

Town of Fairhaven

40 Center Street
Fairhaven, MA 02719



Invitation for Bid

Key Dates & Information

Project Name:	Council on Aging & Recreation Roof Replacement
Site Visit Date & Time:	April 17, 2025 at 10:00AM
Last Date for Questions:	May 6, 2025
Due Date & Time for Proposals:	Filed Sub Bids – May 8, 2025 @ 3:00PM General Contractor - May 15, 2025 @ 3:00PM

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SECTION 00020

INVITATION FOR BIDS

The Town of Fairhaven invites sealed bids for the Council on Aging & Recreation Roof Replacement.

The bid documents may be obtained by emailing: kfournier@fairhaven-ma.gov where they are publicly available as of March 26, 2025.

Filed Sub-bids must be received no later than May 8, 2025, at 3:00PM. at the Select Board Office, 40 Center Street, Fairhaven, MA 02719. Bids will immediately be opened publicly and read aloud. General Bids will be opened on May 15, 2025, at 3:00PM p.m. at the same location. Each Bid and filed sub-bid must be accompanied by a bid security consisting of a BID BOND, CASH, or, CERTIFIED CHECK issued by a responsible bank or trust company in the amount of 5% of the bid price.

Pre-Bid Conference and Site Visit will be held at Council on Aging and Recreation, 227 Huttleston Avenue, Fairhaven, MA 02719 on April 17, 2025 at 10:00AM. It is imperative that all prospective bidders have a representative in attendance.

A performance bond in an amount equal to 100 percent of the total amount of the contract price with a surety company qualified to do business in the Commonwealth of Massachusetts will be required for the faithful performance of the contract as well as a labor and materials bond in an amount equal to 100 percent of the total contract price.

All bids for this project are subject to applicable public bidding laws of Massachusetts, including G.L. c.149, § §44A through 44H, as amended.

Attention is directed to the minimum wage rates to be paid as determined by the Commissioner of Labor and Workforce Development and the weekly payroll record submittal requirements under the provisions of Massachusetts General Laws, Chapter 149, Section 26 through 27D inclusive.

Attention is further directed to the requirements of G.L. c.149, §44D requiring submission of a Division of Capital Asset Management & Maintenance (DCAMM) approved Certificate of Eligibility and Update Statement with all bids.

Selection of the contractor will be based upon bidder qualifications, including evidence of past performance in similar projects, and bid price. The contract will be awarded to the bidder deemed by the awarding authority to be the lowest responsible and eligible bidder.

The bidder agrees that its bid shall be good and may not be withdrawn for a period of 30 days, Saturdays, Sundays and legal holidays excluded, after the opening of the bids.

The Town reserves the right to waive any informalities, to accept or reject, in whole or in part any or all bids, or take whatever other action may be deemed to be in the best interest of the Town.

The Town of Fairhaven

SECTION 00100

INSTRUCTIONS TO BIDDERS

1. Receipt and Opening of Bids

The Town of Fairhaven, Massachusetts, herein called the Owner or Awarding Authority, will receive sealed Bids for the project known as **Council on Aging & Recreation Roof Replacement**.

This Project is subject to the public bidding statutes, G.L. c. 149, §§44A-44H, including filed sub-bids for the trades noted herein. Filed sub-bids addressed to the Town of Fairhaven, Town Hall, 40 Center Street Fairhaven, MA 02719, and endorsed "Sub-bid for **Council on Aging & Recreation Roof Replacement**" (Project) and will be received at the Office of the Selectboard until 3 p.m. prevailing time, on May 8, 2025, at which time and place said filed sub-bids will be publicly opened and read aloud.

General bids similarly addressed to the Town of Fairhaven, Town Hall, 40 Center Street Fairhaven, MA 02719 and endorsed "Council on Aging & Recreation Roof Replacement" will be received at the Office of the Selectboard until 3 p.m. prevailing time, on May 15, 2025, at which time and place said bids will be publicly opened and read aloud.

Sub-bids: Every sub-bid shall be for the complete work of the sub-trade as specified, and must be submitted on the Form for Sub-bid furnished by the Awarding Authority, a sample of which is included in these Contract Documents.

1. Every such sub-bid shall be accompanied by a bid deposit in the amount of 5% of the Bid.
2. Every sub-bidder duly filing a sub-bid with the Awarding Authority shall be bound thereby to every general bidder not excluded therein from the use thereof; and any variance from such sub-bid communicated to a general bidder shall be of no effect.
3. Every sub-bid for a sub-trade designated in Item 2 of the FORM FOR GENERAL BID shall be publicly opened and read by the Awarding Authority at the time and place specified in the advertised Invitation to Bid. Not later than the second day, Saturdays, Sundays and legal holidays excluded, prior to the advertised General Bid Deadline, the Awarding Authority shall mail to every person on record as having taken a set of Contract Documents, a list of sub-bidders. The list shall be arranged by sub-trades and listing for each sub-trade the name, address and sub-bid price of every sub-bidder who has submitted a sub-bid which has not been rejected by the Awarding Authority.

Any bid may be withdrawn prior to the above scheduled time for the opening of bids or authorized postponement thereof. Any bid received after the time and date specified will not be considered. The bidder agrees that its bid shall be good and may not be withdrawn for a period of 30 days, Saturdays, Sundays, and legal holidays excluded, after the opening of bids.

2. Location and Work to be Done

The Work consists of Replacement of the roof at the Council of Aging and the Recreational Center, 229 Huttleston Ave, Fairhaven, MA 02719. and all work incidental thereto, in accordance with the Specifications and conceptual plans attached hereto.

Additional drawings showing details in accordance with which the Work is to be done may be furnished by addendum from time to time during the bidding period by the Owner or its Architect/Engineer, and shall then become a part of the Contract Documents.

The Contractor shall furnish all labor, services, materials, equipment, plant, machinery, apparatus, appliances, tools, supplies, and all other things necessary to do all work required for the completion of each item of the Work and as herein specified.

The Work to be done and paid for under any item shall not be limited to the exact extent mentioned or described but shall include all incidental work necessary or customarily done for the completion of that item.

3. Preparation of Bid

Each bid must be submitted on the prescribed form. All blank spaces for bid prices must filled in, in ink or typewritten, in both words and figures.

Each bid must be submitted in a sealed envelope bearing on the outside the name of the bidder, his address, and endorsed with the name of the project as specified in Receipt and Opening of Bids, above. If forwarded by mail, the sealed envelope containing the bid must be enclosed in another envelope addressed as specified in Receipt and Opening of Bids, above.

4. Bid Opening Procedure

The following list of requirements shall apply to each filed bid. Bids not meeting all the requirements for timeliness and security will be rejected; bids not meeting signature and addenda requirements will be rejected prior to checking of bid amounts.

Bids shall be filed at the place and before the time specified in Receipt and Opening of Bids, above.

Properly executed bid security shall be placed in a sealed envelope and shall be attached to the outside of the envelope containing the bid.

Bid signatures will be checked.

All addenda will be through the Beacon Bid portal to all prospective bidders.

The total dollar amount of each bid will be read. All those present at the bid opening may examine all bids after the bid opening.

5. Modification

Any bidder may modify his bid by written communication at any time prior to the scheduled closing time for receipt of bids. Any telegraphic communication must be received by the Owner prior to the closing time, and, provided further, the Owner must be satisfied that a written confirmation of the telegraphic modification over the signature of the bidder was mailed prior to the closing time. If written confirmation is not received within two days from the closing time, no consideration will be given to a telegraphic communication.

The communication shall not reveal the bid price but shall provide the addition or subtraction or other modification so that the final prices or terms will not be known by the Owner until the sealed bid is opened.

6. Ability and Experience of Bidder

No award will be made to any bidder who cannot satisfy the Owner that he has sufficient ability and experience in this class of work and sufficient capital and plant to enable him to prosecute and complete the work successfully within the time named. The Owner's decision or judgment on these matters will be final, conclusive, and binding.

The Owner may make such investigations as it deems necessary, and the bidder shall furnish to the Owner, under oath if so required, all such information and data for this purpose as the Owner may request.

7. Conditions of Work

Each bidder must familiarize himself fully with the conditions relating to the construction of the project and the employment of labor thereon. Failure to do so will not relieve a successful bidder of his obligation to furnish all material and labor necessary to carry out the provisions of his contract. Insofar as possible the Contractor, in carrying out his work, must employ such methods or means as will not cause any interruption of or interference with the work of any other Contractor.

8. Addenda and Interpretations

No interpretation of the meaning of the plans, specifications or other pre-bid documents will be made to any bidder orally. All information given to bidders other than by means of the plans, specifications, or by addenda, as described below, is given informally and shall not be used as the basis of a claim against the Owner.

Any clarification of requirements or requests for additional information by proposers must be made in writing to the Beacon Bid portal <https://www.townofFairhaven.net/bids> and submitted no later than the deadline as referenced under the bid opportunity. Failure of any bidder to receive any such addendum or interpretation shall not relieve such bidder from any obligation under his bid as submitted. All addenda so issued shall become part of the Contract Documents.

9. Security for Faithful Performance

Simultaneously with his delivery of the executed Contract, the Contractor shall furnish a surety bond or bonds as security for faithful performance of this contract and for the payment of all persons performing labor and materials under this contract. The surety on such bond or bonds shall be a surety company qualified to do business under the laws of the Commonwealth and satisfactory to the Owner. The bonds shall remain in force for one year after final acceptance of the work by the Owner, unless the Owner, in writing, releases the Contractor from the obligation sooner.

10. Power of Attorney

Attorneys-in-fact who sign Contract bonds must file with each bond a certified and effectively dated copy of their power of attorney.

11. Laws and Regulations

The bidder's attention is directed to the fact that all applicable State laws, municipal ordinances or bylaws, and the rules and regulations of all authorities having jurisdiction over construction of the project shall apply to the Contract throughout, and they will be deemed to be included in the Contract the same as though written out in full. Attention is directed to Section 00850 and to other applicable sections of the Contract Documents.

12. Liquidated Damages for Failure to Enter into Contract

The successful bidder, upon his failure or refusal to execute and deliver the Contract and bonds required within 10 days after presentation thereof by the Owner, shall forfeit to the Owner, as liquidated damages for such failure or refusal, the security deposited with his/her bid, but the amount forfeited shall not exceed the difference between his/her bid price and the bid price of the next lowest responsible and eligible bidder. In case of death, disability, bona fide clerical or mechanical error of a substantial nature, or other similar unforeseen circumstances affecting the bidder, his/her bid deposit will be returned.

13. Obligation of Bidder

At the time of the opening of bids, each bidder will be presumed to have inspected the site and to have read and to be thoroughly familiar with the Contract Documents (including all addenda). The failure or omission of any bidder to examine any form, instrument, or document shall in no way relieve any bidder from any obligation in respect of his bid.

14. Information Not Guaranteed

All information given in the Contract Documents relating to subsurface and other conditions, natural phenomena, existing pipes, and other structures is from the best sources at present available to the Owner. All such information is furnished only for the information and convenience of bidders and is not guaranteed.

It is agreed and understood that the Owner does not warrant or guarantee that the subsurface or other conditions, natural phenomena, existing pipes, or other structures encountered during construction will be the same as those indicated in the Contract Documents.

If is further agreed and understood that no bidder or Contractor shall use or be entitled to use any of the information made available to him or obtained in any examination made by him in any manner as a basis of or ground for any claim or demand against the Owner or the Architect/Engineer, arising from or by reason of any variance which may exist between the information made available and the actual subsurface or other structures actually encountered during the construction work, except as may otherwise be expressly provided for in the Contract Documents.

15. Bid Security

Each bid and sub-bid must be accompanied by bid security in the form of a certified check, a bid bond, cash, or a treasurer's or cashier's check, payable to the Owner, in the amount of five (5) percent of the value of the bid. Such security of general bidders will be returned to all except the three lowest responsible and eligible bidders within five days, Saturdays, Sundays, and legal holidays excluded, after the opening of bids, and the remaining securities will be returned promptly after the Owner and the accepted bidder have executed the Contract, or if no notice of intent to award has been presented to the selected contractor within 30 days, Saturdays, Sundays and holidays excluded, after the date of the opening of bids, upon demand of the bidder at any time thereafter. Bid security of sub-bidders, except that of the sub-bidders named in the general bids of the three lowest responsible and eligible general bidders and those of the three lowest responsible and eligible sub-bidders for each sub-trade, shall be returned within five (5) days, Saturdays, Sundays and legal holidays excluded. After the opening of general bids, the bid security of the sub-bidders not returned as aforesaid, shall be returned within five (5) days, Saturdays, Sundays and legal holidays excluded, after the execution of the General Contract.

16. Right to Reject Bid

The Owner reserves the right to waive any informalities in bids and to reject any and all bids, should the Owner deem it to be in the public interest to do so.

The Owner may also reject bids which in its sole judgment are either incomplete, conditional, obscure or not responsive or which contain additions not called for, erasures not properly initialed, alterations, or similar irregularities.

17. Time for Completion

The successful general bidder must agree to commence work within ten (10) days of the date of the Notice to Proceed and to fully complete the project within the time limit stated in Section 00300, FORM OF GENERAL BID.

18. Comparison of Bids

Bids will be compared on the basis of prices set forth in the bid forms.

In the event that there is a discrepancy between the lump sum or unit prices written in words and figures, the prices written in words will govern.

19. Award of Contract

The Contract will be awarded to "the lowest responsible and eligible bidder" pursuant to General Laws Chapter 149, Section 44A(2), as amended. Such a bidder shall possess the skill, ability and integrity necessary for the faithful performance of the work, shall be able to furnish labor that can work in harmony with all other elements of labor employed, or to be employed, in the work, and shall otherwise comply with all applicable provisions of law. Contract award shall be subject to availability of an appropriation for funding.

20. Statutes Regulating Competitive Bidding

Any bid which does not comply with the provisions of Massachusetts General Laws Chapter 149, Sections 44A through 44H, as amended, need not be accepted and the Owner may reject every such bid.

21. Wage Rates

Prevailing Wage Rates as determined by the Commissioner of the Department of Labor and Workforce Development under the provision of the Massachusetts General Laws, Chapter 149, Section 26 to 27G, as amended, apply to this project. It is the responsibility of the bidder, before bid opening, to request any additional information on Prevailing Wage Rates for those tradespeople who may be employed for the proposed work under this contract.

State schedules of Prevailing wage rates are included in the Supplemental General Conditions section of the Contract Documents.

22. Contractor Records

The Contractor shall comply with the provisions of Massachusetts General Laws, Chapter 30, Section 39R concerning Contractor records.

23. INSURANCE

The Contractor shall carry and continuously maintain until completion of the Contract, insurance as specified in the General Conditions and in such form as shall protect him performing work covered by this Contract, and the Town of Fairhaven and its employees, agents and officials, from all claims an liability for damages for bodily injury, including accidental death, and for property damage, which may arise from operations under this Contract. The Town shall be named as an additional insured. The Contractor covenants and agrees to hold the Town and its employees, agents and officials harmless from loss or damage due to claims for bodily injury or death and/or property damage arising from, or in connection with, operations under this Contract.

24. PROJECT MANAGER

In addition to a project Architect/Engineer, the Owner may utilize the services of a project manager, whose duties shall be as set forth in the Agreement for Project Manager Services.

25. Certificate of Eligibility and Update Statement

In accordance with G.L. c.149, §44D, every bid and sub-bid must be accompanied by a copy of a certificate of eligibility issued by the Division of Capital Asset Management & Maintenance (DCAMM) showing that the bidder or sub-bidder has the classification and capacity rating to perform the work required. An appropriate update statement must also be provided with each bid. Any bid or sub-bid submitted without an appropriate certificate of eligibility or update statement shall be invalid.

SECTION 00300

FORM OF GENERAL BID

Bid of _____ (hereinafter called "Bidder")*

(___) a corporation, organized and existing under the laws of the state of _____

(___) a partnership

(___) a joint venture

(___) an individual
doing business as _____

To the Town of Fairhaven, Massachusetts (hereinafter called "Owner").

Gentlemen:

A) The undersigned Bidder, in compliance with your invitation for bids for the project known as **Council on Aging & Recreation Roof Replacement**, having examined the plans and specifications and related documents and the site of the proposed work, and being familiar with all of the conditions surrounding the construction of the proposed project including the availability of materials and labor, hereby proposes to furnish all labor, materials, and supplies, and to construct the project in accordance with the contract documents and the plans and specifications within the time set forth below, and at the prices stated below. These prices are to cover all expenses incurred in performing the work required under the contract documents, of which this bid is a part.

The Bidder hereby agrees to commence work on or before the date to be specified in written "Notice to Proceed" of the Owner, and to substantially complete the project within 365 consecutive calendar days thereafter. The Bidder further agrees to pay as liquidated damages the sum of ONE THOUSAND (\$1,000) Dollars for each consecutive calendar day thereafter that the work is not complete as provided in Section 00700 GENERAL CONDITIONS.

*Specify corporation, partnership or individual as applicable.

The undersigned agrees that each of the above named sub-bidders will be used for the work indicated at the amount stated, unless a substitution is made. The undersigned further agrees to pay the premiums for the performance and payment bonds furnished by sub-bidders as requested herein and that all of the cost of all such premiums is included in the amount set forth in Item 1 of this bid.

The undersigned agrees that if he is selected as general contractor, he will promptly confer with the awarding authority on the question of sub-bidders; and that the awarding authority may substitute for any sub-bid listed above a sub-bid filed with the awarding authority by another sub-bidder for the sub-trade against whose standing and ability the undersigned makes no objection; and that the undersigned will use all such finally selected sub-bidders at the amounts named in their respective sub-bids and be in every way as responsible for them and their work as if they had been originally named in this general bid, the total contract price being adjusted to conform thereto.

The undersigned agrees that, if he is selected as general contractor, he will within five days, Saturdays, Sundays and legal holidays excluded, after presentation thereof by the awarding authority, execute a contract in accordance with the terms of this bid and furnish a performance bond and also a labor and materials or payment bond, each of a surety company qualified to do business under the laws of the commonwealth and satisfactory to the awarding authority and each in the sum of the contract price, the premiums for which are to be paid by the general contractor and are included in the contract price; provided, however, that if there is more than one surety company, the surety companies shall be jointly and severally liable.

The undersigned hereby certifies that he is able to furnish labor that can work in harmony with all other elements of labor employed or to be employed on the work; that all employees to be employed at the worksite will have successfully completed a course in construction safety and health approved by the United States Occupational Safety and Health Administration that is at least 10 hours in duration at the time the employee begins work and who shall furnish documentation of successful completion of said course with the first certified payroll report for each employee; and that he will comply fully with all laws and regulations applicable to awards made subject to section 44A.

The undersigned further certifies under the penalties of perjury that this bid is in all respects bona fide, fair and made without collusion or fraud with any other person. As used in this subsection the word "person" shall mean any natural person, joint venture, partnership, corporation or other business or legal entity. The undersigned further certifies under penalty of perjury that the said undersigned is not presently debarred from doing public construction work in the commonwealth under the provisions of section twenty-nine F of chapter twenty-nine, or any other applicable debarment provisions of any other chapter of the General Laws or any rule or regulation promulgated thereunder.

The Bidder understands that the Owner reserves the right to reject any or all bids and to waive any informalities in the bidding.

The Bidder agrees that this bid shall be good and may not be withdrawn for a period of 30 days, Saturdays, Sundays and legal holidays excluded, after the opening of bids.

Bid security is attached in the sum of five percent (5%) of the total bid in accordance with the conditions of Section 00100 INSTRUCTIONS TO BIDDERS. The bid security may become the property of the Owner in the event the contract and bonds are not executed within the time set forth above.

The selected Contractor shall furnish a performance bond and a payment bond in an amount at least equal to one hundred percent (100%) of the contract price in accordance with Section 00610 PERFORMANCE BOND, Section 00620 PAYMENT BOND, and as stipulated in Section 00700 GENERAL CONDITIONS and any supplemental general conditions thereto.

The undersigned offers the following information as evidence of his qualifications to perform the work as bid upon according to all the requirements of the plans and specifications.

1. Have been in business under present name for ____ years.
2. The names and addresses of all persons interested in the bid (if made by a partnership or corporation) as principals, are as follows:

(attach supplementary list if necessary)

3. The bidder is requested to state below what work of a similar character to that included in the proposed contract he has done, and give references that will enable the Owner to judge his experience, skill and business standing (add supplementary page if necessary).

<u>Completion Date</u>	<u>Project Name</u>	<u>Contract Amount</u>	<u>Design Architect</u>	<u>Reference Name</u>	<u>Telephone No.</u>
----------------------------	-------------------------	----------------------------	-----------------------------	---------------------------	--------------------------

a. _____

b. _____

c. _____

d. _____

e. _____

f. _____

Pursuant to M.G.L. C. 62C, Sec. 49A, I certify hereby in writing, under penalties of perjury, that the within named Bidder/Contractor has complied with all laws of the commonwealth relating to taxes, reporting of employees and contractors, and withholding and remitting of child support.

The undersigned bidder hereby certifies, under pains and penalties of perjury, that the foregoing bid is based upon the payment to laborers to be employed on the project of wages in an amount no less than the applicable prevailing wage rates established for the project by the Massachusetts Department of Labor and Workforce Development. The undersigned bidder agrees to indemnify the Awarding Authority for, from and against any loss, expense, damages, actions or claims, including any expense incurred in connection with any delay or stoppage of the project work arising out of or as a result of (1) the failure of the said bid to be based upon the payment of the said applicable prevailing wage rates or (2) the failure of the bidder, if selected as the contractor, to pay laborers employed on the project the said applicable prevailing wage rates.

Respectfully submitted:

Date: _____

By: _____

(Signature)

(Type Name of Bidder)

(Title)

(Business Address)

(City and State)

(Telephone Number)

SECTION 00400

FORM OF SUB-BID

To all General Bidders Except those Excluded:

A. The Undersigned proposes to furnish all labor and materials required for completing, in accordance with the hereinafter described plans, specifications and addenda, all the work specified in Section No. _____ of the specifications and in any plans specified in such section, prepared by _____, for the contract sum of _____ dollars (\$ _____).

For Alternate No. _____; Add \$ _____ Subtract \$ _____

Alternate No. _____; Add \$ _____ Subtract \$ _____

B. This sub-bid includes addenda numbered _____.

C. This sub-bid

may be used by any general bidder except:

may only be used by the following general bidders:

[To exclude general bidders, insert "X" in one box only and fill in blank following that box. Do not answer C if no general bidders are excluded.]

D. The undersigned agrees that, if he is selected as a sub-bidder, he will, within five days, Saturdays, Sundays and legal holidays excluded, after presentation of a subcontract by the general bidder selected as the general contractor, execute with such general bidder a subcontract in accordance with the terms of this sub-bid, and contingent upon the execution of the general contract, and, if requested so to do in the general bid by such general bidder, who shall pay the premiums therefor, furnish a performance and payment bond of a surety company qualified to do business under the laws of the commonwealth and satisfactory to the awarding authority, in the full sum of the subcontract price.

E. The names of all persons, firms and corporations furnishing to the undersigned labor or labor and materials for the class or classes or part thereof of work for which the provisions of the section of the specifications for this sub-trade require a listing in this paragraph, including the undersigned if customarily furnished by persons on his own payroll and in the absence of a contrary provision in the specifications, the name of each such class of work or part thereto and the bid price for such class of work or part thereof are:

Name	Class of Work	Bid Price
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

[Do not give bid price for any class or part thereof furnished by undersigned.]

F. The undersigned agrees that the above list of bids to the undersigned represents bona fide bids based on the hereinbefore described plans, specifications and addenda and that, if the undersigned is awarded the contract, they will be used for the work indicated at the amounts stated, if satisfactory to the awarding authority.

G. The undersigned further agrees to be bound to the general contractor by the terms of the hereinbefore described plans, specifications, including all general conditions stated therein, and addenda, and to assume toward him all the obligations and responsibilities that he, by those documents, assumes toward the owner.

H. The undersigned offers the following information as evidence of his qualifications to perform the work as bid upon according to all the requirements of the plans and specifications:

1. Have been in business under present business name _____ years.
2. Ever failed to complete any work awarded: _____
3. List one or more recent buildings with names of the general contractor and architect on which you served as a subcontractor for work of similar character as required for the above-named building.

Building	Architect	General Contractor	Amount of Contract
(a) _____	_____	_____	_____
(b) _____	_____	_____	_____
(c) _____	_____	_____	_____

4. Bank reference _____

I. The undersigned hereby certifies that he is able to furnish labor that can work in harmony with all other elements of labor employed or to be employed on the work; that all employees to be employed at the worksite will have successfully completed a course in construction safety and health approved by the United States Occupational Safety and Health Administration that is at least 10 hours in duration at the time the employee begins work and who shall furnish documentation of successful completion of said course with the first certified payroll report for each employee; and that he will comply fully with all laws and regulations applicable to awards of subcontracts subject to section 44F.

The undersigned further certifies under penalties of perjury that this sub-bid is in all respects bona fide, fair and made without collusion or fraud with any other person. As used in this subsection the word "person" shall mean any natural person, joint venture, partnership, corporation or other business or legal entity. The undersigned further certifies under penalty of perjury that the said undersigned is not presently debarred from doing public construction work in the commonwealth under the provisions of section twenty-nine F of chapter twenty-nine, or any other applicable debarment provisions of any other chapter of the General Laws or any rule or regulation promulgated thereunder.

Date: _____

(Name of Sub-bidder)

By: _____
(Title and Name of Person
Signing Bid)

(Business Address)

(City and State)

SECTION 00500

AGREEMENT

THIS AGREEMENT made this _____ day of _____
in the year Two Thousand and ____, between _____, with a usual place
of business at _____, hereinafter called the
CONTRACTOR, and the Town of Fairhaven, acting by its _____, with a usual place of business
at _____ Street, _____, MA _____, hereinafter called the OWNER.

The CONTRACTOR and the OWNER, for the consideration hereinafter named, agree as follows:

1. Scope of Work

The Contractor shall furnish all labor, materials, equipment and insurance to perform all work required for the project known as the _____ Project, in strict accordance with the Contract Documents and all related Drawings and Specifications. The said Documents, Specifications, Drawings and any supplemental general conditions are incorporated herein by reference and are made a part of this Agreement.

2. Contract Price

The Owner shall pay the Contractor for the performance of this Agreement, subject to additions and deductions provided herein, in current funds, the sum of _____.

3. Commencement and Completion of Work and Liquidated Damages

It is agreed that time is of the essence of this Agreement. The Contractor shall commence and prosecute the work under this Agreement upon execution hereof and shall complete the work on or before _____.

- A. Definition of Term: The Term "Substantial completion" shall mean the date certified by the Owner when construction is sufficiently complete, in accordance with the Contract Documents, so the Owner may occupy the project, or designated portion(s) thereof, for the use for which it is intended.
- B. Time as Essential Condition: It is understood and agreed that the commencement of and substantial completion of the work are essential conditions of this Agreement. It is further agreed that time is of the essence for each and every portion of the Contract Documents wherein a definite and certain length of time is fixed for the performance of any act whatsoever; and where under the Contract Documents any additional time is allowed for the completion of any work, the new time fixed by such extension shall be of the essence of this Agreement. It is understood and agreed that the times for the completion of the work are reasonable, taking

into consideration the average climatic range and usual industrial conditions prevailing in this locality.

- C. Progress and Completion: Contractor shall commence work promptly upon execution of this Agreement and shall prosecute and complete the work regularly, diligently and uninterruptedly at such a rate of progress as will insure Substantial Completion within the stipulated number of calendar days.
- D. Liquidated Damages: It is expressly agreed between the Contractor and the Owner that the Contractor will be responsible for all damages which may arise due to the Contractor's failure to substantially complete the work within the above specified time. If the Contractor shall neglect, fail or refuse to complete the work within the specified number of days, or any extension thereof authorized by the Owner, Contractor agrees, as a part of the consideration for the execution of this Contract by the Owner, to pay the Owner the amount specified herein, not as a penalty, but as liquidated damages for such breach of contract as hereinafter set forth, for each and every calendar day, excluding Saturdays, Sundays and legal Holidays, that the Contractor shall be in default of Substantial completion after the date specified in the Agreement. Due to the impracticability and extreme difficulty of fixing and ascertaining the actual damages the Owner would in such event sustain, said amount is agreed to be the amount of damages which the Owner would sustain, and said amount shall be retained from time to time by the Owner from current periodic estimates. The amount of liquidated damages shall be _____ per day.

4. Performance of the Work

- A. Direction of the Work: The Contractor shall supervise and direct the Work, using his best skills and attention which shall not be less than such state of skill and attention generally rendered by the contracting profession for projects similar to the Project in scope, difficulty and location. The Contractor shall maintain adequate supervisory personnel at the project site during the performance of the Work. He shall be solely responsible for all construction means, methods, techniques, sequences and procedures and for coordinating all portions of the Work under the Agreement.
- B. Responsibility for the Work: (1) The Contractor shall be responsible to the Owner for the acts and omissions of his employees, Subcontractors and their agents and employees, and other persons performing any of the Work under a contract with the Contractor. This obligation shall also extend to the presence on the Site of suppliers of materials or equipment, their employees, contractors, and agents engaged in the work.

(2) The Contractor shall not be relieved from his obligations to perform the Work in accordance with the Contract Documents either by the activities or duties of the Owner in its administration of the Agreement, or by inspections, tests or approvals required or performed by persons other than the Contractor.
- C. Permits and Fees: Unless otherwise expressly provided, the Contractor shall secure and pay for all permits and fees, licenses and inspections necessary for the proper execution and completion of the Work which are customarily secured after execution of the Agreement and which are legally required at the time the bids are received, and the same shall at all times be the property of the Owner and shall be delivered to the Owner upon completion of the Project.

- D. Notices, Compliance With Laws: (1) The Contractor shall give all notices and comply with all federal, state and local laws, ordinances, rules, regulations and lawful orders of any public authority bearing on the performance of the Work. The Contractor shall provide the Owner with reproductions of all permits, licenses and receipts for any fees paid. The Owner represents that it has disclosed to the Contractor all orders and requirements known to the Owner of any public authority particular to this Agreement.
- (2) If the Contractor observes that any of the Contract Documents are at variance with applicable laws, statutes, codes and regulations in any respect, he shall promptly notify the Owner in writing, and any necessary changes shall be accomplished by appropriate modification.
- (3) If the Contractor performs any Work which he knows or should know is contrary to such laws, ordinances, rules and regulations, and without such notice to the Owner, he shall assume full responsibility therefor and shall bear all costs attributable thereto.
- (4) In the performance of the Work, the Contractor shall comply with all applicable federal, state and local laws and regulations including those relating to workplace and employee safety. The Contractor shall notify the Owner immediately of any conditions at the place of the work which violate said laws and regulations and shall take prompt action to correct and eliminate any such violations.
- E. Project Superintendent: The Contractor shall employ a competent superintendent and necessary assistants who shall be in attendance at the Project site at all times during the progress of the Work. The superintendent shall represent the Contractor and all communications given to the superintendent shall be as binding as if given to the Contractor. Important communications shall be confirmed in writing. Other communications shall be so confirmed on written request in each case.
- F. Progress Schedule: The Contractor, immediately after being awarded the Contract, shall prepare and submit for the Owner's information an estimated progress schedule for the Work. The progress schedule shall be related to the entire Project to the extent required by the Contract Documents, and shall provide for expeditious and practicable execution of the Work.
- G. Drawings, Specifications and Submittals:
- (1) The Contractor shall maintain at the site for the Owner one record copy of all Drawings, Specifications, Addenda, Change Orders and other Modifications, and "As-Built" Drawings and Specifications in good order and marked currently to record all changes made during construction, and approved Shop Drawings, Product Data and Samples. These shall be delivered to the Owner upon completion of the Work.
- (2) By approving and submitting Shop Drawings, Product Data and Samples, the Contractor represents that he has determined and verified all materials, field measurements, and field construction criteria related thereto, or will do so, and that he has checked and coordinated the information contained within such submittals with the requirements of the Work and of the Contract Documents.

(3) The Contractor shall not be relieved of responsibility for any deviation from the requirements of the Contract Documents by the Owner's approval of Shop Drawings, Product Data or Samples unless the Contractor has specifically informed the Owner in writing of such deviation at the time of submission and the Owner has given written approval to the specific deviation. The Contractor shall not be relieved from responsibility for errors or omissions in the Shop Drawings, Product Data or Samples by the Owner's approval thereof.

(4) The Contractor shall direct specific attention, in writing or on resubmitted Shop Drawings, Product Data or Samples, to revisions other than those requested by the Owner on previous submittals.

(5) No portion of the Work requiring submission of a Shop Drawing, Product Data or Sample shall be commenced until the submittal has been approved by the Owner. All such portions of the Work shall be in accordance with approved submittals.

H. Protection of the Work and Owner's Property: The Contractor shall at all times safely guard the Owner's property from injury or loss in connection with this Agreement. He shall at all times safely guard and protect his own work, and that of adjacent property from damage. The Contractor shall replace or make good any such damage, loss or injury. The Contractor shall clean the work area and restore it to its original condition upon completion of the work.

I. Quality of the Work: The Contractor shall perform the work in a good, workmanlike manner. The Contractor hereby guarantees that the entire work constructed by him under the Agreement will meet fully all requirements thereof as to quality of workmanship and materials. The Contractor hereby agrees to make at his own expense any repairs or replacements made necessary by defects in materials or workmanship supplied to him that become evident within one (1) year after the date of the final payment, and to restore to full compliance with the requirements set forth herein any part of the work constructed hereunder, which during said one (1) year period is found to be deficient with respect to any provisions of the Contract Documents. The Contractor also agrees to hold the Owner harmless from claims of any kind arising from damage due to said defects. The Contractor shall make all repairs and replacements promptly upon receipt of written orders for same from the Owner. If the Contractor fails to make the repairs and replacements promptly, the Owner may do the work and the Contractor shall be liable to the Owner for the cost thereof.

J. Warranty: The Contractor guarantees to Owner that all materials incorporated into the work will be new unless otherwise specified or agreed. Prior to final payment, the Contractor shall deliver to the Owner all manufacturers' warranties, together with such endorsements or assignments as are necessary to ensure to the Owner the full rights and benefits of such warranties.

5. Affirmative Action/Equal Employment Opportunity

The Contractor is directed to comply with all applicable State Laws, Ordinances, Bylaws, and rules and regulations regarding affirmative action/equal employment opportunity requirements. Failure of the Contractor to comply with any such law, rule or regulation shall constitute grounds for the Owner to terminate the Agreement.

6. Site Information Not Guaranteed; Contractor's Investigation

All information given in the Contract Documents relating to subsurface and other conditions, natural phenomena, existing pipes, and other structures is from the best sources at present available to the Owner. All such information is furnished only for the information and convenience of the Contractor and is not guaranteed.

It is agreed and understood that the Owner does not warrant or guarantee that the subsurface or other conditions, natural phenomena, existing pipes, or other structures encountered during construction will be the same as those indicated in the Contract Documents.

Contractor has familiarized himself with the nature and extent of the Contract Documents, work, locality, and with all local conditions and federal, state, and local laws, rules, ordinances, and regulations that in any manner may affect costs, progress, or performance of the work. Contractor has made, or has caused to be made, examinations, investigations, and tests and studies of such reports and related data in addition to those referred to in the paragraph above as he deems necessary for the performance of the work at the Contract Price, within the Contract Time, and in accordance with the other Terms and Conditions of the Contract Documents; and no additional examinations, tests, investigations, reports, and similar data are or will be required by the Contractor for such purposes.

Contractor has correlated the results of all such observations, examinations, investigations, tests, reports, and data with the Contract Documents. Contractor has given the Owner written notice of all conflicts, errors, or discrepancies that he has discovered in the Contract Documents, and the resolution thereof by the Owner is acceptable to the Contractor.

It is further agreed and understood that the Contractor shall not use or be entitled to use any of the information made available to him or obtained in any examination made by him in any manner as a basis of or ground for any claim or demand against the Owner, arising from or by reason of any variance which may exist between the information made available and the actual subsurface conditions or other conditions or structures actually encountered during the construction work, except as may otherwise be expressly provided for in the Contract Documents.

7. Project Architect or Engineer

There ___ is ___ is not a project architect-engineer for this project who is _____. Except as otherwise indicated in the Contract Documents, the Architect/Engineer shall be a representative of the Owner and the Contractor shall direct all communications, questions and comments on the work and the performance thereof to the Architect/Engineer. Except as otherwise provided, the Architect/Engineer shall have all the authority of the Owner set forth in the Contract Documents. In general, the Architect/Engineer shall have the authority to review the performance of the work, reject work which is defective or otherwise does not comply with the Contract Documents and to order the Contractor to remedy defective work and take such actions which are necessary to make the work conform to the Contract Documents.

8. Wage Rates

Prevailing Wage Rates as determined by the Commissioner of the Department of Labor and Workforce Development under the provisions of Massachusetts General Laws, Chapter 149, Section 26 to 27G, as amended, apply to this project. It is the responsibility of the Contractor to provide the Town with certified payrolls and to comply with all requirements of the above-cited statutes.

The schedules of prevailing wage rates are included in the Contract Documents.

9. Payments to the Contractor

Within fifteen (15) days after receipt from the Contractor of a proper and satisfactory periodic estimate requesting payment of the amount due for the preceding month, the Owner shall have fifteen (15) days to make payment for:

- A. The work performed during the preceding month.
- B. The materials not incorporated in the Work but delivered and suitably stored at the site (or at some location agreed upon in writing) to which the Contractor has title, or to which a Subcontractor has title and has authorized the Contractor to transfer title to the Owner.
- C. Less the following retention items:
 - 1. A retention based on an estimate of the fair value of the Owner's claims against the Contractor.
 - 2. A retention for direct payments to Subcontractors, if any, based on demands for same in accordance with the provisions of Section 39F of Chapter 30 of the General Laws.
 - 3. A retention not exceeding five percent (5%) of the approved amount of the periodic payment.
- D. After the receipt of a periodic estimate requesting final payment and within sixty-five (65) days after the Contractor fully completes the Work, or substantially completes the Work so that the value of the Work remaining to be done is, on the estimate of the Owner, less than 1% of the original Contract Price, or substantially completes the Work and the Owner takes possession or occupancy, whichever occurs first, the Owner shall pay the Contractor the entire balance due on the Contract less:
 - 1. A retention based on an estimate of the fair value of the Owner's claims against the Contractor and of the cost of completing the incomplete and unsatisfactory items of work.
 - 2. A retention for direct payments to Subcontractors, if any, based on demands of same in accordance with the provisions of Section 39F of Chapter 30 of the General Laws, or based on the record of payments by the Contractor to the Subcontractors under this Contract if such record of payment indicates that the Contractor has not paid Subcontractors as provided in Section 39F of Chapter 30 of the General Laws.

If the Owner fails to make payment as herein provided, there shall be added to each such payment, daily interest at the rate of 3 percentage points above the rediscount rate than charged by the Federal Reserve Bank of Boston, commencing on the first day after said payment is due, and continuing until the payment is delivered or mailed to the Contractor; provided that no interest shall be due, in any event, on the amount of a periodic estimate for final payment until fifteen (15) days after receipt of such a periodic estimate by the Owner as provided in the first paragraph of this Article. The Contractor agrees

to pay to each subcontractor a portion of any such interest paid in accordance with the amount due each subcontractor.

The Owner may make changes in any periodic estimate submitted by the Contractor and the payment due on said periodic estimate shall be computed in accordance with the changes so made, and such changes and any requirements for a corrected periodic estimate shall not affect the due date for the periodic payment or the date for the commencement of interest charges on the amount of the periodic payment computed in accordance with the changes made, as provided herein; provided further, that the Owner may, within seven (7) days after receipt, return to the Contractor for correction, any periodic estimate which is not in acceptable form or which contains computations not arithmetically correct, and in that event, the date of receipt of such periodic estimate shall be the date of receipt of the corrected periodic estimate in proper form and with arithmetically correct computations. The date of receipt of a periodic estimate received on a Saturday shall be the first working day thereafter.

E. Changes in the Work: No changes in the work covered by the approved Contract Documents shall be made without prior written approval of the Owner. Charges or credits for the work covered by the approved change shall be determined by one or more, or a combination of the following methods:

- (a) Unit bid prices previously approved.
- (b) An agreed lump sum.
- (c) The actual cost of:
 - (1) Labor.
 - (2) Materials entering permanently into the work.
 - (3) The ownership or rental cost of construction equipment during the time of use on the extra work.
 - (4) Power and consumable supplies for the operation of power equipment.
 - (5) Wages to be paid.

To the cost under (c) there shall be added a fixed fee to be agreed upon but not to exceed fifteen percent (15%) of the actual cost of work. The fee shall be compensation to cover the cost of supervision, overhead, bond, profit and any other general expenses.

F. Claims for Additional Costs: If the Contractor wishes to make a claim for an increase in the Contract Sum, he shall give the Owner written notice thereof within twenty days after the occurrence of the event giving rise to such claim. This notice shall be given by the Contractor before proceeding to execute the Work, except in an emergency endangering life or property. No such claim shall be valid unless so made. Any change in the Contract Sum resulting from such claim shall be authorized by Change Order.

The Contractor hereby agrees that the Contractor shall have no claim for damages of any kind against the Town on account of any delay in the commencement or performance of the work and/or any hindrance, delay or suspension of any portion of the work including, but not limited to, any claims or damages on account of having to perform out of sequence work, claims for damages on account of loss of production or other interference with the work whether such delay is caused by the Town or otherwise, except as and to the extent expressly provided under G.L. c.30, §390 in the case of written orders by the Town. The Contractor acknowledges that the Contractor's sole remedy for any such claim will be an extension of time as provided herein.

10. Final Payment, Effect

The acceptance of final payment by the Contractor shall constitute a waiver of all claims by the Contractor arising under the Agreement.

11. Contract Documents

The Contract Documents consist of the following, together with this Agreement:

- Invitation to Bid
- Instructions to Bidders
- This Contract Form
- Bid Form
- Performance Bond
- Labor & Materials Payment Bond
- Non-Collusion Certificate
- Tax Compliance Certificate
- Clerk's Certificate of Corporate Vote
- Certificate of Insurance
- General Conditions
- Supplementary General Conditions
- General Requirements
- Specifications and Addenda
- Contract Drawings
- Schedule of Prevailing Wages
- (Strike out any inapplicable item)

12. Terms Required By Law

This Agreement shall be considered to include all terms required to be included in it by the Massachusetts General Laws, and all other laws, as though such terms were set forth in full herein.

13. Indemnification

The Contractor shall indemnify and hold harmless the Owner from and against any and all claims, damages, losses, and expenses, including attorney's fees, arising out of the performance of this Agreement when such claims, damages, losses, and expenses are caused, in whole or in part, by the acts, errors, or omissions of the Contractor or his employees, agents, subcontractors or representatives.

14. Insurance

The Contractor shall purchase and maintain such insurance as will protect both the Owner and the Contractor from claims which may arise under the Agreement, including operations performed for the named insured by independent contractors and general inspection thereof by the named insured. In addition, the Contractor shall require its subcontractors to maintain such insurance. Coverage shall be provided for:

- .1 claims under workers' or workmen's compensation, disability benefit and other applicable employee benefit acts;
- .2 claims for damages because of bodily injury, occupational sickness or disease, or death of Contractor's employees;
- .3 claims for damages because of bodily injury, sickness or disease, or death of any person other than Contractor's employees;
- .4 claims for damages insured by usual personal injury liability coverage which are sustained (1) by any person as a result of an offense directly or indirectly related to the employment of such person by the Contractor, or (2) by any other person;
- .5 claims for damages, including damages to the Work itself, because of injury to or destruction of tangible property, including loss of use resulting therefrom; and
- .6 claims for damages because of bodily injury or death of any person or property damage arising out of the ownership, maintenance or use of any motor vehicle.
- .7 claims involving contractual liability applicable to the Contractor's obligations under Article 13.

The limits of liability for coverage required under the preceding paragraph shall be as Specified in the Supplemental Conditions.

Except for Workmen's Compensation, all liability coverage shall name the Town as an additional insured and shall provide for 30 days prior written notice to the Town of any modification or termination of coverage provided thereby. The Contractor shall provide the Owner with appropriate certificate(s) of insurance evidencing compliance with this provision prior to the commencement of any work under this Agreement.

15. Notice

All notices required to be given hereunder shall be in writing and delivered to, or mailed first class to, the parties' respective addresses stated above. In the event that immediate notice is required, it may be given by telephone or facsimile, but shall, to the extent possible, be followed by notice in writing in the manner set forth above.

16. Termination

- A. Each party shall have the right to terminate this Agreement in the event of a failure of the other party to comply with the terms of the Agreement. Such termination shall be effective upon seven days' notice to the party in default and the failure within that time of said party to cure its default.
- B. The Owner shall have the right to terminate the Agreement without cause, upon ten (10) days' written notice to the Contractor. In the event that the Agreement is terminated pursuant to this subparagraph, the Contractor shall be reimbursed in accordance with the Contract Documents for all Work performed up to the termination date, and for all materials or equipment not incorporated in the Work, but delivered and suitably stored at the site. Payment for material or equipment stored at the site shall be conditioned upon submission by the Contractor of bills of sale or such other evidence as is satisfactory to Owner to establish the Owner's title to such material or equipment or otherwise protect the Owner's interests.

17. Miscellaneous

- A. Royalties and Patents: The Contractor shall pay all royalties and license fees. He shall defend all suits or claims for infringement of any patent rights and shall save the Owner harmless from loss on account thereof, except that the Owner shall be responsible for all such loss when a particular design, process or the product of a particular manufacturer or manufacturers is specified; but if the Contractor believes or has reason to believe that the design, process or product specified is an infringement of a patent, he shall be responsible for such loss unless he promptly gives such information to the Owner, and thereafter the Owner insists on the use of the design, process or products specified.
- B. Assignment: The Contractor shall not assign or transfer any of its rights, duties or obligations under this Agreement without the written approval of the Owner.
- C. Governing Law: This Agreement shall be governed by and construed in accordance with the law of the Commonwealth of Massachusetts.
- D. By its signature hereon, the Contractor certifies, under the pains and penalties of perjury, that it has complied with all laws of the Commonwealth of Massachusetts relating to taxes, reporting of employees and contractors, and withholding and remitting child support.

[Remainder of page intentionally blank.]

AGREED:

TOWN OF _____, MASSACHUSETTS
(Owner)

By its _____

CONTRACTOR: _____

By _____

(Name)

(Title)

(Address)

(City and State)

Approved as to Form:

By _____
(Owner's Counsel)

In accordance with G.L. c.44, Section 31C, this is to certify that an appropriation in the amount of this contract is available therefor and that the _____ has been authorized to execute the contract and approve all requisitions and change orders.

By _____
(Owner's Accountant)

(Name)

CERTIFICATE OF VOTE
(to be filed if Contractor is a Corporation)

I, _____, hereby certify that I am the duly qualified
(Secretary of the Corporation)

and acting Secretary of _____ and I further certify that a meeting of the

(Name of Corporation)

Directors of said Company, duly called and held on _____, at which
(Date of Meeting)

all Directors were present and voting, the following vote was unanimously passed:

VOTED: To authorize and empower

Anyone acting singly, to execute Forms of General Bid, Contracts or Bonds on behalf of the Corporation.

I further certify that the above vote is still in effect and has not been changed or modified in any respect.

By: _____
(Secretary of Corporation)

A True Copy:

Attest: _____
(Notary Public)

My Commission Expires: _____
(Date)

**CERTIFICATIONS REQUIRED BY LAW
FOR PUBLIC CONSTRUCTION CONTRACTS**

You must COMPLETE and SIGN the following certifications. You must also print, at the bottom of this page, the name of the contractor for whom these certifications are submitted.

TAX COMPLIANCE

Pursuant to Chapter 62C of the Massachusetts General Laws, Section 49A(b), I, the undersigned, authorized signatory for the below named contractor, do hereby certify under the pains and penalties of perjury that said contractor has complied with all laws of the Commonwealth of Massachusetts relating to taxes, reporting of employees and contractors, and withholding and remitting child support.

NON-COLLUSION

The undersigned certifies under the penalties of perjury that this bid is in all respects bona fide, fair and made without collusion or fraud with any other person. As used in this subsection the word "person" shall mean any natural person, joint venture, partnership, corporation or other business or legal entity.

PUBLIC CONTRACTOR DEBARMENT

The undersigned certifies under penalty of perjury that the below named contractor is not presently debarred from doing public construction work in the commonwealth under the provisions of section twenty-nine F of chapter twenty-nine, or any other applicable debarment provisions of any other chapter of the General Laws or any rule or regulation promulgated thereunder.

OSHA TRAINING

Pursuant to G.L. c. 30, §39S, the Contractor hereby certifies under penalties of perjury as follows:

- (1) Contractor is able to furnish labor that can work in harmony with all other elements of labor employed or to be employed in the work;
- (2) All employees to be employed at the worksite will have successfully completed a course in construction safety and health approved by the United States Occupational Safety and Health Administration that is at least 10 hours in duration at the time the employee begins work and they shall furnish documentation of successful completion of said course with the first certified payroll report for each employee; and
- (3) All employees to be employed in the work subject to this contract have successfully completed a course in construction safety and health approved by the United States Occupational Safety and Health Administration that is at least 10 hours in duration.

COMPLETE AND SIGN BELOW:

Authorized Person's Signature

Date

Print Name & Title of Signatory

Name of Contractor

SECTION 00610

PERFORMANCE BOND

KNOW ALL MEN BY THESE PRESENTS: That we _____
(Name of Contractor)

a _____ hereinafter called "Principal" and
(Corporation, Partnership, Joint Venture or Individual)

_____ of _____, State of _____
(Surety) (City & State)

_____ hereinafter called the "Surety" and licensed by the State Division of Insurance to do business under the laws of the Commonwealth of Massachusetts, are held and firmly bound to the Town of Fairhaven, Massachusetts, hereinafter called "Owner", in the penal sum of _____ Dollars (\$ _____) in lawful money of the United States, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators and successors, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION is such that Whereas, the Principal entered into a certain contract with the Owner, dated the _____ day of _____, 20__ (the "Construction Contract"), for the construction described as follows: _____

NOW, THEREFORE, if the Principal shall well, truly and faithfully perform its duties, all the undertakings, covenants, terms, conditions, and agreements of the Construction Contract during the original term thereof, and any extensions thereof which may be granted by the Owner, with or without notice to the Surety, and if he shall satisfy all claims and demands incurred under the Construction Contract, and shall fully indemnify and save harmless the Owner from all costs and damages which it may suffer by reason of failure to do so, and shall reimburse and repay the Owner all outlay and expense which the Owner may incur in making good any default, then this obligation shall be void; otherwise to remain in full force and effect.

PROVIDED, FURTHER, that the Surety's obligation under this Bond shall arise after (1) the Owner has declared the Principal in default of the Construction Contract or any provision thereof or (2) has declared that the Principal has failed, or is otherwise unable or unwilling, to execute the work consistent with, and in conformance to, the Construction Contract (collectively referred to as a "Contractor Default"). The determination of a Contractor Default shall be made solely by the Owner. The Owner need not terminate the Construction Contract to declare a Contractor Default or to invoke its rights under this Bond.

When the Surety's obligation under this Bond arises, the Surety, at its sole expense and at the consent and election of the Owner, shall promptly take one of the following steps: (1) arrange for the Principal to perform and complete the work of the Construction Contract; (2) arrange for a contractor other than the Principal to perform and complete the work of the Construction Contract; (3) reimburse the Owner, in a manner and at such time as the Owner shall decide, for all costs and expenses incurred by the Owner in performing and completing the work of the Construction Contract. Surety will keep Owner reasonably informed of the progress, status and results of any investigation of any claim of the Owner.

If the Surety does not proceed as provided in this Bond with due diligence and all deliberate speed, the Surety shall be deemed to be in default of this Bond, and the Owner shall be entitled to enforce any remedy available to the Owner.

After the Surety's obligation under this Bond arises, the Surety is obligated, to the limit of the amounts of this Bond, for (1) the correction of defective work and completion of the Construction Contract; (2) additional design, professional services, and legal costs, including attorneys' fees, resulting from the Contractor Default or from the default of the Surety under this Bond; (3) any additional work beyond the Construction Contract made necessary by the Contractor Default or default of the Surety under this Bond; (4) indemnification obligation of the Principal, if any, as provided in the Construction Contract; and (5) liquidated damages as provided in the Construction Contract, or if none are so specified, actual and foreseeable consequential damages resulting from the Contractor Default or default of the Surety under this Bond.

Any proceeding, legal or equitable, under this Bond shall be instituted in any court of competent jurisdiction in the Commonwealth of Massachusetts.

The Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the Construction Contract or to the work to be performed thereunder or the specifications accompanying the same shall in any way affect its obligation on this Bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the Construction Contract or to the work or to the specifications.

IN WITNESS WHEREOF, this instrument is executed in ____ () counterparts, each one of which shall be deemed an original, this the _____ day of _____, 20__.

ATTEST:

		Principal
_____	By	_____
(Principal Secretary)		_____

		(Address-Zip Code)

_____ (SEAL)
 Witness as to Principal

 (Address-Zip Code)

ATTEST:

		Surety
_____	By	_____
		(Attorney-in-Fact)

		(Address-Zip Code)

_____ (SEAL)
 Witness as to Surety

 (Address-Zip Code)

NOTE: Date of Bond must not be prior to date of Contract. If Contractor is a Partnership, all partners should execute Bond.

SECTION 00620

PAYMENT BOND

KNOW ALL MEN BY THESE PRESENTS: That we _____

_____ a _____
(Name of Contractor) (Corporation, Partnership, Joint Venture or Individual)

hereinafter called "Principal" and _____ of _____,
(Surety)

State of _____ hereinafter called the "Surety" and licensed by the State
(City and State)

Division of Insurance to do business under the laws of the Commonwealth of Massachusetts, are held and firmly bound to the Town of Fairhaven, Massachusetts, hereinafter called "Owner", in the penal sum of _____ Dollars (\$ _____) in lawful money of the United States, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators and successors, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION is such that Whereas, the Principal entered into a certain contract with the Owner, dated the _____ day of _____, 20____, for the construction described as follows:

NOW, THEREFORE, if the Principal shall promptly make payment to all persons, firms, subcontractors, and corporations furnishing materials for or performing labor in the prosecution of the work provided for in such contract, and any authorized extension or modification thereof, including all amounts due for materials, lubricants, oil, gasoline, coal and coke, repairs on machinery, equipment and tools, consumed or used in connection with the construction of such work, and all insurance premiums on said work, and for all labor, performed in such work whether by subcontractor or otherwise, then this obligation shall be void; otherwise to remain in full force and effect.

PROVIDED, FURTHER, that the said Surety, for value received hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the contract or to the work to be performed thereunder or the specifications accompanying the same shall in any way affect its obligation on this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of this contract or to the work or to the specifications.

PROVIDED, FURTHER, that no final settlement between the Owner and the Contractor shall abridge the right of any beneficiary hereunder, whose claim may be unsatisfied.

IN WITNESS WHEREOF, this instrument is executed in ____ () counterparts, each one of which shall be deemed an original, this the _____ day of _____, 20__.

ATTEST:

_____		_____
		Surety
_____	By	_____
		(Attorney-in-Fact)

		(Address-Zip Code)
_____ (SEAL)		
Witness as to Surety		

(Address-Zip Code)		

NOTE: Date of Bond must not be prior to date of Contract. If Contractor is a Partnership, all partners should execute Bond.

SECTION 00800

SPECIAL CONDITIONS

Page

1. Introduction
2. Prevailing Wage Rates
3. Insurance Requirements

§ SC 1.1 INTRODUCTION

The following provisions modify, change, delete from or add to Section 00700 GENERAL CONDITIONS. Where any Subsection of the General Conditions is modified or any Article Paragraph, Subparagraph or Clause thereof is modified or deleted by these Supplemental General Conditions, the unaltered provisions of that Article, Paragraph, Subparagraph or Clause shall remain in effect.

§ SC 2.1 PREVAILING WAGES

In accordance with General Laws Chapter 149, Section 26 through 27D, the Contractor is obligated to comply with the prevailing wage rates established by the Commissioner of the Department of Labor and Workforce Development for mechanics, apprentices, chauffeurs, teamsters and laborers employed on the Project. The schedule of applicable prevailing wage rates for the Project, together with a Certificate of Compliance therewith, are set forth in Attachment A herein.

§ SC 3.1 CONTRACTOR'S LIABILITY INSURANCE

General Insurance Requirements

Prior to the commencement of any Contract work of any nature, and in addition to other insurance, bonds or securities required by law or under Contract terms, the Contractor shall procure and maintain during the life of the Contract and beyond as required, the types and limits of insurance as outlined below:

- a. All insurance required of the Contractor will be maintained with companies assigned a letter rating in the "A- VIII" category from A.M. Best or which are otherwise acceptable to the Town of Fairhaven, and which are lawfully authorized to do business in the Commonwealth of Massachusetts.
- b. Each policy (except workers' compensation and personal property) shall include Town of Fairhaven, its officers and employees as Additional Insureds or loss payees. Each policy shall indicate that the coverage is primary and non-contributory.
- c. Each policy shall contain a waiver of subrogation in favor of Town of Fairhaven, its officers and employees.
- d. No policy must be allowed to expire, be cancelled or materially modified without thirty (30) days' prior written notice to the Chief Procurement Officer, Town of Fairhaven.

Liability Insurance

The Contractor shall be fully responsible for all claims for damages for bodily injury, including wrongful death, and all claims for property damage, which may result from the performance of this Contract by the Contractor, any subcontractor, or any of their respective agents or employees. The Contractor's liability shall not be limited to the extent of the insurance required herein. The Contractor shall take out and maintain in force during the life of this Contract the following types of insurance to protect the Town of Fairhaven, its agents, and employees, the Contractor, and any subcontractor performing work covered by this Contract from claims which may arise from operations by the contractor or by a subcontractor or by anyone directly or indirectly employed by either of them.

- a. **Commercial General Liability Insurance:** to cover all claims for damages for bodily injury including accidental death, as well as claims for property damage which may arise out of operations performed in connection with the Contract. The policy shall provide a combined single limit for bodily injury and property damage of one million dollars (1,000,000) per occurrence, and three million dollars (\$3,000,000) General Aggregate. Such General Aggregate limit shall apply on a per project basis. Personal and Advertising Injury coverage shall be provided at a limit of (\$1,000,000). Products and completed operations coverage should be provided at a limit of three million dollars (\$3,000,000) aggregate and shall be maintained for a period of three (3) years after substantial completion and acceptance of the project by the Town of Fairhaven or owner of the project.

The policy shall be occurrence based and provide coverage at least as broad as the current ISO form without any exclusion for Products and Completed Operations, Explosion (X), Collapse (C) and Underground Damage (U) hazards as related to the work being performed, Contractor Protective Liability coverage with respect to

operations performed by subcontractors, and Contractual Liability coverage related to this Contract. If the Contract includes work to be performed within fifty (50) feet of a railroad, any exclusion for liability assumed under contract for such work shall be deleted.

Town of Fairhaven, shall be named as an additional insured on all public liability and property damage insurance policies. The policy shall include a waiver of subrogation in favor of the Town of Fairhaven. No insurance policy obtained pursuant to this section shall contain a deductible or self insured retention.

b. Automobile Liability: to cover the liability of the Contractor arising from operations on and off the site of all motor vehicles whether they are owned, non-owned or hired. The policy shall be on an occurrence form with a combined single limit for bodily injury and property damage liability of at least one million dollars (\$1,000,000).

The policy should include a Broadened Pollution Endorsement (CA 99 48) if contractor is bringing fuel cans or possible pollutants, mobile equipment or other gas powered tools on-site. If hauling hazardous materials, contaminants or pollutants, the policy shall include coverage form MCS-90 in accordance with Sections 29 and 30 of the Motor Carrier Act of 1980.

c. Umbrella Liability: to protect the Contractor against all claims excess of the commercial general liability and automobile liability mentioned above and employer’s liability coverage mentioned in the paragraph below. The coverage provided by the umbrella policy shall be at least as broad as the underlying policies. The limit of protection provided by the policy shall be as follows unless an alternative limit is indicated via addendum to this Contract.

Contract Price	Limit of Liability
Under \$1,000,000	\$2,000,000 per occurrence
\$1,000,001 - \$5,000,000	\$5,000,000 per occurrence
\$5,000,001 - \$10,000,00	\$10,000,000 per occurrence
\$10,000,001 and over	\$25,000,000 per occurrence

Workers’ Compensation and Employer’s Liability Insurance

Before commencing performance of this contract, the Contractor shall provide insurance for the payment of compensation and the furnishing of other benefits under the Massachusetts General Laws Chapter 152 (the so-called Workers Compensation Law) to all persons to be employed under this contract, the workers’ compensation laws of any other state if there are any persons employed outside of Massachusetts, and any requirement for compensation required under any Federal Act for any maritime employee, longshoreman or harbor workers, and shall continue such insurance in full force and effect during the term of this contract. The contract shall, without limiting the generality of the foregoing, conform to the provisions of the General Laws Chapter 149 S34(a), which section is incorporated herein by reference and made a part hereof.

The Contractor shall provide employer’s liability insurance in an amount not less than \$500,000 for each accident or disease for each employee.

Contractor’s Pollution Legal Liability:

If applicable, the Contractor shall provide insurance coverage for bodily injury and property damage resulting from Contractor’s liability arising out of pollution related exposures such as asbestos abatement, lead paint abatement, tank removal, mold remediation, removal of contaminated soil, etc. The policy shall also include coverage for on-site and off-site bodily injury and loss of damage to or loss of use of property, directly or indirectly arising out of the discharge, dispersal, release or escape of irritants, contaminants or pollutants into or upon the land, the atmosphere or any water course or body of water, whether it be gradual, or sudden and accidental. The policy shall also include defense and clean-up costs. The policy shall provide a minimum limit of one million dollars (\$1,000,000) per occurrence for this project. If the policy is claims made, the retroactive date shall be no later than the commencement date of this contract and the policy shall include an extended reporting period of at least one year from substantial completion and acceptance of the work by the Town of Fairhaven or owner of the project.

Personal Property Insurance:

Any tools, equipment, materials, and other personal property owned by Contractor shall be at the sole responsibility and risk of Contractor. The Town of Fairhaven, shall not be liable for any loss, damage, or theft to such property. Any insurance that Contractor elects to maintain on Contractor's personal property and materials shall be at the sole responsibility and cost of Contractor.

Optional – If New Construction or Substantial Renovations are Contemplated Installation Floater

The Contractor shall provide insurance coverage for property under construction via either a Builder's Risk Policy or an Installation Floater. This insurance must provide coverage on an "all risk" basis and shall include materials, fixtures, equipment and supplies on the job site, off premises at any temporary storage location, or in transit. Valuation must be on a replacement cost basis. The limit of insurance will be equal to the Contract Price or, subject to the express written permission by the Town of Fairhaven or owner of the project, an amount equal to the replacement cost of equipment, materials and structures exposed at any one site. This provision shall in no way relieve the Contractor of his obligation to complete the work covered by the Contract.

Additional types of Insurance

The Contractor shall provide such other types of insurance as may be required by the Town of Fairhaven and indicated via addendum to this insurance requirement.

Proof of Insurance

No work shall be commenced on the site by the Contractor or any subcontractor until copies of the policy or certificates of the types of insurance required hereby have been furnished to the Chief Procurement Officer, in a form satisfactory to her. If the Contractor provides a Certificate of Liability Insurance, it must indicate each policy number, insurance company, policy effective and expiration date, and limits of insurance. The certificate must make specific reference to the Contract number. It must also provide proof that the policy(ies) have been properly endorsed to add the Town as an additional insured and to include a waiver of subrogation in favor of the Town and to provide the Town with at least thirty (30) days' notice of any cancellation, termination or material modification. The certificate must be signed by a duly authorized representative of the issuing insurance companies.

In addition, renewal certificates must be received by the Town thirty (30) days prior to any policy expiration. Further, policies must not be allowed to expire or be canceled without thirty (30) days prior written notice to the Town of Fairhaven.

The Contractor is responsible to make sure its sub-contractors, at all tiers, carry adequate insurance coverage and shall maintain current certificates for their sub-contractors on file at all times. Further, contractor shall provide copies to the Town of Fairhaven upon request.

Effect of Failure to Continue Insurance in Force

Failure to provide and continue in force insurance required by this contract shall be deemed a material breach of this contract and shall operate as an immediate termination thereof.

SECTION 00850

Incorporation of Applicable Provisions of the
Massachusetts General Laws

Certain provisions of the Massachusetts General Laws are applicable to Construction contracts including, but not limited to, those contained in Chapter 30 and Chapter 149. All applicable provisions of the Massachusetts General Laws are incorporated into the Contract as if fully set forth herein, and shall prevail over any conflicting provisions of the General or Supplemental General Conditions.

SECTION - 00900
Scope of Work

Replacement of the roof at the Council of Aging and the Recreational Center, 229 Huttleston Ave, Fairhaven, MA 02719. Project is to be done to specifications that are prepared by DHK architects, attached herein, any changes to the specifications must be in writing and approved beforehand by an authorized Town employee.

"ATTACHMENT A"
[Wage Rates]