



# CITY OF WOONSOCKET

## GENERAL TERMS & CONDITIONS

### PREAMBLE.

The City of Woonsocket's Office of Purchasing may, from time to time, make amendments to the General Terms and Conditions when the Purchasing Agent determines that such amendments are in the best interest of the City. Amendments shall be made available for public inspection either online or at the Office Purchasing but shall not require formal public notice and hearing.

Applicants shall be required, as part of the application process, to certify that they have read the General Terms and Conditions and understand that they apply to all City of Woonsocket purchases.

### GENERAL CONDITIONS OF PURCHASE.

All City of Woonsocket purchase orders, contracts, solicitations, delivery orders and service requests shall incorporate and be subject to the provisions of Rhode Island General Laws 8-15-4 and the City of Woonsocket purchasing rules and regulations adopted pursuant thereto, all other applicable provisions of the Rhode Island General Laws, specific requirements described in the Request or Contract, and the following General Conditions of Purchase:

#### 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 City, or with whom a contract is executed by the City of Woonsocket, and the term "contractor" shall have the same meaning as "vendor".

#### 2. PURCHASE ORDER.

The City of Woonsocket will issue a Purchase Order ("Order") in writing, electronically, or through other mechanisms agreed upon by the parties for the purchase of goods or Product ("Product") from Supplier ("Supplier"). Supplier will acknowledge receipt of Order and will provide the City of Woonsocket with a written acceptance for such Orders within two (2) business days after receipt of Order by Supplier. Upon acceptance of the Order, Supplier agrees to abide by all terms and conditions contained herein. All Orders shall contain the following information: (a) quantity of each Product to be purchased; (b) purchase price; (c) delivery date; (d) Product documentation (drawings, specifications, or models, referencing part number and revision); and (e) shipping instructions.

#### 3. PRICE AND PAYMENT.

All pricing offered or extended to the City is considered to be firm and fixed unless expressly provided for to the contrary.

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 later of completion, acceptance, or the rendering of a properly submitted invoice.

Payment terms other than the foregoing may be rejected as being nonresponsive.

No partial shipments, or partial completion will be accepted, unless provided for by the Request or Contract.

Where a question of quality is involved, or failure to complete a project by the specified due date, payment in whole or part against

which to charge back any adjustment required, shall be withheld at the direction of the City. In the event a cash discount is stipulated, the withholding of payments, as herein described, will not deprive the City from taking such discount.

Payments for used portion of inferior delivery or late delivery will be made by the City on an adjusted price basis.

#### 4. THIRD PARTY PAYMENTS.

The City 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 City.. Where an offer is contingent upon such payment(s), the offeror is obligated to serve affirmative notice in his bid submission.

#### 5. SET-OFF AGAINST PAYMENTS.

Payments due the contractor may be subject to reduction equal to the amount of unpaid and delinquent state taxes (or other just debt owed to the State), except where notice of delinquency has not been served or while the matter is pending in hearing or from any appeal therefrom.

#### 6. 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.

The City reserves the right to modify the quantity, scope of service, date of delivery or completion, 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.

The City shall not accept quantities in excess of the specified quantity except where the item is normally sold by weight (where sold by weight, the City will not accept quantities greater than ten per cent [10%] of the specified quantity), or where the Request or Contract provides for awards for other than exact quantities.

Purchase Orders or other contracts may be increased in quantity or extended in terms without subsequent solicit with the mutual consent of the contractor and the City, where determined by the City of Woonsocket to be in the City's best interest.

#### 7. MODIFICATIONS.

All communication between the City and any contractor pertaining to any award or contract shall be accomplished in writing.

Each proposal will be received with the understanding that the acceptance, in writing, by contract or Purchase Order by the City of Woonsocket Purchasing Agent 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 City. 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 City on its part to order from such contractor (except in 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 City to the contractors.



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No alterations or variations of the terms of the contract shall be valid or binding upon the City unless submitted in writing and accepted by the City of Woonsocket. All orders and changes thereof must emanate from the City of Woonsocket. No oral agreement or arrangement made by a contractor with an agency or employee will be considered to be binding on the City of Woonsocket and may be disregarded.

### 8. SHIPMENTS, TITLE TRANSFER & RISK OF LOSS.

All Products delivered pursuant to the terms of this Agreement shall be suitably packed for shipment in accordance with the requirements of the Order. Unless otherwise specified, shipment terms are Delivered Duty Paid ("DDP", Incoterms 2020) to the specified Woonsocket location, at which time risk of loss and title will pass to the City of Woonsocket.

Delivery must be made as ordered and/or projects completed 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. If the project completion date is not specified in the proposal, the date shall be determined by the City. The decision of the City of Woonsocket, as to reasonable compliance with the delivery terms, and date of completion 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.

### 9. PRODUCT EVALUATION.

In all specifications, the words "or equal" are understood after each article when manufacturer'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, manufacturer's name and 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 City of Woonsocket subject matter experts reserve the right to determine whether or not the item submitted is an approved equal to the detailed specifications.

Any objections to specifications must be filed by a bidder, in writing, with the City of Woonsocket Purchasing Agent at least 96 hours before the time of bid opening to enable the City of Woonsocket Purchasing Office to properly investigate the objections.

All standards are minimum standards except as otherwise provided for in the Request or Contract.

Samples must be submitted to the City of Woonsocket Purchasing Office 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.

All samples submitted are subject to testing by any laboratory the City of Woonsocket may designate.

### 10. PRODUCT ACCEPTANCE.

All merchandise offered or otherwise provided shall be new, of prime manufacture, and of first quality unless otherwise specified by the City. The City reserves the right to reject all nonconforming goods, and to cause their return for credit or replacement, at the City's option. Contract deliverables specified for procurements of services shall be construed to be work products, and subject to the provisions of this section.

Failure by the City to discover latent defect(s) or concealed damage or non-conformance shall not foreclose the City's right to subsequently reject the goods in question.

b. Formal or informal acceptance by the City of non-conforming goods shall not constitute a precedent for successive receipts or procurements.

Where the contractor fails to promptly cure the defect or replace the goods, the City reserves the right to cancel the Purchase Order, contract with a different contractor, and to invoice the original contractor for any differential in price over the original contract price.

When materials, equipment or supplies are rejected, the same must be removed by the contractor from the premises of the City within forty-eight (48) hours of notification. Rejected items left longer than two days will be regarded as abandoned and the City shall have the right to dispose of them as its own property.

### 11. WARRANTY OF TITLE.

Supplier warrants and represents to the City of Woonsocket that (i) the City of Woonsocket shall acquire goods with clear title to the Products, free and clear of all liens and encumbrances, (ii) all materials and services provided hereunder including, without limitation, the Products, are either owned or properly licensed by Supplier or are in the public domain and the use thereof by the City of Woonsocket, its representatives, distributors, dealers end users, and other direct and indirect customers shall not infringe any proprietary rights of any third Party, and (iii) Supplier has the full power to enter into this Agreement and to carry out its obligations under this Agreement.

### 12. PRODUCT WARRANTY.

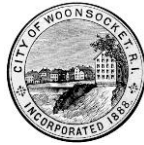
All product or service warranties normally offered by the contractor or bidder shall accrue to the City's benefit, in addition to any special requirements which may be imposed by the City. Every unit delivered must be guaranteed against faulty material and workmanship for a period of one year unless otherwise specified, and the City may, in the event of failure, order its replacement, repair, or return for full credit, at its sole option.

### 13. ENTIRE AGREEMENT.

The City's Purchase Order, or other City contract endorsed by the City of Woonsocket's Office of Purchasing, shall constitute the entire and exclusive agreement between the City 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.

### 14. TERM AND RENEWAL.

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.



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Where offers have been requested or contracts awarded for terms exceeding periods of twelve (12) months, it is mutually understood and agreed that the City's commitment is limited to a base term not to exceed twelve (12) months, subject to renewal annually at the City'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 City'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 City's intent not to renew is served.

### **15. SUSPENSION, DEFAULT AND TERMINATION.**

#### **15A. SUSPENSION.**

The City of Woonsocket reserves the right at any time and for any reason to suspend all or part of this contract, for a reasonable period, not to exceed sixty days, unless the parties agree to a longer period. The City shall provide the contractor with written notice of the suspension order signed by the Purchasing Agent or his or her designee, which shall set forth the date upon which the suspension shall take effect, the date of its expiration, and all applicable instructions. Upon receipt of said order, the contractor shall immediately comply with the order and suspend all work under this contract as specified in the order. The contractor will take all reasonable steps to mitigate costs and adverse impact to the work specified in the contract during the suspension period. Before the order expires, the City shall either:

1. cancel the suspension order;
2. extend the suspension order for a specified time period not to exceed thirty (30) days; or
3. terminate the contract as provided herein.

The contractor shall resume performance once a suspension order issued under this section is canceled or expires. If as a result of the suspension of performance, there is a financial or schedule impact upon the contract, an appropriate adjustment may be made by, or with the approval of, the City's Purchasing Agent. Any adjustment shall be set forth in writing. After a suspension order has been canceled or expires, the contractor shall provide any request for adjustment to the Purchasing Agent within thirty (30) days after resuming work performance.

#### **15B. TERMINATION.**

The City of Woonsocket may terminate any Order in whole or in part at any time by written notice to Supplier. Upon notice of termination, Supplier will immediately cease all activity on the cancelled Product, will direct any subcontractors to do likewise, and make all commercially reasonable steps to return on-Order materials and subcomponents for the cancelled Product.

Except for termination due to the Supplier's failure to abide by the terms and conditions of an Order, Supplier will be entitled to be compensated by the City of Woonsocket for work-in-process of the cancelled goods at a reasonable pro-rata percentage of the Product Order price.

### **16. SUCCESSION AND ASSIGNMENT.**

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, from the City of Woonsocket Purchasing Agent.

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 City of Woonsocket Purchasing Office, and expressly accepted.

### **17. SUBCONTRACTS.**

No subcontracts or collateral agreements shall be permitted, except with the City's express written consent. Upon request, contractors must submit to the City of Woonsocket Purchasing Office a list of all subcontractors to be employed in the performance of any Purchase Order or other contract arising from this Request.

### **18. 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 City, 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 City and any sub-bidder, subcontractor, supplier, or employee of the contractor or offeror.

Supplier shall be considered to be an independent contractor hereunder.

### **19. COSTS OF PREPARATION.**

All costs associated with the preparation, development, or submission of bids or other offers will be borne by the offeror.

The City will not reimburse any offeror for such costs.

### **20. FOREIGN CORPORATIONS.**

In accordance with Title 7 Chapter 1.1 ("Business Corporations") of the General Laws of Rhode Island, no foreign corporation shall have the right to transact business in this state until it shall have procured a certificate of authority so to do from the Secretary of State.

### **21. COLLUSION.**

Bidder or contractor warrants that he has not, directly or indirectly, entered into any agreement, 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.

### **22. PROHIBITION AGAINST CONTINGENT FEES AND GRATUITIES.**

Bidder or contractor warrants that he has not paid, and agrees not to pay, any bonus, commission, fee, or gratuity to any employee or official of the City for the purpose of obtaining any contract or award issued by the City. Bidder or contractor further warrants that no commission or other payment has been or will be received from or



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paid to any third-party contingent on the award of any contract by the City, except as shall have been expressly communicated to the City of Woonsocket Purchasing Agent in writing prior to acceptance of the contract or award in question. Subsequent discovery by the City 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.

### 23. 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 solicitation and may not be withdrawn during this period without the express permission of the City of Woonsocket Purchasing Agent.

Awards shall be made to the bidder(s) whose 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 City. The City reserves the right to determine those offers which are responsive to the Request, or which otherwise serve its best interests.

The City 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 City 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 City 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.

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 City may, at the option of the City, be:

1. rejected as being non-responsive, or
2. set aside in favor of the City's terms and conditions (with the consent of the bidder), or
3. accepted, where the City of Woonsocket Purchasing Agent determines that such acceptance best serves the interests of the City.
4. Acceptance or rejection of alternate or counter-offers by the City shall not constitute a precedent which shall be considered to be binding on successive solicitations or procurements.
5. 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.
6. 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.

7. The City of Woonsocket Purchasing Agent reserves the right to determine the responsibility of any bidder for a particular procurement.

8. The City of Woonsocket reserves the right to reject any and all bids in whole or in part, to waive technical defects, irregularities, and omissions, and to consider past performance of the offerors where, in his judgment the best interests of the City will be served by so doing.

9. The City of Woonsocket reserves the right to make awards by items, group of items or on the total low bid for all the items specified as indicated in the detailed specification, unless the bidder specifically indicates otherwise in his bid.

10. Preference may be given to bids on products raised or manufactured in the City of Woonsocket, other things being equal.

11. The impact of discounted payment terms shall not be considered in evaluating responses to any Request.

12. The City of Woonsocket Purchasing Agent reserves the right to act in the City's best interests regarding awards caused by clerical errors by the City of Woonsocket Purchasing Office.

### 24. SUSPENSION AND DEBARMENT.

The City of Woonsocket Purchasing Agent may suspend or debar any vendor or potential bidder, for good cause shown:

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).

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 shall be evidence of such knowledge, approval, or acquiescence.

A vendor or contractor who knowingly engages as a subcontractor for a contract awarded by the City to a vendor or contractor then under a ruling of suspension or debarment by the City 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 City of Woonsocket Purchasing Agent.

### 25. PUBLIC RECORDS.

Contractors and bidders are advised that certain documents, correspondence, and other submissions to the City of Woonsocket Purchasing Office may be voluntarily made public by the City absent specific notice that portions of such submittals may contain confidential or proprietary information, such that public access to those items should be withheld.





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### 26. CLAIMS.

Any claim against a contractor may be deducted by the City from any money due him in the same or other transactions. If no deduction is made in such fashion, the contractor shall pay the City the amount of such claim on demand. Submission of a voucher and payment, thereof, by the City shall not preclude the City from demanding a price adjustment in any case when the commodity delivered is later found to deviate from the specifications and proposal.

The City of Woonsocket may assess dollar damages against a vendor or contractor determined to be non-performing or otherwise in default of their contractual obligations equal to the cost of remedy incurred by the City 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.

### 27. UNUSED BALANCES.

Unless otherwise specified, all unused Blanket Order quantities and/or unexpended funds shall be automatically canceled on the expiration of the specified term. Similarly, for orders encompassing more than one fiscal year, unexpended balances of funding allotted for an individual fiscal year may be liquidated at the close of that fiscal year, at the City's sole option.

### 28. MINORITY BUSINESS ENTERPRISES

Pursuant to the provisions of Title 37 Chapter 14.1 of the General Laws, the City 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 Economic Development to be a small business concern meeting the criteria established to be considered a Minority Business Enterprise. Ten per cent [10%] of the dollar value of the work performed against contracts for construction exceeding \$5,000 shall be performed by Minority Business Enterprises where it has been determined that subcontract opportunities exist, and where certified Minority Business Enterprises are available. A contractor may count towards its MBE, DBE, or WBE goals 60% of its expenditures for materials and supplies required under a contract and obtained from an MBE, DBE, or WBE regular dealer, and 100% of such expenditures when obtained from an MBE, DBE, or WBE manufacturer. Awards of this type shall be subject to approval, by the Chief Purchasing Officer, of a Subcontracting Plan submitted by the bidder receiving the award.

### 29. 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.

### 30. EQUAL OPPORTUNITY COMPLIANCE, HANDICAPPED ACCESS AND AFFIRMATIVE ACTION.

Contractors of the City 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.

### 31. DRUG-FREE WORKPLACE REQUIREMENT.

Contractors who do business with the City and their employees shall abide by the State's drug-free workplace policy and the contractor shall attest by signing a certificate of compliance.

### 32. TAXES.

The City 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.

### 33. INSURANCE.

All construction contractors, independent tradesmen, or firms providing any type of maintenance, repair, or other type of service to be performed on public 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

- 1) Bodily Injury \$1,000,000 each occurrence/ \$1,000,000 annual aggregate
- 2) Property Damage \$500,000 each occurrence /\$500,000 annual aggregate

#### Independent Contractors

Contractual - including construction hold harmless and other types of contracts or agreements in effect for insured operations

#### Completed Operations

Personal Injury (with employee exclusion deleted)

#### b. Automobile Liability Insurance

- 1) Combined Single Limit \$1,000,000 each occurrence

#### Bodily Injury

Property Damage, and in addition non-owned and/or hired vehicles and equipment



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### c. Workers' Compensation Insurance

Coverage B \$100,000

The City of Woonsocket Purchasing Agent 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 City of Woonsocket as an additional insured, to the Office of Purchasing, 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.

### 34. 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 according 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 mail unless instructed to do otherwise.

### 35. 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 City. Bonds must meet the following requirements:

- a. Corporation: The Bond must be signed by an official of the corporation above his/her official title and the corporate seal must be affixed over his/her 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 of the Bond for the Surety Company must be submitted with the Bond.

### 36. SEVERABILITY.

In the event that any provision of an Order shall be invalid, illegal or otherwise unenforceable, the validity, legality and enforceability of the remaining provisions shall in no way be affected or impaired thereby.

### 37. GOVERNING LAW.

Each Order shall be governed by and construed in accordance with the laws of the State of Rhode Island, excluding its conflicts of laws principles.

### 38. COMPLIANCE WITH LAWS AND REGULATIONS.

Each Party warrants that in performance under an Order it shall comply with all applicable federal, state, local laws, regulations and ordinances now or hereafter enacted. Upon the City of Woonsocket's request, Supplier shall issue certificates certifying compliance with any of the aforementioned laws or regulations as may be applicable to the Product and/or services being furnished hereunder.

### 39. INDEMNITY.

Supplier shall defend, hold harmless, and indemnify the City of Woonsocket, its employees, agents and customers, from any and all suits, damages, losses, expenses, and third Party claims, including attorney's fees, arising from (i) infringement of any patent, copyright, trademark, trade secret or other proprietary rights, (ii) personal injury or property damage caused by a Product, (iii) defects in the workmanship, materials and design of a Product provided by Supplier, or (iv) failure to comply with applicable federal, state or local laws.

### 40. PRESS RELEASES.

The Parties may not make press releases and announcements relating to the subject matter of an Order without the prior written consent of the other Party.

### 41. FORCE MAJEURE.

In the event that either Party is prevented from performing or is unable to perform any of its obligations under this Order (other than a payment obligation) due to any Act of God, fire, casualty, flood, earthquake, war, strike, lockout, epidemic, destruction of Production facilities, riot, insurrection, material unavailability, or any other cause beyond the reasonable control of the Party invoking this section, and if such Party shall have used its commercially reasonable efforts to mitigate its effects, such Party shall give prompt written notice to the other Party, its performance shall be excused, and the time for the performance shall be extended for the period of delay or inability to perform due to such occurrences. Regardless of the excuse of Force Majeure, if such Party is not able to perform within ninety (90) days after such event, the other Party may terminate the applicable Order. Termination of an Order shall not affect the obligations of either Party with respect to any other Order that exist as of the date of termination.

### 42. HEADINGS AND INTERPRETATIONS.

Section headings herein are inserted for convenience only and in no way are to be construed to define, limit or affect the construction or interpretation of any agreement terms.