

**PURCHASING AUTHORITY  
TOWN OF FAIRFIELD  
TERMS AND CONDITIONS OF BID**

**1. DEFINITIONS**

Whenever the words defined occur in this Contract and in the specifications of the solicitation document, they shall have the meanings here given:

1. Owner: The Owner shall mean the Town of Fairfield (Town) or any duly authorized official thereof acting in an official capacity.
2. Contractor: Whenever the word "Contractor" is used in these specifications, it shall be understood to mean the person or persons, co-partnership or corporation, who has entered into this contract as the party of the second part, or his/her or their legal representative.
3. Sub-Contractor: Any individual, firm, partnership, or corporation to whom the Contractor sublets or assigns any part or parts of the project covered by the contract with the approval of the Town.

**2. SCOPE OF WORK/SITE INSPECTIONS**

The bidder declares that the scope of the work has been thoroughly reviewed and any questions resolved. If applicable, the bidder further declares that the site has been inspected as called for in the specifications (q.v.).

**3. EXCEPTION TO SPECIFICATIONS**

No protest regarding the validity or appropriateness of the specifications or of the Invitation for Bids will be considered, unless the protest is filed in writing with the Purchasing Authority prior to the closing date for the bids. All bid proposals rendered shall be considered meeting the attached specifications unless exceptions are noted on a separate page dated and signed by the bidder.

**4. RIGHT TO ACCEPT / REJECT**

AFTER REVIEW OF ALL FACTORS, TERMS AND CONDITIONS, INCLUDING PRICE, THE PURCHASING AUTHORITY OF THE TOWN OF FAIRFIELD RESERVES THE RIGHT TO REJECT ANY AND ALL BIDS, OR ANY PART THEREOF, OR WAIVE DEFECTS IN SAME, OR ACCEPT ANY PROPOSAL DEEMED TO BE IN THE BEST INTEREST OF THE TOWN OF FAIRFIELD.

**5. PROTESTS**

- a. **Specification Protest Process** – If a bidder/proposer feels that the specifications are written in a way that might limit competition, a specification protest may be sent to the Town's Purchasing Authority. Specification protests shall be responded to within 15 business days of receipt. No protest regarding the validity or appropriateness of the specifications or of the invitation for bids will be considered, unless the protest is filed in writing with the Director of Purchasing, prior to the closing date for the bids.
- b. **Award Protest** – Bidders and/or proposers may appeal the award decision by submitting a written protest to the Town's Director of Purchasing within 5 business days of the date of the award notice, with a copy of the protest to the successful bidder/proposer. The protest must contain a statement of the basis for the challenge.

**6. PRICES**

Prices quoted must be firm, for acceptance by the Town of Fairfield, for a period of ninety (90) days. Price shall include all applicable duties. Bidders shall be required to deliver awarded items at prices quoted in their original bid. The price(s) and amount of the bid will have been arrived at independently and without consultation, communication or agreement with any other Contractor or bidder.

Price is to include all labor, materials, tools, equipment, plant, mobilization, permits, insurances, etc. required to properly complete the project.

No proposal may be withdrawn within 90 days after the submission date.

**7. F.O.B. DESTINATION**

Prices quoted shall be Net – Delivered to destination. Bids quoting other than F.O.B. Destination may be rejected.

## **8. BID BOND**

The BID BOND furnished, as bid security, must be duly executed by the bidder as principal. It must be in the amount equal to five percent (5%) of the total estimated bid, as guarantee that, in case the contract is awarded to the bidder, the bidder will, within ten days thereafter, execute such contract and furnish a Performance Bond and Payment Bond.

Small businesses may elect to obtain an irrevocable letter of credit or cashier's check in lieu of the Bid Bond. Such surety must also be in an amount equal to at least five percent (5%) of the total estimated bid.

All bid bonds shall be written by a surety company or companies licensed in the State of Connecticut, and shall have at least an A-VII policy holders rating, as reported by A.M. Best Rating Services, or otherwise deemed acceptable by the Town. The Town always reserves the right to reject surety companies, if an approved surety bond cannot be provided, the bidder shall be deemed non-responsive.

A complete list of certified surety companies can be accessed on the U.S. Government Department of Treasury website: [https://www.fiscal.treasury.gov/fsreports/ref/suretyBnd/c570\\_a-z.htm](https://www.fiscal.treasury.gov/fsreports/ref/suretyBnd/c570_a-z.htm)

NOTE: Failure to provide a Bid Bond or equivalent security is not cause for a waiver defect. Any bid not accompanied by such security will be excluded from consideration.

## **9. PAYMENT AND PERFORMANCE BOND**

The successful bidder, within seven (7) business days after notification of award, will be required to furnish Performance and Labor and Material Bonds provided by a company authorized to issue such bonds in the State of Connecticut, or Certified Check or properly executed Irrevocable Letter of Credit equal to a hundred percent (100%) of the award.

In the event that the Contractor where required to provide evidence of insurance and performance bond does not do so before beginning work, the Town of Fairfield reserves the right to withhold payment from such supplier until the evidence of insurance and performance bonds have been received by the Town.

All payment and performance bonds shall be written by a surety company or companies licensed to issue bonds in the State of Connecticut, and shall have at least an A-VII policy holders rating, as reported by A.M. Best Rating Services, or otherwise deemed acceptable by the Town. The Town always reserves the right to reject surety companies, if approved surety bonds cannot be provided, the contract shall be terminated.

A complete list of certified surety companies can be accessed on the U.S. Government Department of Treasury website: [https://www.fiscal.treasury.gov/fsreports/ref/suretyBnd/c570\\_a-z.htm](https://www.fiscal.treasury.gov/fsreports/ref/suretyBnd/c570_a-z.htm)

## **10. ADDITIONAL BOND REQUIREMENT – NON-RESIDENT CONTRACTORS**

1. Per Connecticut General Statute 12-430, unverified non-resident contractors are required to deposit with the Department of Revenue Services an additional surety equivalent to 5% of the total contract value, as assurance that personal property taxes and/or any other State taxes assessed and due the State during the contract will be paid.

## **11. PERMITS**

The Contractor will be responsible for securing all necessary permits, state and local, as required by the Town of Fairfield prior to commencing work. Upon application for a building permit the Town will waive its application and permit fees for Town of Fairfield projects.

## **12. PAYMENT PROCEDURES**

No voucher, claim or charge against the Town shall be paid without the approval of the Fiscal Officer for correctness and legality. Appropriate checks shall be drawn by the Fiscal Officer for approved claims or charges and they shall be valid without countersignature unless the Board of Selectmen otherwise prescribed.

## **13. PAYMENT PERIOD**

The Town of Fairfield shall put forth its best effort to make payment within thirty days (30) after delivery of the item acceptance of the work, or receipt of a properly completed invoice, whichever is later. Payment period shall be net thirty days (30) unless otherwise mutually agreed upon. For projects that do not require a performance or bid bond, the Town of Fairfield reserves the right to retain five percent (5%) of total bid amount, which is payable ninety (90) days after final payment or acceptance of the work.

#### **14. THE CONTRACTOR**

The Contractor for the work described shall be thoroughly familiar with the requirements of all specifications, and the actual physical conditions of various job sites. The submission of a proposal shall be construed as evidence that the Contractor has examined the actual job conditions, requirements, and specifications. Any claim for labor, equipment, or materials required, or difficulties encountered which could have been foreseen had such an examination been carefully made will not be recognized.

#### **14A. QUALIFICATIONS**

Bidders, if requested, must be able to present satisfactory evidence that they have been regularly engaged in the business of such work as they propose to execute and that they are fully prepared with the necessary capital, personnel, materials, tools and equipment, in order to conduct the work to be contracted for the satisfaction of the Town and to begin work promptly when ordered.

#### **14B. OBLIGATION OF CONTRACTOR**

The Contractor shall do all the work and furnish all the materials, tools, and appliances necessary or proper for performing and completing work required by this contract in a manner specified. All the work, labor, and materials to be done and furnished under this contract shall be done and furnished strictly pursuant to and in conformity with the specifications hereto attached and other directions of the Town, as given from time to time during the progress of the work under the terms of the contract. The Contractor shall complete all work to be done under this contract to the satisfaction of the Town and in accordance with the specifications and drawings (where provided) herein mentioned at the prices herein agreed upon.

#### **14C. LIABILITY OF CONTRACTOR**

The Contractor shall at all times safely guard the Town's property from injury or loss in connection with this contract. The Contractor shall take all responsibility for the work and take precautions for preventing injuries to persons and property in or about the work. The Contractor shall assume the defense of and indemnify and save harmless the Town and its officers, agents, and employees from all claims, injuries, costs, and damages (including, but not limited to, attorney's fees and costs) relating to labor and materials furnished for the work, to inventions, patents and patent rights used in doing the work, or in consequence of any improper materials, implements or labor used therein, or any act, omission or neglect of the Contractor, its subcontractor(s), and or any of their respective agents or employees.

#### **15. ASSIGNMENT OF CONTRACT**

No rights under the solicitation, the award, or any contract may be assigned or transferred without the consent of the Purchasing Authority.

#### **16. RIGHT OF OWNER ("TOWN") TO TERMINATE CONTRACT**

If the work to be done under this Contract shall be abandoned, or if at any time the Town is of the opinion that the Contractor is willfully violating any of the conditions of this contract or is not executing said contract in good faith or that the work is unnecessarily delayed and will not be finished within the prescribed time, the Town may notify the Contractor and Surety, in writing to that effect. If the Contractor does not, within five (5) business days thereafter, take such measures as will, in the judgment of the Town, ensure the satisfactory completion of the work aforesaid, the Town shall have the power to notify the Contractor to discontinue all work or any portion thereof, under this contract. A copy of this contract shall go to the surety.

Thereupon the Contractor shall cease to continue said work, on such part thereof as the Town shall designate. The Town shall thereupon have the power to place such and so many persons as deemed proper, by contract or otherwise, to work at and complete the work herein described and to use such materials, tools, and appliances found upon the work or to procure other materials, tools, and appliances for the completion of the same and charge the expenses of said labor, materials, tools, and appliances to the Contractor; and the expense so charged shall be deducted and paid by the Town out of such money as may be then due, or may at any time thereafter grow due to the Contractor under and by virtue of this agreement, or any part thereof; and in case the expense so charged is less than the sum which would have been payable under this contract if the same had been completed by the Contractor, the Contractor shall be entitled to receive the difference; and in case greater, the Contractor shall pay amount of such excess so due.

#### **17. AWARD OF BIDS**

Contracts and purchases will be made or entered into with the lowest responsible bidder meeting specifications, except as otherwise specified in the invitation. If more than one item is specified in the invitation, the Town of Fairfield reserves the right to determine the low bidder on an individual basis or on the basis of all items included in the Invitation for Bids, unless otherwise expressed by the Town. Additionally, the Town reserves the right to consider other factors in an award, such as the Town's prior experience with a vendor for services previously provided.

The Town of Fairfield reserves the right to award the bid with multiple items:

- to more than one bidder, based on meeting the item(s) specification, cost, availability, or any combination of these criteria;
- to a single bidder who meets the specifications for all items, and offers the best combination of lowest cost, best availability, and broadest product range;
- and may add, subtract or delete any item and/or quantity as deemed in the best interest of the Town.

#### **18. NON-APPROPRIATION**

Award of the project, either partial or in its entirety, is contingent upon funding approval by the applicable boards of the Town of Fairfield, including state and federal agencies.

#### **19. METHOD OF DOING WORK**

The Contractor shall conduct the work in such a manner so as not to interfere with or willfully annoy employees and officials of Town of Fairfield offices, employees of public utilities, residents or the general public.

The Contractor shall employ only competent employees trained/certified/licensed to perform the work.

Where the Town shall notify the Contractor, in writing, that any employee on the work is, in the Town's opinion, incompetent, unfaithful, disorderly and otherwise unsatisfactory, such employee shall be discharged from the work and shall not again be employed on it, except with the consent of the Town.

At the site of the work, the Contractor shall employ at all times while work is in progress personnel who have full authority to act for the Contractor, and shall be acceptable by the Town.

In connection with the execution of the bid, subsequent purchase orders and/or contracts, the Contractor shall not discriminate against any employee or applicant for employment because of age, race, religion, color, sex, or natural origin.

Executive order #11246 inclusive of all its amendments thereto relative to equal employment opportunities and implementation rule and regulations of the Department of Labor and equal employment opportunities are incorporated herein by specific reference.

The Town of Fairfield reserves the right to require the successful bidder(s) to enter into such security arrangements and/or written contracts as deemed necessary by the Town of Fairfield to protect the Town's property, goods, and interests.

#### **20. GUARANTEE**

Equipment, materials, and, or work executed shall be guaranteed for a minimum period of one (1) year against defective material and workmanship. The cost of all labor, materials, shipping charges, and other expenses in conjunction with the replacement of defective equipment, and, or unsatisfactory work, shall be borne by the Contractor.

The Contractor shall upon written notice remedy any and all defects in materials or workmanship resulting from work done under this contract and repair any damage to any structures or property caused by the Contractor incidental to this work, all such repairs to be done in accordance with instructions furnished by the Town and/or Fairfield Public Schools, and paid for by the Contractor.

#### **21. CATALOGUE REFERENCE**

Unless expressly stated otherwise, any and all reference to commercial types, sales, trade names and catalogues are intended to be descriptive only and not restrictive; the intent is to indicate the kind and quality of the articles that will be acceptable. Bids on other equivalent makes, or with reference to other catalogue items will be considered. The bidder is to clearly state exactly what will be furnished. Where possible and feasible, submit an illustration, descriptive material, and/or product sample.

#### **22. HOLD HARMLESS**

Contractor shall defend, indemnify, and hold harmless the Town of Fairfield, its officers, employees, agents or volunteers, from and against any and all claims and demands of any nature for any loss, damage, injury, or cost (including, but not limited to, attorney's fees and costs) which any person may suffer by reason of, or in any way arising out of, this Agreement, unless caused by the sole negligence of the Town.

#### **23. OSHA**

The bidder will certify all equipment complies with all regulations and conditions stipulated under the Williams-Steiger Occupational Safety and Health Act of 1971, as amended. The successful bidder will further certify that all items furnished under this project will conform and comply with Federal and State of Connecticut OSHA standards. The successful bidder will agree to indemnify and hold harmless the Town of Fairfield for any and all damages that may be assessed against the Town.

#### **24. HAZARDOUS MATERIAL**

In the instance that the Contractor discovers unanticipated hazardous material, whether it be in nature or capacity, the Town reserves the right to terminate the Contract and regain possession of the project site.

## **25. LIFE CYCLE COSTING**

Where applicable, Life Cycle Costing will be used as a criterion for awarding bids. This is a method of calculating total cost of ownership of an item over the life of the product, which may include operation and maintenance expenses, transportation, salvage value, and/or disposal costs.

## **26. FEDERAL, STATE, AND LOCAL LAWS**

All applicable Federal, State, and local laws, rules and regulations of all authorities having jurisdiction over the locality of the project shall apply to the contract and are deemed to be included herein. If the total amount of the project, including any current or future change orders, exceeds \$100,000.00 all work is to be done in accordance with Connecticut Department of Labor (CT-DOL) rules and regulations. More information may be obtained from: [www.ctdol.state.ct.us](http://www.ctdol.state.ct.us)

The Davis-Bacon and Related Acts, shall apply to contractors and subcontractors performing on federally funded or assisted contracts in excess of \$2,000 for the construction, alteration, or repair (including painting and decorating) of public buildings or public works. More information may be obtained from: <https://www.dol.gov/whd/govcontracts/dbra.htm>

NOTE: The Town shall apply the most current wage decision applicable at the time of contract award.

The bidder must not discriminate, nor permit discrimination, against any person on the grounds of race, color, national origin, religion, sex, handicap, or veteran status, in their employment practices, in any of their contractual arrangements, in all service and accommodation they offer to the public, and in any of their other business operations.

## **27. CONFLICT OF INTEREST**

No officer, employee, or member of any elective or appointive board, commission, or committee of the Town, whether temporary or permanent, shall have or acquire any financial interest gained from a successful bid, direct or indirect, aggregating more than one hundred dollars (\$100.00), in any project, matter, contract or business within his/her jurisdiction or the jurisdiction of the board, commission, or committee of which he/she is a member. Nor shall the officer / employee / member have any financial interest, direct or indirect, aggregating more than one hundred dollars (\$100.00) in any contract or proposed contract for materials or services to be furnished or used in connection with any project, matter or thing which comes under his/her jurisdiction or the jurisdiction of the board, commission, committee of which he/she is a member.

## **28. UNLESS OTHERWISE NOTED**

It will be assumed that all terms and conditions and specifications will be complied with and will be considered as part of the Bid Proposal.

**Upon Award, all bidding documents (including but not limited to the following; Bid Invitation, Addendum, CT DOL Prevailing Wage Documents, Award Resolution, Town Purchase Order, and AIA Contract or equivalent when applicable) shall be binding on the Contractor and shall be incorporated into a formal legal contract.**

## **29. TAX EXEMPT**

Federal Tax Exemption 06-6001998.

Exempt from State Sales Tax under State General Statutes Chapter 219-Section 12-412 Subsection A.