

**TOWN OF VIENNA****Request For Waiver**

<b>Dept</b> Parks & Rec	<b>Date</b> 08/19/2020	<b>Dept Head Signature</b> <small>DocuSigned by:</small> <i>Leslie Herman</i> 08/20/20   2:20 PM EDT <small>2597A7534D62D096</small>	<b>Proposed Vendor</b> Resurface Inc.	<b>Amount</b> \$ 71,176
A Request For Waiver is required by the Town's Procurement Policies and Procedures. Check the box below that best applies.				
<b>Sole Source/Proprietary</b>	<input type="checkbox"/>	<b>Emergency Procurement</b>	<input checked="" type="checkbox"/>	<b>Waive Purchase Procedures</b>

**CHECK JUSTIFICATION(S) BELOW THAT APPLY TO THE PROPOSED PURCHASE AND SUPPLY DOCUMENTATION/EXPLANATION AS REQUIRED**

- \_\_\_ 1. Commodity/Service is from the original manufacturer or provider. There are no other distributors. (Findings must be documented below or attached)
- \_\_\_ 2. The product is an integral part of existing equipment. Other brands not interchangeable. (State manufacturer and model number of existing equipment below.)
- \_\_\_ 3. Only known product that meets the specialized needs of the department to bring about continuity of results. (Explain in detail below or attached)
- \_\_\_ 4. Staff has had extensive training and/or experience with the product. Purchase of other than proposed product would incur substantial cost in re-training. (Explain in detail below or attached)
- ☒ 5. Purchase of this item/service is of an urgent nature because it is essential to public health & safety. (Describe in detail below)
- ☒ 6. Unable to obtain 3 or more quotes for item/service (Explain in detail below or attached)
- \_\_\_ 7. Competitive negotiation (or quotes) is either not practicable or not fiscally advantageous, as described below.
- \_\_\_ 8. Confirming Purchase Order (Explain reason for expenditure without issuance of PO below)

**Explanation:**

Town staff identified court damage to the Glyndon Park tennis courts. The fabric of the tennis court closest to the basketball court pulled apart in multiple areas revealing cracks. The cracks need to be repaired by a professional company. The surface under the tennis courts is undermining the court as water is seeping through the cracks. The torn fabric and cracks have created a safety hazard. We have closed that court with construction fencing and signage, however folks have continually been stepping over the fence to play on the damaged court.

This project was identified as an FY2024 CIP item at a cost of \$35,000. This estimate did not include additional costs for the extensive damage concerns. Marion has confirmed that this project fits in with the Town's stated CIP plans and the Town has the budget to finance it. Staff requested quotes from five professional sport court companies. Three companies came out to inspect the courts, four companies said they couldn't bid on it as they had too much work scheduled. We received one quote from Resurface Inc. for \$61,326.

In an email dated July 26, 2020, Mercury received Town Council approval to spend \$61,326. The original waiver for \$61,326 was approved by the Town Manager. Once the contractor started removing the fabric on August 18, the contractor determined that their recommended repair would fail in a few years. They made a revised recommendation to overlay the existing courts with 2" of new asphalt. The revised quote is \$71,176. Marion has confirmed there are funds available from the 2018 CIP/ bond projects that are now complete to cover this additional cost. Mercury sent an email on 8/20/20 to council to request their approval of the \$71,176 spending.

Reviewed by: DocuSigned by: *Gina Gilpin* Date: 08/20/20 | 2:27 PM EDT  
751ACFD45E0244B3 Purchasing Agent

Reviewed by: DocuSigned by: *Steven D. Briglia* Date: 08/20/20 | 3:04 PM EDT  
CE5D98EBB494F1 Town Attorney

Reviewed and Approved by: DocuSigned by: *Marion Surfass* Date: 08/20/20 | 12:33 PM PDT  
D80B88B20E7D492... Finance Director

Reviewed and Approved by: DocuSigned by: *Mercury Payton* Date: 08/20/20 | 4:53 PM EDT  
5BF6AB3E2009459... Town Manager





**11517 Robertson Dr.  
Manassas, VA 20109**

**Phone: 703-335-1950**

**Fax: 703-335-2002**

**WBE SWaM**

August 19, 2020

JZ20-0429

To: **Vienna Parks and Recreation**  
120 Cherry St.  
Vienna, VA 22180

Phone: 703-255-6336

Attn: **John King**

Email: jking@viennava.gov

We are pleased to submit the following in connection with:

### **Glyndon Park Sport Courts**

We propose to furnish all labor, materials, and equipment for the installation of the below-mentioned work in accordance with the current specifications and standards of the appropriate jurisdictions at the following prices:

<b>Proposal Details</b>				
<b>Code</b>	<b>Description</b>	<b>Quantity</b>	<b>Unit</b>	<b>Total</b>
16	SPORT COURTS			
	<b>Tennis Courts (2):</b>			
	<b>Surface Cleaning and Preparation:</b>	1	LS	\$2,500.00
	1. Remove net and net posts (if sleeve mounted).			
	2. Kill weeds and remove any vegetation from court.			
	3. Remove any failed, delaminated sections of previous fabric repairs.			
	4. Feather in/buff transition edges where previous repairs were removed with power floor sander.			
	5. Power blow courts clean.			
	<b>Overlay Existing Courts with 2" of New Asphalt</b>	1	LS	\$22,000.00
	1. Remove section of fence to allow paving equipment access.			
	2. Fill all cracks and potholes with acrylic binder and cement or concrete mix.			
	3. Install and compact 1" of stone dust to act as a "slip sheet" between current courts and new asphalt.			
	4. Overlay existing courts with 2" new SM-9.5 surface grade asphalt.			
	5. Temporarily stripe Tennis and Pickleball play lines on new asphalt so play can resume while asphalt completely cures prior to acrylic play surface installation. (Temporary striping will be done by parking lot striping machine and lines will not be as crisp on new asphalt as the play lines will be on final acrylic playing surface.)			
	<b>Resurfacing, Recoloring, and Re-striping: (2 Color Tennis)</b>	1	LS	\$29,790.00
	1. Flood court and identify areas that have excessive puddling according to ASBA standards. ("Birdbaths" that hold over 1/16" water after one hour of draining/drying at 70 degrees Fahrenheit).			
	2. Level identified birdbaths with Sportmaster Acrylic Patch Binder/Portland cement leveling compound.			
	3. Squeegee apply 2 coats of Sportmaster Acrylic Resurfacer with sand.			

4. Squeegee apply 2 coats of Sportmaster ColorPlus Sport Surfacing System with sand.			
5. Layout and stripe Tennis play lines on courts.			
<b>Additional Option: Layout and Stripe Pickleball Court Play Lines (4) on Tennis Courts (2).</b>	1	LS	\$1,800.00
<b>Basketball Court:</b>			
<b>New Basketball Backboard and Goal Installation (2):</b>	1	LS	\$4,726.00
1. Provide, assemble, and install (2) First Team FT222H Acrylic Basketball goals on existing goose neck goal posts.			
<b>Resurfacing, Recoloring, and Re-striping: (2 Color Basketball)</b>	1	LS	\$8,860.00
1. Flood court and identify areas that have excessive puddling according to ASBA standards. ("Birdbaths" that hold over 1/16" water after one hour of draining/drying at 70 degrees Fahrenheit).			
2. Level identified birdbaths with Sportmaster Acrylic Patch Binder/Portland cement leveling compound.			
3. Fill cracks using applicable Sportmaster crack filling product(s) (Determined by size and type of crack).			
4. Squeegee apply 2 coats of Sportmaster Acrylic Resurfacer with sand.			
5. Squeegee apply 2 coats of Sportmaster ColorPlus Sport Surfacing System with sand.			
6. Layout and stripe Basketball play lines on court.			
<b>Additional Option: Armor Crack Repair System</b>	1	LS	\$1,500.00
1. Install Armor fabric crack repair to approximately 60 linear feet of suitable cracks to provide semi-permanent crack repair. (After resurfacing, standard asphalt court crack repairs generally begin to reappear as fall temperatures begin to approach freezing, Armor crack repairs can last up to 15 years or more.)			
<b>Notes:</b>			
<i>New asphalt must cure a minimum of 30 days before installation of acrylic playing surface.</i>			
<i>(Sportmaster product information available online at: <a href="https://www.sportmaster.net/">https://www.sportmaster.net/</a>)</i>			
<i>(Additional Armor product information available online at: <a href="https://armorcrackrepair.com/">https://armorcrackrepair.com/</a>)</i>			

SPORT COURTS Subtotal = \$71,176.00

**TOTAL THIS PROPOSAL: \$71,176.00**

We acknowledge 0 addendums.

**EXCLUSIONS - GENERAL**

1. Engineering, stakeout, AS-built drawings, MOT plans
2. Bonds, permits, material testing, inspections
3. Erosion control, tree removal, root pruning, or tree protection services
4. Permanent seeding, sodding or mulching

5. Rock excavation
6. Relocation, removal, support or shielding of existing utilities
7. Removal of spoils generated by others
8. Water supply for equipment
9. Handling or disposal of asbestos or other toxic materials or additional work delays associated with same
10. Any operation not specifically outlined in the Schedule of Prices

#### **EXCLUSIONS - ASPHALT**

1. Asphalt material prices included in this proposal are good through **(September 2020.)** In the event of the base index changing radically, the amount of adjustment applied will be based on the difference between this contract base index and the current index for the applicable calendar month during which the work is performed. The Virginia asphalt base index for **(August 2020)** is **(\$377.50)** per liquid ton.
2. Note: Prices indicated in this proposal are valid for 30 days from the date of the proposal. If this proposal is not accepted within 30 days' prices are subject to change.
3. Payments shall be made in a timely manner. If monthly payments are not received within 30 days from the end of the payment period, Resurface, Inc. reserves the right to stop work immediately and file the necessary mechanics liens. Work shall resume and liens shall be released upon payment in full of outstanding amount. 100% no retainage.
4. This proposal assumes "third party inspections" shall be performed for sub grade, at the expense of others. If third party inspections are not provided all local jurisdictions are required, additional costs for waiting time will be charged.
5. Our price for asphalt milling is predicated upon the asphalt-supplying facility receiving and recycling the millings at their plant at no charge. If the asphalt-supplying facility cannot receive the millings, and Resurface, Inc. incurs additional costs for millings disposal, those costs will be passed on to the customer.
6. We estimate (1) crew days for our work on this project. Should circumstances beyond Resurface, Inc.'s control require additional time on this project, a charge of \$6,000 per day for our paving crew and a charge of \$4,500.00 per day for our milling crew (if applicable) will be assessed.

#### **TERMS AND CONDITIONS**

This agreement is a valid and binding contract. The following terms and conditions apply and may be enforced in a court of law according to Virginia law.

1. **SCOPE OF WORK:** Resurface Inc. agrees to furnish all labor and materials to perform the job/project set forth on the other side of this form or the attached. Any work not set forth on the reverse shall be additional and accordingly shall have a separate and additional cost; Resurface Inc. will provide an estimate for any additional work contemplated by owner. Prices are based on ONE mobilization unless noted.
2. **PAYMENT:** The customer agrees to pay Resurface Inc. the amounts in this contract and any failure to pay upon completion of the work, or upon other terms agreed in writing beforehand, shall be considered a material breach of the contract and will trigger all rights and remedies for Resurface Inc. Those rights and remedies include but are not limited to: the rights to stop all work, file any liens allowable by law, and take all necessary steps towards collecting any due amounts well as any costs and overhead for the project. Additionally, the customer hereby agrees that he/she will pay costs of enforcements, including but not limited to, costs and reasonable attorney fees, as defined by judge's opinion.
3. **DATES:** The customer understands and agrees that dates (start/finish etc.) are dependent upon weather conditions, material availability, and the timely rendering of progress payments as set forth herein. Any delay caused by the events set forth herein, or other events considered unforeseeable by a reasonable person (beyond Resurface Inc.'s control or anticipation) shall not constitute a breach of the contract.
4. **WARRANTY:** Resurface Inc. warrants its work and the materials used in the project to be free from material defects and to be of good and sound workmanship for a period of One Year from the date of project completion. Minor discoloration, irregularities, and other minor aesthetic issues shall not be considered defects under this provision. Damage caused by natural disasters and/or others is specifically excluded from this warranty. Resurface Inc.'s sole responsibility shall be to repair or replace the defective material. Resurface Inc. specifically disclaims any warranties whatsoever, expressed or implied, for any services, materials, or equipment supplied to this project by a subcontractor, if any. This warranty is non-transferable and is void if total sale price is not paid in full in ten days. Additionally, **DRAINAGE IS NOT GUARANTEED ON ANY AREA NOT HAVING AT LEAST A 2% GRADE.** Warranty is voided if sealer or other resurfacing material is applied by any party other than Resurface Inc. There is no warranty against damage caused by snow plows, vegetation growth, oil/gas spill, erosion, settling, or sinking.
5. **BASE AND OTHER ISSUES:** The customer agrees that upon inspection by Resurface Inc., if any base is found to be defective, not of adequate depth, or otherwise unsuitable for any work considered herein, that upon notice from Resurface Inc., customer has the choice to either allow for corrective action to be taken at homeowner's expense or agrees to waive any warranties or claims as against Resurface Inc. Furthermore, should Resurface Inc. find any such conditions, it agrees to notify the customer promptly and to explain the issues presented. The customer agrees to pay for any and all work done at that point, whether or not the project is finished as set forth herein, based upon the customer's choice as to redial action.
6. **OWNER RESPONSIBILITIES:** Owner/Customer is responsible for the following:

- a. Keeping all traffic off newly paved asphalt for a period of 5 days;
  - b. Damage to underground utility lines/facilities caused by equipment necessary to perform the contract if not marked by Miss Utility;
  - c. Adjustments of underground utility lines/facilities including but not limited to manhole covers, water valves, sprinklers, electronic fences, etc. unless otherwise stated in the contract;
  - d. Any damage to adjacent or nearby pavement, structures, vegetation, or other real or personal property including common areas; Resurface will take reasonable care to prevent any unnecessary damage.
  - e. Preventing work performed from being subjected to traffic or workloads in excess of design capacity;
  - f. Proper maintenance of surfaces; warranty is voidable if proper maintenance is not performed;
  - g. All required or recommended grading, back filling, re-seeding, planting, etc. after work is performed.
7. PROPERTY/FENCE LINE: The customer shall be solely responsible for the layout location of the project in relation to any fence or property line. The customer also agrees to indemnify and hold Resurface Inc. harmless from any claims brought by anyone, including but not limited to any third parties, including adjacent property owners over Resurface Inc.'s construction, installation and performance under the contract.
  8. ATTORNEYS' FEES: If legal proceedings are instituted by Resurface Inc. to enforce any provision of this Contract or to collect any money due under this Contract, then Resurface Inc. shall be entitled to recover all attorney fees plus court costs and ancillary expenses.
  9. GOVERNING LAW: This Contract shall be construed and governed by the laws of the Commonwealth of Virginia, without regard to conflicts of law's provisions, and Resurface Inc. and customer agree that any disputes arising from this Contract and project shall be filed and litigated in either the Circuit Court or General District Court of Prince William County, Virginia regardless of where the Contract was signed or the project was located.
  10. UNENFORCEABILITY AND SURVIVAL OF TERMS: If any provision of this agreement shall be held invalid or unenforceable for any reason by a court of competent jurisdiction, the remaining provisions shall continue in full force and effect, and the invalid or unenforceable provision shall be replaced by such valid provision as most closely approximates the intention underlying it. Those terms which by their nature and context are intended to survive termination or expiration of this Agreement shall so survive.
  11. ENTIRE AGREEMENT: This Contract embodies the entire agreement between the parties, and supersedes all prior contracts and agreements, whether written or oral, relating to the subject matter herein. This agreement may not be modified or amended except by the mutual written agreement of the parties. This Contract is not binding upon Resurface Inc. until accepted and signed by a duly authorized officer of Resurface Inc.
  12. Consumer is hereby notified of the existence of the Virginia Contractor Transaction Recovery Fund. The Virginia Contractor Transaction Recovery Fund provides relief to eligible consumers who have incurred losses through the improper and/or dishonest conduct of a licensed contractor. More information on the Fund or filing a claim can be obtained by visiting [http://www.dpor.virginia.gov/Boards/Contractors\\_Recovery\\_Fund/](http://www.dpor.virginia.gov/Boards/Contractors_Recovery_Fund/) or by contacting the Board for claim information at the following address:

Recovery Fund Office | DPOR  
9960 Mayland Drive, Suite 400  
Richmond, VA 23233  
(804) 367-1559  
Email: [RecoveryFund@dpor.virginia.gov](mailto:RecoveryFund@dpor.virginia.gov)

Resurface Incorporated  
11517 Robertson Dr.  
Manassas, VA 20109  
Virginia Class A Contractors License # 2705114805  
Classification: Paving

We propose, hereby to furnish materials and labor complete in accordance with the above specifications for the sum of **\$71,176.00.**

NET 10 DAYS ON INVOICE

NO RETENTION

Proposal may be withdrawn by us if not accepted within thirty (30) days.

INVOICE DUE Ten (10) DAYS AFTER COMPLETION OF WORK. IF NOT PAID WITHIN TWENTY-FIVE (25) DAYS, A MONTHLY INTEREST CHARGE OF 2% WILL BE ADDED TO THE OUTSTANDING BALANCE.

IN THE EVENT COLLECTION ACTION IS REQUIRED, AT ANY TIME, THE CUSTOMER AGREES TO BE LIABLE FOR ALL COST OF COLLECTION, PLUS REASONABLE ATTORNEY FEES.

Accepted:

By: \_\_\_\_\_  
Print name and title

By: \_\_\_\_\_  
Signature

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

Submitted:

**Resurface, Inc.**

By: \_\_\_\_\_  
*Jeff Zinga*  
Resurface, Inc.  
[Jeff@ResurfaceVA.com](mailto:Jeff@ResurfaceVA.com)  
(703) 335-1950