

EXHIBIT A

RHODE ISLAND INFRASTRUCTURE BANK

PURCHASE OF GOODS AND SERVICES GENERAL CONDITIONS

The Rhode Island Infrastructure Bank (“Bank”) may, from time to time, make amendments to these General Terms and Conditions when it is determined that such amendments are necessary due to changes in State Law and/or are in the best interests of the Bank. A copy of these Terms and Conditions shall be posted on the Bank’s website. Successful bidders shall be required, as part of a final contract or agreement with the Bank, to acknowledge that these Terms and Conditions apply to all purchasing of goods and/or services by the Bank.

All Bank Orders, Contracts, Solicitations, Delivery Orders and Service Requests shall incorporate and be subject to the provisions of Chapter 46-12.2 and the Bank’s Procurement Regulations, specific requirements described in the Request for Proposals or Contract, and the following Purchase of Goods and Services Conditions:

- 1) **GENERAL**: All purchase orders, contracts, solicitations, delivery orders, and service requests are for specified goods and services, in accordance with express terms and conditions of purchase, as defined herein. For the purposes of this document, the terms “bidder” and “contractor” refer to any individual, firm, corporation, or other entity presenting a proposal indicating a desire to enter into contracts with the Bank, or with whom a contract is executed by the Bank, and the term “contractor” shall have the same meaning as “vendor”.
- 2) **ENTIRE AGREEMENT**: The Bank’s Purchase Order or other Contract, shall constitute the entire and exclusive agreement between the Bank and any contractor receiving an award. In the event any conflict between the bidder’s standard terms of sale, these conditions or more specific provisions contained in the solicitation shall govern. All communication between the Bank and any contractor pertaining to any award or contract shall be accomplished in writing.
 - a. Each proposal will be received with the understanding that the acceptance, in writing, by contract or purchase order by the Bank of the offer to do work or to furnish any or all the materials, equipment, supplies or services described therein shall constitute a contract between the bidder and the Bank. This shall bind the bidder on his part to furnish and deliver at the prices and in accordance with the conditions of said accepted proposal and detailed specifications and the Bank on its part to order from such contractor (except in the case of emergency) and to pay for at the agreed prices, all materials, equipment, supplies or services specified and delivered. A contract shall be deemed executory only to the extent of funds available for payment of the amounts shown on purchase orders issued by the Bank to the contractors.
 - b. No alterations or variations of the terms of the contract shall be valid or binding upon the Bank unless submitted in writing and accepted by the Bank. All orders and changes thereof must emanate from the Bank: no oral agreement or arrangement made by a contractor with a Bank employee or representative will be considered to be binding on the Bank, and may be disregarded.
 - c. Contracts will remain in force for the contract period specified or until all articles or services ordered before date of termination shall have been satisfactorily delivered or rendered and accepted and thereafter until all terms and conditions have been met, unless
 - i. Terminated prior to expiration date by satisfactory delivery against orders of entire quantities,
or

- ii. Extended upon written authorization of the Bank and accepted by the contractor, to permit ordering of the unordered balances or additional quantities at the contract price and in accordance with the contract terms, or
 - iii. Canceled by the Bank in accordance with other provisions stated herein.
- d. It is mutually understood and agreed that the contractor shall not assign, transfer, convey, sublet or otherwise dispose of this contract or his right, title or interest therein, or his power to execute such contract, to any other person, company or corporation without the previous consent, in writing, of the Bank.
- e. If, subsequent to the submission of an offer or issuance of a purchase order or execution of a contract, the bidder or contractor shall merge with or be acquired by another entity, the contract may be terminated, except as a corporate resolution prepared by the contractor and the new entity ratifying acceptance of the original bid or contract terms, condition, and pricing is submitted to the Bank, and expressly accepted.
- f. The contractor or bidder further warrants by submission of an offer or acceptance of a purchase order or other contract that he has no knowledge at the time of such action of any outstanding and delinquent or otherwise unsettled debt owed by him to the State of Rhode Island, and agrees that later discovery by the Bank that this warranty was given in spite of such knowledge, except where the matter is pending in hearing or from an appeal therefrom, shall form reasonable grounds for termination of the contract.

- 3) **AUTHORITY; COMPLIANCE WITH LAWS** – Contractor or bidder represents, warrants and covenants to RIIB that (i) it has the authority to enter into this Agreement and to perform all of its obligations hereunder; (ii) contractor or bidder and each of the Professional Personnel authorized to perform Services hereunder have not previously entered into any agreement that would restrict any of such persons in the performance of Services; (iii) each of the Professional Personnel are legally present in the United States and have all necessary visas, permits, certifications and like requirements to perform the Services in the United States and the State of Rhode Island and (iv) it shall comply with all applicable foreign and United States federal, state and local laws, rules and regulations in its performance of this Agreement.
- 4) **SUBCONTRACTS** – No subcontracts or collateral agreements shall be permitted, except with the Bank’s express consent. Upon request, contractors must submit to the Bank a list of all subcontractors to be employed in the performance of any Purchase Order or other contract arising from this Request. The contractor or bidder shall require each approved subcontractor to agree in writing to be bound by the terms and conditions of the Agreement. Contractor or bidder shall be responsible for the acts and omissions of its subcontractors as if they were the acts and omissions of its employees.
- 5) **PERSONNEL** – The contractor or bidder, upon request, shall provide the names and resumes of all employees and approved contractors and subcontractors who shall provide the services and/or goods for the Bank’s review and approval. If the Bank objects to any personnel assigned to perform the service and/or provide goods for any lawful reason, then the contractor shall remove such personnel from the performance of the services as directed by the Bank, and upon Bank’s request, provide a replacement to perform such services and/or goods.
- 6) **RELATIONSHIP OF PARTIES** – The contractor or bidder warrants, by submission of an offer or acceptance of a purchase order or other contract, that he is not an employee, agent, or servant of the State, and that he is fully qualified and capable in all material regards to provide the specified goods and services. Nothing herein shall be construed as creating any contractual relationship or obligation between the Bank and any sub-bidder, subcontractor, supplier, or employee of the contractor or offeror.

- 7) **COST OF PREPARATION** – All costs associated with the preparation, development, or submission of bids or other offers will be borne by the offeror. The Bank will not reimburse any offeror for such costs.
- 8) **SPECIFIED QUANTITY REQUIREMENT** – Except where expressly specified to the contrary, all solicitations and contracts are predicated on a specified quantity of goods or services, or for a specified level of funding.
- a. The Bank reserves the right to modify the quantity, scope of service, or funding of any contract, with no penalty or charge, by written notice to the contractor, except where alternate terms have been expressly made a part of the contract.
 - b. The Bank shall not accept quantities in excess of the specified quantity except where the item is normally sold by weight (where sold by weight, the Bank will not accept quantities greater than ten per cent [10%] of the specified quantity), or where the Request or Contract provides for wards for other than exact quantities.
 - c. Purchase Orders or other contracts may be increased in quantity or extended in term without subsequent solicit with the mutual consent of the contractor and the Bank, where determined by the Bank to be in the Bank’s best interest.
- 9) **TERM AND RENEWAL** – Unless otherwise mutually agreed by the parties in writing, it is mutually understood and agreed that the Bank’s commitment is limited to a base term not to exceed twelve (12) months, subject to renewal annually at the Bank’s sole option for successive terms as otherwise described, except where expressly specified to the contrary. Purchase orders appearing to commit to obligations of funding or terms of performance may be executed for administrative convenience, but are otherwise subject to this provision, and in such cases the Bank’s renewal shall be deemed to be automatic, conditional on the continued availability of appropriated funds for the purpose, except as written notice of the Bank’s intent not to renew is served.
- 10) **TERMINATION FOR CONVENIENCE** – RIIB may terminate this Agreement for convenience upon written notice (email is sufficient) to contractor or bidder. Upon such termination, RIIB shall only be obligated to pay the fees and expenses incurred as of the date of termination
- 11) **TERMINATION FOR CAUSE** – If either party materially breaches this Agreement and fails to cure such breach within thirty (30) days after receiving notice of such breach from the other party, the non-breaching party may terminate this Agreement by providing written notice thereof.
- 12) **RETURN OF PROPERTY** – Upon the termination or expiration of this Agreement or upon the request of RIIB, contractor or bidder agrees to end all further use of, to immediately return to RIIB the original version of, and to delete or destroy all copies of (and upon request from RIIB, provide a written certification to RIIB of such deletion or destruction), any and all Confidential Information, Deliverables (whether completed or work-in progress), documents, data, tools, computer programs, equipment, identification badges and facilities furnished by RIIB or created or prepared by contractor or bidder pursuant hereto.
- 13) **DELIVERY** – Delivery must be made as ordered and in accordance with the proposal. If delivery qualifications do not appear on the bidder’s proposal, it will be interpreted to mean that goods are in stock and that shipment will be made within seven (7) calendar days. The decision of the Bank, as to reasonable compliance with the delivery terms, shall be final. Burden of proof of delay in receipt of order shall rest with the contractor. No delivery charges shall be added to invoices except when authorized on the Purchase Order.
- 14) **FOREIGN CORPORATIONS** – In accordance with Title 7 Chapter 1.1 of the General Laws of Rhode Island, no foreign corporation shall have the right to transact business in the state until it shall have procured a certificate of authority to do so from the Secretary of State.

- 15) **PRICING** – All pricing offered or extended to the Bank is considered to be firm and fixed unless expressly provided for to the contrary. All prices shall be quoted F.O.B. Destination with freight costs included in the unit cost to be paid by the State, except, where the Request or Contract permits, offers reflecting F.O.B. Shipping Point will be considered, and freight costs may then be prepaid and added to the invoice.
- 16) **COLLUSION** – Bidder or contractor warrants that he has not, directly or indirectly, entered into any agreement or participated in any collusion or otherwise taken any action in restraint of full competitive bidding. In special circumstances, an executed affidavit will be required as a part of the bid.
- 17) **PROHIBITION AGAINST CONTINGENT FEES AND GRATUITIES** – Bidder or contractor warrants that he has not paid, and agrees not to pay, a bonus, commission, fee, or other gratuity to any employee or official of the State for the purpose of obtaining any contract or award issued by the Bank. Bidder or contractor further warrants that no commission or other payment has been or will be received from or paid to any third party contingent on the award of any contract by the Bank, except as shall have been expressly communicated to the Bank in writing prior to acceptance of the contract or award in question. Subsequent discovery by the State of non-compliance with these provisions shall constitute sufficient cause for immediate termination of all outstanding contracts and suspension or debarment of the bidder(s) or contractor(s) involved.
- 18) **AWARDS** – Awards will be made with reasonable promptness and by written notice to the successful bidder (only); bids are considered to be irrevocable for a period of sixty (60) days following the bid opening unless expressly provided for to the contrary in the Request, and may not be withdrawn during this period without the express permission of the Bank.
- a. Awards shall be made to the bidder(s) who offer(s) constitutes the lowest responsive price offer (or lowest responsive price offer on an evaluated basis) for the item(s) in question or for the Request as a whole, at the option of the State. The Bank reserves the right to determine those offers which are responsive to the Request, or which otherwise serve its best interests.
 - b. The Bank reserves the right, before making award, to initiate investigations as to whether or not the materials, equipment, supplies, qualifications or facilities offered by the bidder meet the requirements set forth in the proposal and specification, and are ample and sufficient to insure the proper performance of the contract in the event of award. If upon such examination it is found that the conditions of the proposal are not complied with or that articles or equipment proposed to be furnished do not meet the requirements called for, or that the qualifications or facilities are not satisfactory, the Bank may reject such a bid. It is distinctly understood, however, that nothing in the foregoing shall mean or imply that it is obligatory upon the Bank to make any examinations before awarding a contract; and it is further understood that if such examination is made, it in no way relieves the contractor from fulfilling all requirements and conditions of the contract.
 - c. Qualified or conditional offers which impose limitations of the bidder's liability or modify the requirements of the bid, offers for alternate specifications, or which are made subject to different terms and conditions than those specified by the Bank may, at the option of the Bank, be
 - i. Rejected as being non-responsive, or
 - ii. Set aside in favor of the Bank's terms and conditions (with the consent of the bidder), or
 - iii. Accepted, where the Bank determines that such acceptance best serves the interests of the Bank.
 - d. Acceptance or rejection of alternate or counter-offers by the Bank shall not constitute a precedent which shall be considered to be binding on successive solicitations or procurements
 - e. Bids submitted in pencil, or which do not bear an original signature, in ink, by an owner or authorized agent thereof, will not be accepted.

- f. Bids must be extended in the unit of measure specified in the Request. In the event of any discrepancy between unit prices and their extensions, the unit price will govern.
- g. The Bank reserves the right to determine the responsibility of any bidder for a particular procurement.
- h. The Bank reserves the right to reject any and all bids in whole or in part, to waive technical defects, irregularities, and omissions, and to give consideration to past performance of the offerors where, in his judgment the best interests of the Bank will be served by so doing.
- i. The Bank reserves the right to make awards by items, groups of items or on the total low bid for all items specified as indicated in the detailed specification, unless the bidder specifically indicates otherwise in his bid.
- j. Preference may be given to bids on products raised or manufactured in the State, other things being equal.
- k. The impact of discounted payment terms shall not be considered in evaluating responses to any Request.
- l. The Bank reserves the right to act in the Bank's best interests regarding awards caused by clerical errors by the Bank.

19) **FEES** – The contractor or bidder agrees to provide the Services for the fees specified in the Agreement.

20) **INVOICES** – To be paid as specified in the Agreement. RIIB may withhold payment of any amounts it disputes in good faith. Contractor or bidder understands and agrees that the fees and expenses associated with any invoice submitted to RIIB more than ninety (90) days after the date such fees or expenses were incurred (the "Invoice Deadline") shall be forfeited by the contractor or bidder and shall not be subject to payment by RIIB. Furthermore, contractor or bidder shall not be permitted to make any adjustments or corrections that result in an increase in fees or expenses owed with respect to any invoices after the applicable Invoice Deadline.

21) **SUSPENSION AND DEBARMENT** – The Bank may suspend or debar any vendor or potential bidder, for good cause shown:

- a. A debarment or suspension against a part of a corporate entity constitutes debarment or suspension of all of its divisions and all other organizational elements, except where the action has been specifically limited in scope and application, and may include all known corporate affiliates of a contractor, when such offense or act occurred in connection with the affiliate's performance of duties for or on behalf of the contractor, or with the knowledge, approval, or acquiescence of the contractor or one or more of its principals or directors (or where the contractor otherwise participated in, knew of, or had reason to know of the acts)
- b. The fraudulent, criminal or other serious improper conduct of any officer, director, shareholder, partner, employee, or any other individual associated with a contractor may be imputed to the contractor when the conduct occurred in connection with the individual's performance of duties for or on behalf of the contractor, or with the contractor's knowledge, approval or acquiescence. The contractor's acceptance of benefits derived from the conduct be evidence of such knowledge, approval, or acquiescence.
- c. A vendor or contractor who knowingly engages as a subcontractor for a contract award by the Bank to a vendor or contractor then under a ruling of suspension or debarment by the Bank shall be subject to disallowance of cost, annulment or termination of award, issuance of a stop work order, or debarment or suspension, as may be judged to be appropriate by the Bank.

22) **PUBLIC RECORDS** – Contractors and bidders are advised that all documents, correspondence, and other submissions to the Bank may be accessible as public records, pursuant to Title 38, Chapter 2 of the General

Laws, absent specific notice that portions of such submittals may contain confidential or proprietary information, such that public access to those items should be withheld.

- 23) **PRODUCT EVALUATION** – In all specifications, the words “or equal” are understood after each article when manufacture’s name or catalog are referenced. If bidding on items other than those specified, the bidder must, in every instance, give the trade designation of the article, manufacture’s name and any detailed specifications of the item the bidder proposes to furnish; otherwise, the bid will be construed as submitted on the identical commodity described in the detailed specifications. The Bank reserves the right to determine whether or not the item submitted is the approved equal the detailed specifications.
- a. Any objections to specifications must be filed by a bidder, in writing, with the Bank at least 96 hours before the time of bid opening to enable the Bank to properly investigate the objections.
 - b. All standards are minimum standards except as otherwise provided for in the Request or Contract.
 - c. Samples must be submitted to the Bank in accordance with the terms of the proposals and detailed specifications. Samples must be furnished free of charge and must be accompanied by descriptive memorandum invoices indicating whether or not the bidder desires their return and specifying the address to which they are to be returned (at the bidder’s risk and expense), provided they have not been used or made useless by tests; and absent instructions, the samples shall be considered to be abandoned. Award samples may be held for comparison with deliveries.
- 24) **PRODUCT ACCEPTANCE** – All merchandise offered or otherwise provided shall be new, of prim manufacture, and of first quality unless otherwise specified by the Bank. The Bank reserves the right to reject all non-conforming goods, and to cause their return for credit or replacement, at the Bank’s option. Contract deliverables specified for procurements of services shall be construed to be work products, and subject to the provisions of this section.
- a. Failure by the Bank to discover latent defect(s) or concealed damage or non-conformance shall not foreclose the Bank’s right to subsequently reject the goods in question.
 - b. Formal or informal acceptance by the Bank of non-conforming goods shall not constitute a precedent for successive receipts or procurements
 - c. Where the contractor fails to promptly cure the defect or replace the goods, the Bank reserves the right to cancel the order, contract with a different contractor, and to invoice the original contractor for any differential in price over the original contract price.
 - d. When materials, equipment or supplies are rejected, the same must be removed by the contractor from the premises of the Bank within forty-eight (48) hours of notification. Rejected items left longer than two days will be regarded as abandoned and the Bank shall have the right to dispose of them as its own property.
- 25) **INTELLECTUAL PROPERTY** – RIIB shall own all right, title and interest in and to all deliverables listed in the Agreement. Contractor or bidder shall promptly notify RIIB in writing of all such Deliverables. Contractor or bidder further agrees to assign (or cause to be assigned) and does hereby assign fully to RIIB all right, title and interest in and to any and all Deliverables and all other intellectual property rights relating thereto (collectively, “Intellectual Property Rights”). During and after the Term of this Agreement, at RIIB’s request and expense, contractor or bidder shall, and shall cause Professional Personnel to, execute such instruments and take such other actions as may be necessary or appropriate, in RIIB’s discretion, to evidence or further document RIIB’s ownership of the Deliverables and/or to register, file, prosecute, maintain and/or defend any applicable Intellectual Property Rights in such Deliverables in the name of RIIB.
- 26) **PRODUCT WARRANTIES** – All product or service warranties normally offered by the contractor or bidder shall accrue to the Bank’s benefit, in addition to any special requirements which may be imposed by the Bank. Every unit delivered must be guaranteed against faulty material and workmanship for a period of one year

unless otherwise specified, and the Bank may, in the event of failure, order its replacement, repair, or return for full credit, as its sole option.

- 27) **PAYMENT** – Unless otherwise provided for by the Request or Contract, payment shall not be made until delivery has been made, or services performed, in full, and accepted. Payment shall not be due prior to thirty (30) working days following the latest of completion, acceptance, or the rendering of a properly submitted invoice.
- a. Payment terms other than the foregoing may be rejected as being non-responsive.
 - b. No partial shipments will be accepted, unless provided for by the Request or Contract.
 - c. Where a question of quality is involved, payment in whole or part against which to charge back any adjustment required, shall be withheld at the direction of the Bank. In the event a cash discount is stipulated, the withholding of payments, as herein described, will not deprive the Bank from taking such discount.
 - d. Payments for used portion of inferior delivery will be made by the Bank on an adjusted price basis.
 - e. Payments on contracts under architectural or engineering supervision must be accompanied by a Certificate of Payment and Statement of Account signed by the architect or engineer and submitted to the Bank for approval.
- 28) **THIRD PARTY PAYMENTS** – The Bank recognizes no assigned or collateral rights to any purchase agreement except as may be expressly provided for in the bid or contract documents, and will not accede to any request for third party or joint payment(s), except as provided for in specific orders by a court of competent jurisdiction, or by express written permission of the Bank. Where an offer is contingent upon such payment(s), the offeror is obligated to serve affirmative notice in his bid submission.
- 29) **CLAIMS** – Any claim against a contractor may be deducted by the Bank from any money due him in the same or other transactions. If no deduction is made in such fashion, the contractor shall pay the Bank the amount of such claim on demand. The Bank may demand a price adjustment in any case when the commodity delivered is later found to deviate from the specifications and proposal
- a. The Bank may assess dollar damages against a vendor or contractor determined to be non-performing or otherwise in default of their contracture obligations equal to the cost of remedy incurred by the Bank, and make payment of such damages a condition for consideration for any subsequent award. Failure by the vendor or contractor to pay such damages shall constitute just cause for disqualification and rejection, suspension, or debarment.
- 30) **MINORITY BUSINESS ENTERPRISES** – Pursuant to the provisions of Title 37 Chapter 14.1 of the General Laws, the Bank reserves the right to apply additional consideration to offers, and to direct awards to bidders other than the responsive bid representing the lowest price where:
- a. The offer is fully responsive to the terms and conditions of the Request, and
 - b. The price offer is determined to be within a competitive range (not to exceed 5% higher than the lowest responsive price offer) for the product or service, and
 - c. The firm making the offer has been certified by the R.I. Department of Administration to be a small business meeting the criteria established to be considered a Minority Business Enterprise.
- 31) **PREVAILING WAGE REQUIREMENT** – In accordance with Title 37 Chapter 13 of the General Laws of Rhode Island, payment of the general prevailing rate of per diem wages and the general prevailing rate for regular overtime and other working conditions existing in the locality for each craft, mechanic, teamster, or type of workman needed to execute this work is a requirement for both contractors and subcontractors for all public works.

- 32) **EQUAL OPPORTUNITY COMPLIANCE, HANDICAPPED ACCESS AND AFFIRMATIVE ACTION**
 – Contractors of the Bank are required to demonstrate the same commitment to equal opportunity as prevails under federal contracts controlled by Federal Executive Orders 11246, 11625, 11375 and 11830, and Title 28 Chapter 5.1 of the General Laws of Rhode Island. Affirmative action plans shall be submitted by the contractor for review by the State Equal Opportunity Office. A contractor’s failure to abide by the rules, regulations, contract terms and compliance reporting provisions as established shall be grounds for forfeiture and penalties as shall be established, including but not limited to suspension.
- 33) **POLITICAL CONTRIBUTIONS** - The Rhode Island Infrastructure Bank insists upon full compliance with Chapter 27 of Title 17 of the Rhode Island General Laws, Reporting of Political Contributions by State Vendors. This law requires State Vendors entering into contracts to provide services to an agency such as the Rhode Island Infrastructure Bank, for the aggregate sum of \$5,000 or more, to file an affidavit with the State Board of Elections concerning reportable political contributions. The affidavit must state whether the State Vendor (and any related parties as defined in the law) has, within 24 months preceding the date of the contract, contributed an aggregate amount in excess of \$250 within a calendar year to any general officer, any candidate for general office, or any political party.
- 34) **MAJOR STATE DECISION MAKER** - Does any Rhode Island “Major State Decision-maker,” as defined below, or the spouse or dependent child of such person, hold (i) a ten percent or greater equity interest, or (ii) a Five Thousand Dollar or greater cash interest in the Vendor/Contractor’s business?

For purposes of this question, “Major State Decision-maker” means:

- (i) All general officers; and all executive or administrative head or heads of any state executive agency enumerated in § 42-6-1 as well as the executive or administrative head or heads of state quasi-public corporations, whether appointed or serving as an employee. The phrase “executive or administrative head or heads” shall include anyone serving in the positions of director, executive director, deputy director, assistant director, executive counsel or chief of staff;
- (ii) All members of the general assembly and the executive or administrative head or heads of a state legislative agency, whether appointed or serving as an employee. The phrase “executive or administrative head or heads” shall include anyone serving in the positions of director, executive director, deputy director, assistant director, executive counsel or chief of staff;
- (iii) All members of the state judiciary and all state magistrates and the executive or administrative head or heads of a state judicial agency, whether appointed or serving as an employee. The phrase “executive or administrative head or heads” shall include anyone serving in the positions of director, executive director, deputy director, assistant director, executive counsel, chief of staff or state court administrator.

If your answer is “Yes,” please identify the Major State Decision-maker, specify the nature of their ownership interest to RIIB, and provide a copy of the annual financial disclosure required to be filed with the Rhode Island Ethics Commission pursuant to R.I.G.L. §§36-14-16, 17 and 18.

- 35) **DRUG-FREE WORKPLACE REQUIREMENT** – In accordance with Executive Order No. 91-14, Contractors who do business with the Bank and their employees shall abide by the State’s drug-free workplace policy and the contractor shall so attest by signing a certificate of compliance.

- 36) **GOODS PRODUCED IN THE REPUBLIC OF SOUTH AFRICA** – In accordance with Chapters 35-10-12 and 37-2-57 of the General Laws, goods which are known to be wholly produced in the Republic of South Africa may not be accepted for any procurement for the State of Rhode Island; the offeror attests by his submission of a bid or offer, or acceptance of a purchase order or other contract, that these prohibitions do not apply to material or goods which form the basis for his offer or contract.
- 37) **TAXES** – The Bank is exempt from payment of excise, transportation and sales tax imposed by the Federal or State Government. These taxes should not be included in the proposal price. Exemption Certificates will be furnished upon request.
- 38) **INSURANCE** – All construction contractors, independent tradesmen, or firms providing any type of maintenance, repair, or other type of service to be performed on state premises, buildings, or grounds are required to purchase and maintain coverage with a company or companies licensed to do business in the state as follows:
- a. Comprehensive General Liability Insurance
 - i. Bodily Injury \$1,000,000 each occurrence
 - 1. \$1,000,000 annual aggregate
 - ii. Property Damage \$500,000 each occurrence
 - b. \$500,000 annual aggregate
 - i. Independent Contractors
 - ii. Contractual - including construction hold harmless and other types of contracts or agreements in effect for insured operations
 - iii. Completed Operations
 - iv. Personal Injury (with employee exclusion deleted)
 - c. Automobile Liability Insurance –
 - i. Combined Single Limit \$1,000,000 each occurrence
 - 1. Bodily Injury
 - 2. Property Damage, and in addition non-owned and/or hired vehicles and equipment
 - d. Workers' Compensation Insurance
 - i. Coverage B \$100,000

The Bank reserves the right to consider and accept alternate forms and plans of insurance or to require additional or more extensive coverage for any individual requirement. Successful bidders shall provide certificates of coverage, reflecting the Bank as an additional insured, to the Bank, forty-eight (48) hours prior to the commencement of work, as a condition of award. Failure to comply with this provision shall result in rejection of the offeror's bid.

- 39) **BID SURETY** – When requested, a bidder must furnish a Bid Bond or Certified Check for 5% of his bid, or for the stated amount shown in the solicitation. Bid Bonds must be executed by a reliable Surety Company authorized to do business in the State of Rhode Island. Failure to provide Bid Surety with bid may be cause for rejection of bid. The Bid Surety of any three bidders in contention will be held until an award has been made in accordance to the specifications of each proposal. All others will be returned by mail within 48 hours following the bid opening. Upon award of a contract, the remaining sureties will be returned by mailing unless instructed to do otherwise.
- 40) **PERFORMANCE AND LABOR AND PAYMENT BONDS** – A performance bond and labor and payment bond of up to 100% of an award may be required by the Bank. Bonds must meet the following requirements:
- a. Corporation: The Bond must be signed by an official of the corporation above his official title and the corporate seal must be affixed over his signature.
 - b. Firm or Partnership: The Bond must be signed by all of the partners and must indicate that they are "Doing Business as (name of firm)."

- c. Individual: The Bond must be signed by the individual owning the business and indicate "Owner."
- d. The Surety Company executing the Bond must be licensed to do business in the State of Rhode Island or Bond must be countersigned by a company so licensed.
- e. The Bond must be signed by an official of the Surety Company and the corporate seal must be affixed over his signature.
- f. Signatures of two witnesses for both the principal and the Surety must appear on the Bond.
- g. A Power of Attorney for the official signing the Bond for the Surety Company must be submitted with the Bond.

41) **DEFAULT AND CANCELLATION** – A contract may be canceled or annulled at the contractor's expense upon non-performance of contract, or breach, by the contractor, of any of his obligations. Failure of contractor to cure such non-performance or breach within ten working days after the receipt of notice, shall be sufficient cause for the cancellation of the contract in question, the cancellation of all outstanding contracts or sub-contracts held by the contractor, and the suspension or debarment of the contractor from future procurements.

- a. Failure of a contractor to deliver or perform within the time specified, or within reasonable time as interpreted by the Bank or failure to make replacement of rejected articles, when so requested, immediately or as directed by the Bank, will cause the Bank to purchase in the open market to replace those rejected or not delivered. The Bank reserves the right to authorize immediate purchase in the open market against rejections on any contract when necessary. On all such purchases, the contractor, or his surety, agrees to promptly reimburse the Bank for excess costs occasioned by such default. Should the cost be less, the contractor shall have no claim to the difference.
- b. A contractor who fails to commence within the time specified or complete an award made for repairs, alterations, construction, or any other service will be considered in default of contract. The Bank may contract for completion of the work with another contractor and seek recourse from the defaulting contractor or his surety.
- c. If contractor consistently fails to deliver quantities or otherwise perform as specified, the Bank reserves the right to cancel the contract and purchase the balance in the open market at the contractor's expense.

42) **INDEMNITY**: The contractor guarantees:

- a. To hold the Bank, its agents and employees, harmless from any liability imposed upon the Bank arising from the negligence, either active or passive, of the contractor, as well as for the use of any copyrighted or uncopyrighted composition, secret process, patented or unpatented invention, article or appliance furnished or used in the performance of the contract of which the contractor is not the patentee, assignee or licensee.
- b. To pay for all permits, licenses and fees and give all notices and comply with all laws, ordinances, rules and regulations of the municipality, State of Rhode Island and/or federal government.
- c. That the equipment offered is standard new equipment, latest model of regular stock product with all parts regularly used with the type of equipment offered; also, that no attachment or part has been substituted or applied contrary to manufacture's recommendations and standard practice.

43) **LIMITATION OF LIABILITY** – Except with respect to contractor or bidder's indemnity obligations aforementioned, or contractor or bidders liability arising out of gross negligence or willful misconduct, neither party shall be liable for any consequential, incidental, punitive, special, exemplary or indirect damages (including loss of profits or business opportunity) arising out of this Agreement even if it is advised of the possibility of such damages.

44) **CONTRACTOR'S OBLIGATIONS** – In addition to the specific requirements of the contract, construction and building repair contractors bear the following standard responsibilities:

- a. To furnish adequate protection from damage for all work and to repair damages of any kind, for which he or his workmen are responsible, to the building or equipment, to his own work, or to the work of other contractors;
- b. To clear and remove all debris and rubbish resulting from his work from time to time, as directed or required, upon completion of the work leave the premises in a neat unobstructed condition, broom clean, and in satisfactory order and repair;
- c. To store equipment, supplies, and material at the site only upon approval by the Bank, and at his own risk;
- d. To perform all work so as to cause the least inconvenience to the Bank, and with proper consideration for the rights of other contractors and workmen;
- e. To acquaint themselves with conditions to be found at the site, and to assume responsibility for the appropriate dispatching of equipment and supervision of his employees during the conduct of the work; and
- f. To ensure that his employees are instructed with respect to special regulations, policies, and procedures in effect for any Bank facility or site, and that they comply with such rules.

- 45) **FORCE MAJEURE** – All orders shall be filled by the contractor with reasonable promptness, but the contractor shall not be held responsible for any losses resulting if the fulfillment of the terms of the contract shall be delayed or prevented by wars, acts of public enemies, strikes, fires, floods, acts of God, or for any other acts not within the control of the contractor and which by the exercise of reasonable diligence, the contractor is unable to prevent.
- 46) **SURVIVAL** – The terms and conditions of this Agreement that would, by their nature, survive the expiration or termination hereof shall so survive the expiration or termination of this Agreement for any reason.
- 47) **SEVERABILITY** – In the event any provision of this Agreement is found to be legally unenforceable, such unenforceability shall not prevent enforcement of any other provision of this Agreement.
- 48) **GOVERNING LAW** – This Agreement shall be governed by the laws of the State of Rhode Island without giving effect to its principles of conflict of laws. Contractor or bidder hereby irrevocably and unconditionally waives any objection to the laying of venue in any such court and any claim that such court is an inconvenient forum.
- 49) **WAIVER** – Waiver by any part of strict performance of any provision of this Agreement must be in writing and signed by the party adversely affected thereby. Such waiver shall not be a waiver, or prejudice the party's right to require strict performance, of the same provision in the future, or any other provision.
- 50) **COUNTERPARTS** – Agreements with the Bank may be executed in any number of counterparts, each of which shall be deemed an original, but all such counterparts together shall constitute one and the same instrument.