

### **1.05 BID SECURITY**

- A. Each bid must be accompanied by certified check of the bidder or by a bid bond prepared on a standard approved form, duly executed by the bidder as principal, and having as surety thereon a surety company authorized to do business within the State of New York.
- B. Bid security shall be in an amount not less than 5% of the base bid or not less than 5% of the sum of base bids where such base bids may be considered cumulative. Such checks will be returned to all except the three lowest formal bidders, within three working days after the formal opening of bids & the remaining cash or checks will be returned to the three lowest bidders within 48 hours after the Owner and the accepted bidder have executed a contract. If no contract has been so executed within 45 days after the opening of bids, bid security will be returned upon demand of the bidder at any time thereafter so long as he has not been notified of the acceptance of his bid.

### **1.06 LIQUIDATED DAMAGES FOR FAILURE TO ENTER INTO CONTRACT**

- A. The successful low bidder, upon his failure or refusal to execute and deliver the contract and required bonds and insurance within 15 days after he has received notice of the acceptance of his bid, shall forfeit to the Owner, as liquidated damages for such failure or refusal, the security deposited with his bid, as specified in Paragraph 1.05.

### **1.07 CONDITIONS OF WORK**

- A. Each bidder must inform himself fully of the conditions relating to the construction and labor under which the work is now being or will be performed. Failure to do so will not relieve a successful bidder of his obligations to furnish all material and labor necessary to carry out the provisions of the contract documents and to complete the contemplated work for the consideration set forth in his bid.
- B. Insofar as possible, the Contractor in the carrying out of his work must employ such methods or means as will not cause any interruption of or interference with the work of any other Contractor.

### **1.08 ADDENDA AND INTERPRETATIONS**

- A. No interpretations of the plans, specifications or other contract documents will be made to any bidder orally. All requests for such interpretations shall be submitted in writing to BCA Architects & Engineers (on the attached RFI Form). To be given consideration a request for interpretation the RFI form must be received at least six (6) days prior to the date fixed for the opening of bids. Any and all interpretations and any supplemental instructions will be issued in the form of written addenda. If issued, the addenda will be sent by UPS or via facsimile, to respective addresses furnished for such purposes, not later than two (2) days prior to the day fixed for opening Bids. Failure of any Bidder to receive any such addenda shall not relieve said Bidder from any obligation under his Bid as submitted. All addenda so issued shall become part of the Contract Documents.
- B. Prospective Bidders are cautioned concerning the use of a Post Office Box address as facsimile addenda cannot be sent to Post Office Boxes.

## **1.09 SECURITY FOR FAITHFUL PERFORMANCE**

- A. Simultaneously with his delivery of the executed contract, the successful bidder must deliver to the Owner three (3) originals of an executed bond in the amount of 100% of the accepted bid as security for the faithful performance of the contract and for the payment of all persons performing labor or furnishing materials in connection therewith, prepared in the standard form of Performance Bond, Labor and Materials Payment Bond, AIA Form A312-2010 and having as surety thereon such surety company or companies as are acceptable to and approved by the Owner, and as are authorized to transact business in New York State. Each Bidder must obtain and submit with his Bid the Statement of Surety's Intent attached to the Bid form, completed and signed by a duly authorized surety company licensed to do business in New York State. This requirement will not apply in the case of contracts for supplies only and involving no labor on the site.
- B. All Certificates of Insurance and Surety Bonds shall be delivered to the Architect following award and at least one (1) week before the initial Pre-Construction Meeting in order to provide a timely and proper review of these documents prior to execution of the Contracts.

## **1.10 POWER OF ATTORNEY**

- A. Attorneys in fact who sign bid bonds or contracts bonds must file with each bond a certified copy of their power of attorney to sign said bonds.

## **1.11 STATE LAWS AND REGULATIONS**

- A. The Contractor and each and every sub-contractor performing the work at the site of the project to which this contract relates shall comply with the applicable provisions of the "Labor Law," as amended, of the State of New York, and all other applicable laws and regulations governing such activities.
- B. Dust Hazards:
  - 1. If, in the construction of the work covered by the Contract, a harmful dust hazard is created for which appliances or methods for the elimination of the dust have been approved by the Board of Standards and Appeals, such appliances or methods shall be installed and maintained and effectively operated by the Contractor at his expense.
  - 2. The Contract shall be void and of no effect unless the Contractor complies with the provisions of this subdivision of the Contract and Labor Law Section 222-a.
- C. Non-Collusion Certification: Each bidder shall complete the Non-Collusive Bidding Certification attached to the Bid form.
- D. Worker's Compensation: This Contract shall be void and of no effect unless the person or corporation making or performing such contract shall secure compensation for the benefit of, and keep insured during the life of such contract, such employees, in compliance with the provision of the Worker's Compensation Law and General Municipal Law Section 108.
  - 1. Effective September 9, 2007, all out-of-state employers (contractors and sub-contractors) working in New York State will be required to carry full, statutory New York State Workers' Compensation Insurance Policy. New York must be listed in Item 3A on the Information Page of the employer's workers' compensation policy in order to meet this requirement.
- E. Lien Law:
  - 1. The attention of the Contractor is invited to the provisions of the Lien Law of the State of New York, wherein funds received by a contractor for a public improvement are declared to constitute trust funds in the hands of such contractor to be applied first to the payment of certain claims.
- F. The November 9, 1997 guidelines set forth by the New York State Department of Labor regarding Certified Payrolls are as follows:

1. "Every contractor and sub-contractor shall submit to the department of jurisdiction within thirty days after issuance of its first payroll, and every thirty days thereafter, a transcript of the original payroll record, as provided by this article, subscribed and affirmed as true under penalties of perjury. The DEPARTMENT OF JURISDICTION shall be required to receive and maintain such payroll records. The original payrolls or transcripts shall be preserved for three years from the completion of the work on the awarded project."  
Excerpted from "The Fair Contractor"
  2. Payroll shall be sent direct to the Owner. Bernier, Carr & Associates cannot accept the certified payrolls nor do we require copies of the transmittal to the Owner.
- G. This provision is an addition to the existing prevailing wage rate law, Labor Law 220, Section 220-h. It requires that on all public work projects of at least \$250,000.00, all laborers, workers and mechanics working on the site, be certified as having successfully completed the OSHA 10-hour construction safety and health course. It further requires that the advertised bids and contracts for every public work contract of at least \$250,000.00, contain a provision of this requirement.

#### **1.12 FEDERAL REGULATIONS**

- A. Each Contractor and every sub-contractor performing work (including but not limited to repair, renovation, reconstruction, and painting) that will disturb lead-based paint existing within the project that house children under the age of six (6) shall comply with US EPA 40 CFR 745.80 Subpart E (also known as a Lead Renovation, Repair and Painting Rule) effective April 22, 2010. The contractor (firm) and the individuals completing the work shall be certified in accordance with the US EPA requirements and shall provide copies of such certification to the Owner prior to the commencement of all work.

#### **1.13 OBLIGATION OF BIDDER**

- A. 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 drawings and contract documents including all Addenda. The failure or omission of any bidder to receive or examine any form, instrument, or document shall in no way relieve any bidder from any obligation in respect to his bid.

#### **1.14 EXEMPTION FROM SALES AND COMPENSATING USE TAXES**

- A. The Owner is exempt from payment of sales and compensation taxes of the State of New York and of cities, counties and other sub-divisions of the State, of materials sold to it pursuant to the provisions of this contract. These taxes are not to be included in bids.
- B. Contractor's purchases of tangible personal property which do not become an integral component part of the exempt organization's real property and are consumed by the Contractor as well as purchases of taxable services, are subject to tax.

#### **1.15 TIME OF COMPLETION**

- A. Bidders are advised that time of completion is of the essence and shall be taken into account, by the Bidders, in the preparation of the proposals.
- B. See Specification Section 01 1100 Milestone Construction Schedule for completion date.
- C. Refer to Paragraph 8.3 and 8.4 of the General Conditions of Contract for Construction for information concerning damages for stretch out and delay.

#### **1.16 POST BID INFORMATION**

- A. Within 96 hours of the Bid Opening the apparent low bidder shall furnish in writing, the following information to the Architect and Construction Manager:
1. Statement that project can be completed within established time.
  2. Preliminary progress schedule showing dates for major elements of construction and dates by which major sub-contracts will be awarded.
  3. List of proposed major sub-contractors.
  4. AIA - Contractor Qualification Statement.