or expiration of this Contract.

15. **INDEPENDENT CONTRACTOR**: Vendor shall be considered to be an independent contractor and as such shall be wholly responsible for the work to be performed and for the supervision of its employees. Vendor represents that it has, or will secure at its own expense, all personnel required in performing the services under this contract. Such employees shall not be employees of or have any individual contractual relationship with MGSD.
16. **KEY PERSONNEL**: Vendor shall not substitute key personnel assigned to the performance of this contract without prior written approval by MGSD's assigned Contract Lead. The individuals designated as key personnel for purposes of this contract are those specified in the IFB and persons identified in Vendor's bid.
17. **SUBCONTRACTING**: Performance under The Contract by the Vendor shall not be subcontracted without prior written approval of MGSD's assigned Contract Lead. Unless otherwise agreed in writing, acceptance of a Vendor's bid shall include approval to use the subcontractor(s) that have been specified therein.
18. **CONFIDENTIALITY**: Any MGSD information, data, instruments, documents, studies or reports given to or prepared or assembled by or provided to the Vendor under this contract shall be kept as confidential, used only for the purpose(s) required to perform this contract and not divulged or made available to any individual or organization without the prior written approval of MGSD.
19. **CARE OF MGSD DATA AND PROPERTY**: The Vendor agrees that it shall be responsible for the proper custody and care of any data owned and furnished to the Vendor by MGSD (MGSD Data), or other MGSD property in the hands of the Vendor, for use in connection with the performance of The Contract or purchased by or for MGSD for The Contract. Vendor will reimburse MGSD for loss or damage of such property while in Vendor's custody.

MGSD's Data in the hands of the Vendor shall be protected from unauthorized disclosure, loss, damage, destruction by a natural event or other eventuality. Such MGSD Data shall be returned to MGSD in a form acceptable to MGSD upon the termination or expiration of this Agreement. The Vendor shall notify MGSD of any security breaches within 24 hours as required by G.S. 143B-1379. See G.S. 75-60 *et seq.*

20. **OUTSOURCING**: Any Vendor or subcontractor providing call or contact center services to MGSD shall disclose to inbound callers the location from which the call or contact center services are being provided.

If, after award of a contract, the contractor wishes to relocate or outsource any portion of the work to a location outside the United States, or to contract with a subcontractor for the performance of any work, which subcontractor and nature of the work has not previously been disclosed to MGSD in writing, prior written approval must be obtained from MGSD agency responsible for the contract.

Vendor shall give notice to the using agency of any relocation of the Vendor, employees of the Vendor, subcontractors of the Vendor, or other persons performing services under an MGSD contract to a location outside of the United States.

23. **COMPLIANCE WITH LAWS**: Vendor shall comply with all laws, ordinances, codes, rules, regulations, and licensing requirements that are applicable to the conduct of its business and its performance in accordance with this contract, including those of federal, state, and local agencies having jurisdiction and/or authority.
24. **ENTIRE AGREEMENT**: This IFB and any documents incorporated specifically by reference represent the entire agreement between the parties and supersede all prior oral or written statements or agreements. This IFB, any addenda thereto, and the Vendor's bid are incorporated herein by reference as though set forth verbatim.

All promises, requirements, terms, conditions, provisions, representations, guarantees, and warranties contained herein shall survive the contract expiration or termination date unless specifically provided otherwise herein, or unless superseded by applicable Federal or State statutes of limitation.

Proposal Number:

Vendor: _____

25. **AMENDMENTS:** This contract may be amended only by a written amendment duly executed by MGSD and the Vendor.
23. **NO WAIVER:** Notwithstanding any other language or provision in The Contract, nothing herein is intended nor shall be interpreted as a waiver of any right or remedy otherwise available to MGSD under applicable law. The waiver by MGSD of any right or remedy on any one occasion or instance shall not constitute or be interpreted as a waiver of that or any other right or remedy on any other occasion or instance.
24. **FORCE MAJEURE:** Neither party shall be deemed to be in default of its obligations hereunder if and so long as it is prevented from performing such obligations as a result of events beyond its reasonable control, including without limitation, fire, power failures, any act of war, hostile foreign action, nuclear explosion, riot, strikes or failures or refusals to perform under subcontracts, civil insurrection, earthquake, hurricane, tornado, or other catastrophic natural event or act of God.
25. **SOVEREIGN IMMUNITY:** Notwithstanding any other term or provision in this contract, nothing herein is intended nor shall be interpreted as waiving any claim or defense based on the principle of sovereign immunity that otherwise would be available to MGSD under applicable law.

ATTACHMENT D: SUPPLEMENTAL VENDOR INFORMATION

HISTORICALLY UNDERUTILIZED BUSINESSES

Historically Underutilized Businesses (HUBs) consist of minority, women and disabled business Vendors that are at least fifty-one percent owned and operated by an individual(s) of the categories. Also included in this category are disabled business enterprises and non-profit work centers for the blind and severely disabled.

Pursuant to G.S. 143B-1361(a), 143-48 and 143-128.4, MGSD invites and encourages participation in this procurement process by businesses owned by minorities, women, disabled, disabled business enterprises and non-profit work centers for the blind and severely disabled. This includes utilizing subcontractors to perform the required functions in this IFB. Any questions concerning NC HUB certification, contact the [North Carolina Office of Historically Underutilized Businesses](#) at (919) 807-2330. The Vendor shall respond to question #1 and #2 below.

- a) Is Vendor a Historically Underutilized Business? ☐ Yes ☐ No
- b) Is Vendor Certified with North Carolina as a Historically Underutilized Business? ☐ Yes ☐ No

If so, state HUB classification: _____

Proposal Number:

Vendor: _____

ATTACHMENT E: EXISTING TENNIS COURT PHOTO



ATTACHMENT F: EXISTING TRACK PHOTO

