



REQUEST FOR TENDER

Request for Tender (RFT)	Moora District Tennis Club Synthetic Turf Tennis Courts x 4
Deadline:	4.00pm – Friday 26 July 2013
Address for Delivery:	Chief Executive Officer Shire of Moora 34 Padbury Street <u>or</u> PO Box 211 MOORA WA 6510
RFT Number:	04 / 2013

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1 PRINCIPAL'S REQUEST

1.1 CONTRACT REQUIREMENTS

Synthetic Turf Tennis Courts X 4

1.2 TENDER DOCUMENTS

This Request for Tender is comprised of the following parts:

- (a) Part 1 – Principal's Request (***read and keep this part***);
- (b) Part 2 – Specification and/or plans/drawings (***read and keep this part***);
- (c) Part 3 – Tenderers Offer (***complete and return this part***);
- (d) Part 4 – Appendix A – Special Conditions of Contract (***read and keep this part***); and
- (e) Part 5 – Appendix B – General Conditions of Contract (***read and keep this part***).

1.3 DEFINITIONS

Below is a summary of some of the important defined terms used in this Request:

Attachments: The documents you attach as part of your Tender;

Contractor: Means the person or persons, corporation or corporations whose Tender is accepted by the Principal, and includes the executors or administrators, successors and assigns of such person or persons, corporation or corporations;

Deadline: The deadline for lodgement of your Tender;

General Conditions of Contract: Means the General Conditions of Contract nominated in Part 1;

Offer: Your offer to be selected to supply the Requirements;

Principal: Chief Executive Officer, Shire of Moora

Request: This document;

Selection Criteria: The criteria used by the Principal in evaluating your Tender;

Special Conditions: The additional contractual terms;

Specification: The statement of Requirements that the Principal requests you to provide if selected;

Tender: Completed Offer form, response to the Selection Criteria and Attachments;

Tenderer: Someone who has or intends to submit an Offer to the Principal.

1.4 HOW TO PREPARE YOUR TENDER

- (a) Carefully read all parts of this document.
- (b) Ensure you understand the Requirements.
- (c) Complete and return the Offer (Part 3) in all respects and include all Attachments.
- (d) Make sure you have signed the Offer Form and responded to all of the Selection Criteria.
- (e) Lodge your Tender before the Deadline.

I.5 CONTACT PERSONS

Tenderers should not rely on any information provided by any person(s) other than those listed below:

Contractual and Specification Enquiries

Name: **Alan Leeson**
Chief Executive Officer / Project Coordinator

Telephone: **08) 9651 0000**

Facsimile: **08) 9651 1722**

Email: eso@moora.wa.gov.au – **Michelle Murray**

I.6 PRE QUALIFICATION REQUIREMENTS

Not applicable.

I.7 TENDER BRIEFING/SITE INSPECTION

There is no mandatory briefing; however we strongly recommend intending tenderers make themselves aware of the locations by contacting the Representatives of the Shire of Moora.

John Greay - Phone: 08) 9651 0000

I.8 EVALUATION PROCESS

The lowest tender may not be accepted or that one Tenderer will be given the whole contract.

The Principal reserves the right to Accept or Reject any Portion of this Tender.

This is a Request for Tender (RFT).

Your Tender will be evaluated using information provided in your Tender.

The following evaluation methodology will be used in respect of this Request:

- (a) Tenders are checked for completeness and compliance. Tenders that do not contain all information requested (e.g. completed Offer form and Attachments) may be excluded from the evaluation process.
- (b) Tenders are assessed against the Selection Criteria. Contract costs are evaluated, e.g. tendered prices and other relevant whole of life costs are considered.
- (c) The most suitable Tenderers may be shortlisted. Referees may also be contacted prior to the selection of the successful Tenderer.

I.9 SELECTION CRITERIA

The Contract/s may be awarded to a sole Tenderer who best demonstrates the ability to provide quality products and/or services at a competitive price. The tendered prices will be assessed together with qualitative and compliance criteria to determine the most advantageous outcome to the Principal.

The Principal has adopted a best value for money approach to this Request.

This means that, although price is considered, the Tender containing the lowest price will not necessarily be accepted, nor will the Tender ranked the highest on the qualitative criteria.

A scoring system will be used as part of the assessment of the qualitative criteria. Unless otherwise stated, a Tender that provides all the information requested will be assessed as satisfactory. The extent to which a Tender demonstrates greater satisfaction of each of these criteria will result in a greater score. The aggregate score of each Tender will be used as one of the factors in the final assessment of the qualitative criteria and in the overall assessment of value for money.

1.10 COMPLIANCE CRITERIA

These criteria are detailed within Part 3 of this document and will not be point scored. Each Tender will be assessed on a Yes/No basis as to whether the criterion is satisfactorily met. An assessment of “No” against any criterion may eliminate the Tender from consideration.

1.11 QUALITATIVE CRITERIA

In determining the most advantageous Tender, the Evaluation Panel will score each Tenderer against the qualitative criteria as detailed within Part 3 of this document. Each criterion will be weighted to indicate the relative degree of importance that the Principal places on the technical aspects of the goods or services being purchased.

NOTE: It is essential that Tenderers address each qualitative criterion. Information that you provide addressing each qualitative criterion will be point scored by the Evaluation Panel.

Failure to provide the specified information may result in elimination from the tender evaluation process or a low score.

1.12 PRICE CONSIDERATIONS

CLAUSE A: NON WEIGHTED COST CRITERIA

The non-weighted cost method is used where functional considerations such as capacity, quality, transitional and adaptability are seen to be crucial to the outcome of the contract. The evaluation panel will make a series of value judgements based on the capability of the Tenderers to complete the Requirements and a number of factors will be considered including:

- (a) the qualitative ranking of each Tenderer; and
- (b) the pricing submitted by each Tenderer.

Once the tenders have been ranked, the evaluation panel will make a value judgement as to the cost affordability, qualitative ranking and risk of each Tender, in order to determine the Tender which is most advantageous to the Principal.

The tendered price will be considered along with related factors affecting the total cost to the Principal. eg the lifetime operating costs of goods or the Principal's contract management costs may also be considered in assessing the best value for money outcome.

1.13 PRICE BASIS

FIXED PRICES

All prices for services offered under this Request are to be fixed for the term of the Contract. Tendered prices must include Goods and Services Tax (GST).

Unless otherwise indicated prices tendered must include all applicable levies, duties, taxes and charges. Any charge not stated in the Tender, as being additional will not be allowed as a charge for any transaction under any resultant Contract.

1.14 THE PRINCIPAL'S POLICIES THAT MAY AFFECT SELECTION

Not Applicable

1.15 CONDITIONS OF TENDERING

1.16 LODGEMENT OF TENDERS AND DELIVERY METHOD

The Tender must be lodged by the Deadline. The Deadline for this Request is **4.00pm Friday 26 July 2013**

The Tender is to be:

- (a) placed in a sealed envelope clearly endorsed with the tender number (04/ 2013) and title as shown on the front cover of this Request; and
- (b) delivered by hand and placed in the Tender Box at the Shire of Moora, 34 Padbury St Moora (by the Tenderer or the Tenderers private agent) or sent through the mail to the **Chief Executive Officer, Shire of Moora, PO Box 211, Moora WA 6510.**
- (c) Electronic mail Tenders and Tenders submitted by facsimile will be accepted. It is the Tenderers responsibility to ensure the electronic or facsimile tenders are received by the Principal and followed up with an original document within 7 days of the closing date.

Tenderers must ensure that they have provided two (2) signed copies of their Tender (one to be marked "ORIGINAL" and bound, the other to be marked "COPY" and unbound). Any brochures or pamphlets must be attached to both original and the copy.

1.17 LATE TENDERS

Tenders received:

- (a) after the Deadline; or
- (b) in a place other than that stipulated in this Request;

Will not be accepted.

1.18 ACCEPTANCE OF TENDERS

The Principal is not bound to accept the lowest Tender and may reject any or all Tenders submitted.

1.19 DISCLOSURE OF CONTRACT INFORMATION

Documents and other information relevant to the contract may be disclosed when required by law under the *Freedom of Information Act 1992* or under a Court order.

All Tenderers will be given particulars of the successful Tenderer(s) or advice that no Tender was accepted.

1.20 ALTERNATIVE TENDERS

All Alternative Tenders MUST be accompanied by a conforming Tender.

Tenders submitted as Alternative Tenders or made subject to conditions other than the General and Special Conditions of Contract must in all cases arising be clearly marked "ALTERNATIVE TENDER".

The Principal may in its absolute discretion reject any Alternative Tender as invalid.

Any printed "General Conditions of Contract" shown on the reverse of a Tenderers letter or quotation form will not be binding on the Principal in the event of a Contract being awarded unless the Tender is marked as an Alternative Tender.

1.21 TENDER VALIDITY PERIOD

All Tenders will remain valid and open for acceptance for a minimum period of ninety (90) days from the Deadline or forty-five (45) days from the Shire Council resolution for determining the Tender, whichever is the later unless extended on mutual agreement between the Principal and the Tenderer in writing.

1.22 GENERAL CONDITIONS OF CONTRACT

Tenders will be deemed to have been made on the basis of and to incorporate the General Conditions of Contract for the Supply of Goods.

I.23 PRECEDENCE OF DOCUMENTS

In the event of there being any conflict or inconsistency between the terms and conditions in this Request and those in the General Conditions of Contract, the terms and conditions appearing in this Request will have precedence.

I.24 TENDERERS TO INFORM THEMSELVES

Tenderers will be deemed to have:

- (a) examined the Request and any other information available in writing to Tenderers for the purpose of tendering;
- (b) examined all further information relevant to the risks, contingencies, and other circumstances having an effect on their Tender which is obtainable by the making of reasonable enquires;
- (c) satisfied themselves as to the correctness and sufficiency of their Tenders including tendered prices which will be deemed to cover the cost of complying with all the Conditions of Tendering and of all matters and things necessary for the due and proper performance and completion of the work described therein;
- (d) acknowledged that the Principal may enter into negotiations with a chosen Tenderer and that negotiations are to be carried out in good faith; and
- (e) Satisfied themselves they have a full set of the Request documents and all relevant attachments.

I.25 ALTERATIONS

The Tenderer must not alter or add to the Request documents unless required by these Conditions of Tendering.

The Principal will issue an addendum to all registered Tenderers where matters of significance make it necessary to amend or supplement the issued Request documents before the Deadline.

I.26 RISK ASSESSMENT

The Principal may have access to and give consideration to:

- (a) any risk assessment undertaken by Dun and Bradstreet; or any other credit rating agency; and
- (b) any information produced by the Bank, financial institution, or accountant of a Tenderer;

so as to assess that Tender and may consider such materials as tools in the Tender assessment process.

I.27 OWNERSHIP OF TENDERS

All documents, materials, articles and information submitted by the Tenderer as part of or in support of a Tender will become upon submission the absolute property of the Principal and will not be returned to the Tenderer at the conclusion of the Tender process PROVIDED that the Tenderer be entitled to retain copyright and other intellectual property rights therein, unless otherwise provided by the Contract.

I.28 CANVASSING OF OFFICIALS

If a Tenderer, whether personally or by an agent, canvasses any of the Councillors (as the case may be) or Officers of the Shire of Moora with a view to influencing the acceptance of any Tender made by it or any other Tenderer, then regardless of such canvassing having any influence on the acceptance of such Tender, the Principal may at its absolute discretion omit the Tenderer from consideration.

I.29 IDENTITY OF THE TENDERER

The identity of the Tenderer and the Contractor is fundamental to the Principal. The Tenderer will be the person, persons, corporation or corporations named as the Tenderer in Part 3 and whose execution appears on the Offer Form in Part 3 of this Request. Upon acceptance of the Tender, the Tenderer will become the Contractor.

I.30 TENDER OPENING

Tenders will be opened in the Principal's offices, following the advertised Deadline. All Tenderers and members of the public may attend or be represented at the opening of Tenders.

The names of the persons who submitted a Tender by the due Deadline will be read out at the tender opening. No discussions will be entered into between Tenderers and the Principal's officers present or otherwise, concerning the Tenders submitted.

The Tender opening will be held on FRIDAY 26 JULY 2013 at the Shire of Moora Administration Centre as soon as practicable after the Tender deadline of 4.00pm.

2 SPECIFICATION

2.1 INTRODUCTION – TENDER (TENNIS COURTS)

4 X synthetic surface tennis courts complete with court markings and retaining wall.

All tender components to be priced separately

Earthworks by Principal – Earthworks in removal of perimeter fencing, boxing out/excavating to a depth of approx. 500mm, back fill with suitably tested material (likely to come from the Silicon mine north of Moora), compaction and levelling will be completed by the Shire of Moora (Principal). Final grading and trimming will be completed by the Contractor, with the shire to finish its levels at + or – 10mm.

Fill by Principal – source, test and import appropriate material to suit the requirements of the surface product including drainage. This will be done in consultation with the Contractor.

Compaction by Principal – Base course including supply, lay, compact and laser with a minimum Grade 2 specified road base in accordance with Main Roads W.A requirements.

Drainage by Contractor – Contractor will supply and install subgrade drainage to meet the requirements of the surface product. The drainage will run east –west on the southern court boundary and be connected in the Shire of Moora stormwater drainage system on Gardiner Street, Moora (west side).

Barrier Kerb + Retaining Walls by Contractor – as required for the finished heights of the tennis surface/s, to be constructed out of limestone. Barrier kerb to extend around all sides of the synthetic turf to direct and control surface water and drainage channel. This component shall be separated / shown as an itemised item by the Contractor. **The Principal reserves the right to complete this task should it be the most cost effective option.** The contractor may suggest other suitable options in this regard. Such options should be separately disclosed/ identifiable in terms of costings.

Perimeter Fencing by Contractor - Supply and installation of 3 metre high black pvc 50mm chainmesh fencing wire 4mm with galvanised capped intermediate (40mm) and strutted corner posts (50mm), and top and bottom rails (32mm). Include 2 single 1m x 2.17m PA gates and a 3m wide machinery gate to match fencing suitably located. This component shall be separated / shown as an itemised item by the Contractor. **The Principal reserves the right to complete this task should it be the most cost effective option.**

Synthetic Grass Tennis Courts x 4 by Contractor –Design and construct and surface 4 x synthetic grass tennis courts with line marking. The Contractor shall provide options in terms of surface finish in the range of 12mm to 19mm of sand infill. ***Samples should be supplied with the tender submitted.*** The Contractor shall separately identify the cost for provision of 25mm asphalt to an average finished level including tack coat. **The Principal reserves the right to complete the supply and lay of asphalt under the supervision of the Contractor should it be the most cost effective option.**

- Synthetic surfaces with court markings to be compliant to W.A Department of Sport and Recreation Guidelines and compliant with Australian Standard 3541.1 - 1988;
- Costing to include provision of four news sets of sleeved black powder coated tennis posts with four winders and four tennis nets, tennis centre straps with stainless steel slides with snap hooks. (suitable footings to be included).

Provision of Lighting by Principal – Principal will supply and install lighting for new courts. Laying of conduits, installation of footings shall be completed in consultation with Contractor.

Design and Set-Out – survey and set out to match the existing height on the Moora Tennis Club. To be done by the Principal in consultation with the Contractor.

Other - Warranty period and conditions to be stated as part of Tender.

**** All works should comply with Tennis Australia regulations and any applicable Australian Standards**

2.2 SPECIFIC REQUIREMENTS OF THE CONTRACT

Commissioning date, diagrams, manufacturer's specification and any other information as deemed necessary by the Shire shall be provided. The contract will be managed by the Shire of Moora and any difficulties in maintaining any aspect of this tender must be discussed with Shire Representative **Alan Leeson**. Tenderers should ensure they have done a site inspection of the site prior to the tender closing to familiarise themselves with all surrounds and future works planned.

2.3 IMPLEMENTATION TIMETABLE

Cooperation with the successful tenderer for construction of the tennis courts is essential.

Completion of the project is required for 1 November 2013

2.4 WORKS INSPECTION / REMEDIAL WORKS

The successful tenderer (contractor) is to conduct a post works inspection with a representative of the Shire of Moora where those works were carried out, to ascertain completion of the work to the satisfaction of the Shire of Moora.

Any remedial action and scheduling is to be consented to, by the representative of the Shire of Moora.

2.5 WARRANTY

Specific warranties, conditions and timeframes applicable to the contract shall be stated and quantified as part of the tender.

3 TENDERER'S OFFER

3.1 OFFER FORM

The Chief Executive Officer
Shire of Moora
PO Box 211
MOORA WA 6510

I/We _____
(BLOCK LETTERS)

of _____
(ADDRESS)

ABN/GST Status _____ ACN (if any) _____

Telephone No: _____ Facsimile No: _____

E-mail (if any): _____

In response to RFT 04/2013 Synthetic Turf Tennis Courts X 4

I/We agree that I am/We are bound by, and will comply with this Request and its associated schedules, attachments, all in accordance with the Conditions of Tendering contained in this Request signed and completed.

I/We agree that there will be no cost payable by the Principal towards the preparation or submission of this Tender irrespective of its outcome.

The tendered consideration is as provided under the schedule of rates of prices in the prescribed format and submitted with this Tender.

Dated this _____ day of _____ 20__

Signature of authorised signatory of Tenderer: _____

Name of authorised signatory (BLOCK LETTERS): _____

Position: _____

Address: _____

Witness Signature: _____

Name of witness: (BLOCK LETTERS): _____

Address: _____

3.2 TENDERER'S RESPONSE

The following checklist has been provided to assist you with your submission. Where it is necessary to provide additional information please ensure that all documents are clearly marked with the relevant attachment title to assist the evaluation panel with their assessment.

(NOTE: All pages within Part 3 are to be completed and returned to the Principal as they form part of your Tender submission).

3.2.1 Organisational Profile

Attach a copy of your organisation structure and provide background information on your company and label it “Organisation Structure” .	“Organisation Structure”	Tick if attached <input type="checkbox"/>
If companies are involved, attach their current ASC company extracts search including latest annual return and label it “ASC Company Extracts” .	“ASC Company Extracts”	Tick if attached <input type="checkbox"/>

3.2.2 Referees

Attach details of your referees, and label it “Referees” . You should give examples of work provided for your referees where possible.	“Referees”	Tick if attached <input type="checkbox"/>
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3.2.3 Agents

Are you acting as an agent for another party?	Yes / No	
If Yes, attach details (including name and address) of your principal and label it “Agents” .	“Agents”	Tick if attached <input type="checkbox"/>

3.2.4 Subcontractors

Do you intend to subcontract any of the Requirements?	Yes / No	
If Yes, in an attachment labelled “Subcontractors” provide details of the subcontractor(s) including: (a) the name, address and the number of people employed; and (b) the Requirements that will be subcontracted.	“Subcontractors”	Tick if attached <input type="checkbox"/>

3.2.5 Conflicts of Interest

Will any actual or potential conflict of interest in the performance of your obligations under the Contract exist if you are awarded the Contract, or are any such conflicts of interest likely to arise during the Contract?	Yes / No	
If Yes, please supply in an attachment details of any actual or potential conflict of interest and the way in which any conflict will be dealt with and label it “Conflicts of Interest” .	“Conflicts of Interest”	Tick if attached <input type="checkbox"/>

3.2.6 Financial Position

Are you presently able to pay all your debts in full as and when they fall due?	Yes / No	
Are you currently engaged in litigation as a result of which you may be liable for \$50,000 or more?	Yes / No	
If you are awarded the Contract, will you be able to fulfil the Requirements from your own resources or from resources readily available to you and remain able to pay all of your debts in full as and when they fall due?	Yes / No	
In order to demonstrate your financial ability to undertake this contract, in an attachment labelled “Financial Position” include a profit and loss statement and the latest financial return for you and each of the other proposed contracting entities, together with a list of financial referees from your bank and/or accountant.	“Financial Position”	Tick if attached <input type="checkbox"/>

3.2.7 Quality Assurance

The quality assurance for this Tender is: ISO:9001	Yes / No	
Does your organisation have any quality assurance or quality assurance systems?	Yes / No	
If you propose to subcontract, does your subcontractor have a “third party” quality management system in place?	Yes / No	
Supply evidence or details of your quality assurance position and where relevant of your supplier’s or subcontractor’s position, in an attachment labelled “Quality Assurance” .	“Quality Assurance”	Tick if attached <input type="checkbox"/>

3.2.8 Insurance Coverage

<p>The insurance requirements for this Request are stipulated in the Special Conditions. Tenderers are to supply evidence of their insurance coverage in a format as outlined below or in an attachment labelled “Insurance Coverage”. A copy of the Certificate of Currency is to be provided to the Principal within 14 days of acceptance of the tender.</p>	<p>“Insurance Coverage”</p>	<p>Tick if attached</p> <p style="text-align: center;"><input type="checkbox"/></p>
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<i>Type</i>	<i>Insurer - Broker</i>	<i>Policy Number</i>	<i>Value (\$)</i>	<i>Expiry Date</i>
Public Liability				
Professional Indemnity Insurance				
Workers Compensation & Rehabilitation Insurance				
Other				
Other				

3.3 SELECTION CRITERIA

3.3.1 Compliance Criteria

Please select with a yes or no whether you have complied with the following compliance criteria:

Description of Compliance Criteria	
(a) Compliance with the Specification contained in the Request.	Yes / No
(b) Compliance with the Conditions of Tendering of this Request.	Yes / No
(c) Compliance with the Quality Assurance requirement for this Request.	Yes / No
(d) Compliance with the Delivery Date.	Yes / No
(e) Compliance with and completion of the Price Schedule.	Yes / No

3.3.2 Qualitative Criteria

Before responding to the following qualitative criteria, Tenderers must note the following:

- All information relevant to your answers to each criterion are to be contained within your Tender;
- Tenderers are to assume that the Evaluation Panel has no previous knowledge of your organisation, its activities or experience;
- Tenderers are to provide full details for any claims, statements or examples used to address the qualitative criteria; and
- Tenderers are to address each issue outlined within a qualitative criterion.

<p>A) Relevant Experience</p> <p>Describe your experience in completing /supplying similar Requirements. Tenderers must, as a minimum, address the following information in an attachment and label it “Relevant Experience”:</p> <ul style="list-style-type: none"> (a) Provide details of similar work; (b) Provide scope of the Tenderer’s involvement including details of outcomes; (c) Provide details of issues that arose during the project and how these were managed; (d) Demonstrate sound judgement and discretion; and (e) Demonstrate competency and proven track record of achieving outcomes. 	<p>“Relevant Experience”</p>	<p>Tick if attached</p> <p><input type="checkbox"/></p>
<p>B) Tenderer’s Resources</p> <p>Tenderers should demonstrate their ability to supply and sustain the necessary:</p> <ul style="list-style-type: none"> (a) Plant, equipment and materials; and (b) Any contingency measures or back up of resources including personnel (where applicable). (c) Proposed personal to be involved in the contract <p>As a minimum, Tenderers should provide a current commitment schedule and plant/equipment schedule in an attachment and label it “Tenderer’s Resources”.</p>	<p>“Tenderer’s Resources”</p>	<p>Tick if attached</p> <p><input type="checkbox"/></p>
<p>C) Demonstrated Understanding</p> <p>Tenderers should detail the process they intend to use to achieve the Requirements of the Specification. Areas that you may wish to cover include:</p> <ul style="list-style-type: none"> (a) A project schedule / timeline (where applicable) (b) The process for the delivery of the service; (c) Training processes (if required); and (d) A demonstrated understanding of the scope of work <p>Supply details and provide an outline of your proposed methodology in an attachment labelled “Demonstrated Understanding”.</p>	<p>“Demonstrated understanding”</p>	<p>Yes / No</p> <p>Tick if attached</p> <p><input type="checkbox"/></p>

4 APPENDIX A – SPECIAL CONDITIONS OF CONTRACT

4.1 PERIOD OF CONTRACT AND TERMINATION

The Contract will be in force for the period up to 1st November 2013. However, in the event of the Contractor failing in any manner to carry out the Contract to the Principal's satisfaction, the Principal may forthwith determine the Contract by written notice to the Contractor.

4.2 INSURANCES

- 4.2.1 The Contractor shall be solely responsible for the services and shall bear the sole risk for any loss or damage whether to any person or property caused by or resulting from, directly or indirectly, any act or omission of the Contractor or any default or negligence by the Contractor
- 4.2.2 The Contractor shall indemnify and keep indemnified the Council from and against any loss or damage and against all claims, demands, proceedings, costs, charges and expenses whatsoever arising out of any act or omission of the Contractor or any default by the Contractor or any default by the Contractor
- 4.2.3 The Contractor shall, at the Contractor's own expense, procure and maintain and shall ensure that all sub-contractors procure and maintain the following insurance, such insurance shall be specifically endorsed so that it is deemed primary to any insurance effected by on behalf of the Council and shall contain a cross liability clause which shall treat each of the insured parties as if a separate policy had been issued to them:
- (a) Public liability insurance for an amount of not less than \$10m for any on accident or occurrence in the name of the Council and the contractor.
 - (b) Third party property damage insurance of not less than \$10 million in respect of any motor vehicles, plant or equipment used in the performance of the contracted services.
 - (c) If the Contractor or any sub-contractor employs any person or persons to perform the services or any part thereof, documentation certifying current workers compensation insurance, public liability insurance and third party property damage by the Contractor must be provided to Council before commencement of services.
 - (d) If the Contractor any sub-contractor employs any person or persons to perform the services or any part thereof, awareness and compliance of Council occupational safety and health guidelines and policy must be empowered and acknowledged.
 - (e) Any other insurance which is required by the laws of the Commonwealth of Australian and State of Western Australia and as amended by these guidelines following its review.

5 APPENDIX B - GENERAL CONDITIONS OF CONTRACT

GOVERNING LAW

The Contract shall be governed by the laws of the State of Western Australia and the parties hereby submit to the exclusive jurisdiction of the courts of the State.

DEFINITIONS

In the Contract, except where the context otherwise requires:

‘Clause’ means a clause of these General Conditions.

‘Contract’ means the document which constitutes or evidence or, as the case may be, all the documents which constitute or evidence the final and concluded agreement between the Shire of Moora acting on behalf of the Moora District Tennis Club and the Contractor.

‘Contract Price’ means

- a) Where payment is to be made on a Lump Sum Basis, the sum which is stated in the contract to be payable to the Contractor for the supply of the Services by the Contractor and the performance of the obligations of the Contractor under the Contract;
- b) Where payment is to be made on a Schedule of Rates basis, the sum ascertained by calculating the product of the rates and the corresponding quantities set out in the Schedule of Rates and adding to the sum thereof the total of any sums included in the Schedule of Rates;
- c) Where payment is to be made on a Lump Sum and a Schedule of Rates Basis, the aggregate of the sums referred to in paragraphs (a) and (b),

but excluding any additions or deductions, which may be required to be made pursuant of the Contract.

‘Contractor’ means the person or persons, corporation or corporations, who contract to supply the Service, the subject of the Contract.

‘Officer’ means any officer or person authorised by the Shire of Moora and notified to the Contractor as an authorised officer for the purpose of this Contract.

‘Services’ means the whole of the services, tasks, work and requisites to be supplied rendered provided or performed by the Contractor including all variations provided for by the Contract as more fully set out in the Contract.

‘Specifications’ means any Special Conditions, Technical Specifications and Schedules forming part of the Contract; and such Specifications shall be read with these General Conditions and (part 4) Special Conditions of Contract as an integral part of the Contract, but in the event of any inconsistency between the Specifications and these General Conditions the former shall (unless the Contract otherwise provided) prevail.

Unless the context otherwise requires, the singular in all cases includes the plural and vice versa. The clause headings of the General Condition of Contract shall not in any way affect their interpretation. Any one gender includes all genders.

QUALITY OF SERVICE

All Services rendered shall conform to the Specifications and the standards specified in the Contract.

Where no standards are specified in the Contract, the Services shall comply with the appropriate and current standard of the Standard Association of Australia and if there is no such standard then the appropriate and correct standard of the British Standards Institution or such other standard as the Shire of Moora shall consider appropriate.

If no standards are applicable, the Services shall be of the highest standard and carried out promptly with all due skill care and diligence.

The Contractor shall employ only such persons as are careful skilled and experienced in their respective professions trades and callings who hold all necessary licenses permits and authorities required by law and whose standards of workmanship are entirely suitable for the performance of the Services and the requirements of the Contract.

PATENT RIGHTS

The Contractor shall indemnify and at all times keep the Shire of Moora indemnified against any action, claim, demand, costs or expenses arising from or incurred by reason of any infringement or alleged infringement of any letters patent, design, trademark or name, copyright or other protected right in respect of any goods, articles, services, equipment, machinery, plant or thing, system or method of performing, using, fixing, working or arrangement used, fixed, provided or supplied by the Contractor.

All payments and royalties payable in respect of any such letters patent or other protected right, shall be included by the Contractor in the Contract and shall be paid by itself to the person, persons, or body to whom they may be due or payable.

In the event of any claim being made or brought against the Shire of Moora in respect of any of the matters stated on this clause, the Contractor shall be immediately notified thereof. The Contractor shall, with the assistance if required of the Shire of Moora but at the Contractor's sole expense, conduct negotiations for the settlement of the same or any litigation that may arise there from and in the event of the failure by the Contractor so to do, the Shire of Moora shall have power to suspend payment of any money due to the Contractor under the Contract until such claim has been satisfied, settled, or withdrawn. Shall any money due, or which may therefore be due, to the Contractor as security under the Contract, be insufficient to satisfy or settle any such claim and such claim has been satisfied or withdrawn at the date when the Contract would otherwise have been completed, the balance outstanding in respect of the claim shall be a debt due by the Contractor to the Shire of Moora.

SETTLEMENT DISPUTES

The parties agree to attempt in good faith to resolve through negotiation any dispute regarding the Contract.

Either party may refer to an appropriate independent expert, agreed to by the parties, any Services for the examination and report as to their compliance with the Contract. The decision of the expert shall be final and binding upon both parties, and the expense of such reference shall be paid by the unsuccessful party.

Any dispute or unresolved claim arising out of or relating to the Contract of the Breach, termination or invalidity thereof shall first be the subject of conciliation before a conciliator who is either agreed to by both parties or, failing agreement, who is appointed by the President of the Institute of Arbitrators and Mediators (WA Branch).

If the dispute has not been resolved within 28 days (or such other period agreed in writing between parties) after the appointment of the conciliator, the dispute shall be referred to arbitration to be effected:

- a) By an arbitrator mutually agreed upon between parties; or
- b) In default of such mutual agreement, by an arbitrator appointed by the President of the Institute of Arbitrators and Mediators,

In accordance with the provisions of the Commercial Arbitration Act 1985.

TIME

Services under the contract shall be supplied punctually at or within the time stated in the Order and in this respect time shall be of the essence of the Contract.

The Contractor shall be entitled only to such extensions of time for compliance with the Contract as the Shire of Moora, upon the written application of the Contractor, may in its absolute discretion grant in writing.

SUPPLY OF SERVICES BY ORDER

The Contractor shall fulfil all orders for services placed by the Shire of Moora during the term or currency of the Contract.

Where the Contract is for the supply of services by reference to a list of services and prices in a Schedule to the Specification, the Shire of Moora shall not be required to take or accept all or any of the Services listed EXCEPT such of the Services as may be ordered by the Shire of Moora from time to time during the period of the Contract.

Where the quality or value set out in any Schedule to the Specification is described as 'approximate' it shall be regarded only as an estimate of the quality or value which may be required under the Contract and the Shire of Moora shall not be required to take or accept the said nominated approximate quantity or value of Services.

The right is reserved for the Shire of Moora to order its requirements of any one type or item of the Services either at one time or in instalments or in such quantities as may be required from time to time.

Nothing herein contained shall oblige the Shire of Moora to take or accept all its needs of requirements of the Services solely from the Contractor nor shall be taken to confer any exclusive right upon the Contractor to provide Services to the Shire of Moora. The Shire of Moora shall be free at all times to obtain the Services of any part of them from any other source provider or supplier thereof except Services the subject of an existing order to the Contractor.

STAMP DUTY

The Contractor shall pay all stamp duties in connection with the Contract.

GOODS AND SERVICES TAX

For the purpose of this clause:

“**GST**” means goods and services tax applicable to any taxable supplies as determined under the GST Act.

“**GST Act**” means A New Tax System (Goods and Services Tax) Act 1999 and (where the context permits) includes the Regulations and the Commissioner of Taxation’s Goods and Services Tax Rulings and Determinations made there under and any other written law dealing with GST applying for the time being in the State of Western Australia.

“**Supply**”, “taxable supply” and “tax invoices” have the same meanings as in the GST Act. Where the supply of the Services or any part thereof is a taxable supply under the GST Act: The Contract Price shall be inclusive of all applicable GST at the rate in force or the time being.

The obligation of the Shire of Moora to pay the Contract Price or any instalment thereof, and the right of the Contractor to recover the Contract Price or any instalment thereof, shall be subject to and conditional upon the prior issue by the Contractor and the prior receipt by the Shire of Moora of a tax invoice in respect of the Contract Price, or the relevant instalment thereof, which complies in all respects with the GST Act.

This provision applies notwithstanding any other provision of the Contract of any legislation or rule of law to the contrary, but does not apply if the Contractor is not registered for GST, and is not required to be so registered, under the GST Act.

The Contractor shall at all times observe, perform and comply with all applicable provisions of the GST Act relative to the supply of the Services under the Contract.

PRICE VARIATION

Contract prices shall be firm unless otherwise stated in the Contract.

Where Contract prices are variable, and the Contractor wishes to claim for a variation in price during the term of the Contract, then the Contractor shall give the Shire of Moora full details of the make-up of the claim, including all applicable information as to the cost of materials, direct labour, overheads, profit and such other cost components as the Shire of Moora may require to verify any claim of variation. All applications for variation must be

shown in a statement form detailing the existing approved Contract prices, the proposed price increase and proposed new Contract price on an item by item basis and shall be accompanied by all relevant determinations and documents in support of the claim.

Where the Contract price is the price ruling at date of performance of the services the Contractor shall produce to the Shire of Moora evidence to verify each claim for payment.

Where trade list prices form the basis of the Contract the Contractor shall identify the trade list referred to by date, number or other suitable reference.

Reductions affecting the Contract rates shall be notified by the Contractor to the Shire of Moora immediately they occur and the Contractor shall repay to the Shire of Moora the full amount of any overpayment made by the Shire of Moora within fourteen (14) days of the reduction being authorised by the Shire of Moora.

Applications for variation of variable Contract prices or rates by the Contractor shall be submitted on writing to the Shire of Moora as far in advance as practicable of the date from which the variation is sought to commence.

- a) All variations approved by the Shire of Moora shall operate from a date determined by the Shire of Moora, which shall not be earlier than the date of the formal application for variation.
- b) The onus shall be upon the Contractor to prove to the satisfaction of the Shire of Moora all details of any variation claimed.

In all matters of price variations (up or down) the Contractor shall make available to the Shire of Moora within the time specified by the Shire of Moora such information, records, facts and figures as the Shire of Moora shall require.

Failure to supply the required information, records, facts and figures shall entitle the Shire of Moora to refuse variation.

Where the variation is to be determined on the basis of decisions by the Australian Competition and Consumer Commission such variations will be effective on the date nominated by the Australian Competition and Consumer Commission and will be binding on all parties. Should the Australian Competition and Consumer Commission cease to operate during the period of the Contract, a new variations arrangement will be negotiated by mutual agreement. If agreement cannot be reached, the Contract may forthwith be determined by either party by written notice to the other.

ASSIGNING OR SUBLETTING

The Contractor shall not without the previous consent of the Shire of Moora in writing, assign transfer mortgage charge encumber sublet or sub contract the Contract, or any part thereof. The Contractor shall not assign transfer mortgage, charge or encumber, all or any of the moneys payable or to become payable or any other interest or benefit under the Contract without the consent in writing of the Shire of Moora being first obtained. Any consent shall not discharge the Contractor from any liability respect of the Contract, and shall extend only to the assignment or other transaction actually consented to and shall not be

deemed a consent to any other assignment of transaction nor to prevent any proceedings for any subsequent breach of this condition any may be granted or withheld or made subject to conditions on the absolute discretion of the Shire of Moora.

TERMINATION OF CONTRACT

Where the Contractor;

- a) Fails to supply and provide the Services on the due date or dates or at the location or locations specified in the Contract or in any order or to duly and punctually observe and perform all or any of the terms or conditions set out in the Contract; or
- b) Assigns subcontractors or sublets the Contract, or any part thereof, or assigns, mortgage, charge or encumber, all or any of the moneys payable or to become payable under the Contract, of one other interest of benefit whatsoever arising, or which may arise, under the Contract without the consent in writing of the Shire of Moora being first obtained; or
- c) (if an individual) becomes bankrupt; or
- d) (if a corporation) goes into voluntary or compulsory liquidation or goes into receivership or enters into voluntary administration; or
- e) makes an assignment of its estate for the benefit of its creditors, or makes an arrangement or composition with its creditors; or
- f) includes any statement fact information representation or material in its Tender which is false untrue or incorrect; or
- g) fails in any matter to perform the Contract to the complete satisfaction of the Shire of Moora;

then, as in every such case, the Shire of Moora may give notice in writing to the Contractor terminating the Contract, whether there are any orders remaining to be filled or not and engage or contract with any person or corporation other than the Contractor to perform and complete the same.

All damages and expenses incurred by the Shire of Moora, because of non-compliance to the Contract by the Contractor, ascertained and certified to by the Officer, shall be deducted from any money that may be then due, or may thereafter become due to the Contractor, or of that may have been deposited by itself as security in respect to the Contract. If the money then due, or thereafter becoming due to the Contractor, or deposited by itself as aforesaid, shall not be sufficient for that purpose, the balance remaining unpaid shall be a debt due by the Contractor to the Shire of Moora and may be recovered for the Contractor in any Court of competent jurisdiction.

If the Contract is terminated the moneys which have been previously paid to the Contractor on the account of the orders filled shall be taken by the Contractor as full payment and satisfaction for all orders executed under the Contractor. All sums of money that may be due to the Contractor and unpaid, all sums of money (if any) held as security, shall be forfeited and may be retained by the Shire of Moora.

Upon termination of the Contract all moneys previously paid to the Contractor shall be deemed to be in full satisfaction of all claims of the Contractor of any kind or description whatsoever under or in respect of the Contract.

FAILURE TO SUPPLY

Where a state of emergency exists or where the Contractor is unable or fails (for whatever reason) to supply and provide the Services at any time or in any place the Shire of Moora may without being liable in any way to the Contractor obtain or acquire such Services as it requires during the state of emergency or at that time or in that place (as the case may be) from any other source supplier or provider thereof. The existence of a state of emergency shall be determined by the Shire of Moora in its sole discretion.

POWER TO ACT FOR THE SHIRE OF MOORA

Anything to be done or performed by the Shire of Moora may be done and performed by any person duly authorised by the Shire of Moora.

VARIATION OF CONTRACT TERMS

None of the terms of the Contract shall be varied, waived, discharged or released either at law or in equity, unless by the express agreement of the Shire of Moora in writing.

SUSPENSION OF PAYMENTS

Should the Contractor refuse or neglect to carry out instructions of the Shire of Moora in regard to any matter connected with the Contract, the Shire of Moora may suspend all payments to the Contractor until such instructions have been complied with.

DEDUCTION OF CHARGES OR DEBTS

Without limiting the Shire of Moora rights under the any of the foregoing clauses hereof any debt due from the Contractor to the Shire of Moora may be deducted by the Shire of Moora from any moneys which may be or thereafter become payable to the Contractor by the Shire of Moora and if such moneys are insufficient for this purpose, then from the Contractor's security under the Contract. Nothing in this clause shall affect the right of the Shire of Moora to recover from the Contractor the whole of the debt or any balance that remains owing after deduction.

The Contractor hereby acknowledges and agrees that all moneys becoming payable by the Contractor in respect of the Contract and all costs, expenses, losses, and damages hereinbefore mentioned, and for which the Contractor shall become liable at any time under the Contract, may be deducted and paid by the Shire of Moora from any sum or sums due, or which may become due, to the Contractor under or in respect of any other contract or contracts, which may be existing between the Contractor and the Shire of Moora for the time being.

PAYMENT

The Shire of Moora shall pay or cause to pay to the Contractor, upon the certificate of the Officer, all sums of money due or to become due to the Contractor under the Contract, in the amounts and at the times set forth in the Contract, and shall pay or hand over the Security (if any) deposited to the Contractor within fourteen days after the Officer has

certified that the Contract has been satisfactorily completed. Failure by the Shire of Moora to pay the amount payable at the due time will not be grounds to vitiate or avoid the Contract.

Where the Contract is a schedule of prices Contract to be executed at the rates or prices given in the Contract, then the Services shall be paid for at their schedule rates and not at the total amount of the Contractor's tender.

The Contractor shall not be entitled to any interest, credit charge, service fee or any other fee or charge for extending credit or allowing time for the payment of money becoming due for the provision of Services unless expressly provided for in the Contract.

The Shire of Moora shall not be obligated to pay accounts of the Contractor unless received by the paying officer nominated on the Order.

All periods for payment of invoices shall be calculated from the date of preparation of the invoice.

SERVICE OF NOTICES

Any notice, order, instruction or communication required to be, or that may be served on or given to the Contractor by the Shire of Moora or the Officer shall be deemed to have been sufficiently issued or given to or served upon the Contractor if it is handed to the Contractor or is sent by prepaid cost to or is left at the address of the Contractor stated in its Tender or at such other address as is notified in writing by the Contractor to the Shire of Moora.

CONTRACTOR TO INFORM ITSELF

The Contractor shall be deemed to have:

- a) Examined carefully and to have acquired actual knowledge of the contents of the Drawings, Specification, Schedules, Bills of Quantities (if any), Conditions of Tendering, these General Conditions of Contract and the Special Conditions of Contract (if any) and any other information made available in writing by the Shire of Moora to the Contractor for the purpose of tendering; and
- b) Examined the site and its surroundings; and
- c) Satisfied itself as to the correctness and sufficiency of its tender and that its price covers the cost of complying with all its obligations under the Contract and of all matters and things necessary for the due and proper performance and completion of contract.

Failure by the Contractor to do all or any of the things it is deemed to have done under this clause will not relieve the Contractor of its liability to perform and complete the Contract in accordance with the terms and conditions thereof.

COMPLYING WITH THE STATUTORY REQUIREMENTS

The Contractor shall comply with the requirements of all Acts of the Parliament of the Commonwealth and with the requirements of all ordinances, rules, regulations, by-laws, orders, codes of practice and proclamations made or issued under such Act and with the lawful requirements of public and other authorities on any way affecting or applicable to the Services or the performance of the Contract.

Without limiting in any way the generality of the foregoing, the Contractor shall duly and punctually observe, perform and comply with the provisions of the Occupational Safety and Health Act 1984 and all improvement notices, probation notices and codes of practice (if any) issued there under and having application to this Contract.

If, in the opinion of the Contractor, the provisions of any document forming part of the Contract are at variance with any such requirements, the Contractor shall give written notice to the Shire of Moora specifying the departure from such provisions that he considers necessary to comply with such requirements.

PROPERTY DAMAGE AND PUBLIC RISK

Subject to the next succeeding paragraph of this clause, the Contractor shall indemnify and keep indemnified the Shire of Moora against all loss of or damage to the property of the Shire of Moora and from and against any claim, demand, action, suit or proceeding that may be made or brought by any person against the Shire of Moora, or the employees, professional consultants or agents of the Shire of Moora or any of them in respect to personal injury to or the death of any person whomsoever or loss of or damage to any property whatsoever arising out of or as a consequence of the supply or provision of the Services by the Contractor or its employees, agents or sub-contractors and also from any cost and expenses that may be incurred in connection with any such claim, demand, action, suit or proceeding.

The Contractor shall not, under the last preceding paragraph of this clause, be rendered liable for or in respect of personal injury to or the death of any person or loss of or damage to property resulting from any breach by the Shire of Moora of any provision of the Contract or any negligent act or omission of the Shire of Moora or the employees, professional consultants or agents of the Shire of Moora or for or in respect of any claims, demands, actions, suits or proceedings, costs and expenses whatsoever in respect thereof or in relation thereto.

ACCIDENT OR INJURY TO EMPLOYEES

The Contractor shall indemnify and keep indemnified the Shire of Moora against liability for all loss or damage resulting from personal injury to or the death or (other than such injury or death resulting from any breach by the Shire of Moora of any of the provisions of the Contract or any negligent act or omission of the Shire of Moora or the employees, professional consultants or agents of the Shire of Moora the Contractor or of any sub-contractor occurring during the currency of the Contract and arising out of or in connection with the supply or provision of the Services under the Contract or the performance of the Contract and against all claims, demands, actions, suits or proceedings, cost and expenses whatsoever in respect thereof or in relation thereto, whether at Common Law or under any statute.

INSURANCE

Without limiting its obligations and responsibilities the Contractor, in the joint names of itself and the Shire of Moora for their respective rights interests and liabilities, shall effect and keep in effect during the currency of the Contract insurance policies covering all matters referred to in clauses 3.2 and 4.2

The insurance policies shall contain a cross-liability clause and otherwise be in terms, and effected with an insurance company, approved by the Shire of Moora which approval shall not be unreasonably withheld

The Contractor shall lodge certificates of proof the required insurance policies with the Shire of Moora before the commencement of the Services provision and at such other times as the Shire of Moora may require.

WARRANTIES

The Contractor shall obtain warranties as specified in the Contract and shall ensure that the Shire of Moora will have the benefit of the warranties. The Contractor shall ensure that the Shire of Moora will have the benefit of any warranties specified in the Contract that are obtained by the sub-contractors of the Contractor.

INDUSTRIAL AWARDS

With respect to all work done in Western Australia under the Contract, the Contractor shall observe, perform and comply in all material respects with all relevant Industrial Awards, Industrial Agreements and orders of Competent Courts or Industrial Tribunals applicable to the Services and the works to be done under the Contract.

Failure by the Contractor to comply with the above clause shall entitle the Shire of Moora by notice in writing to the Contractor to forthwith terminate the Contract, but without prejudice to any other rights or remedies of the Shire of Moora.

ACTS OF THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA AND THE STATE OF WESTERN AUSTRALIA

In the execution of this contract the Contractor shall ensure compliance with the requirements of all Acts of the Parliament of the Commonwealth and the State of Western Australia.