

ITEM 103 AWARD AND EXECUTION OF CONTRACT

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103.01 Consideration of Proposals. After the Proposals are opened and read, the City will compare the Bidders' proposed prices. The proposed price is the summation of the products of the estimated quantities shown in the Proposal and the unit prices and, if applicable, lump sum bid prices. In the event of a discrepancy between unit bid prices and extensions, the unit price shall govern.

The City reserves the right, without any liability, to reject any or all Proposals, to waive minor technicalities, or to advertise for new Proposals.

103.02 Award of Contract. The City will award the Contract to the Bidder as determined by Chapter 329 of the Columbus City Code.

103.03 Cancellation of Award. The City reserves the right to rescind the award of any Contract at any time before the execution of the Contract without any liability.

103.04 Return of Proposal Guaranty. Within five business days after the opening of the Proposals, the City will return all Proposal Guaranties, except those of the three lowest bidders. The City will return the retained Proposal Guaranties of the two unsuccessful bidders of the three lowest Bidders within ten business days following the award of Contract and that of the successful Bidder after satisfactory contract performance and payment bond(s) have been furnished and the Contract has been executed by all parties.

103.05 Contract Performance and Payment Bond. The successful Bidder must, before execution of the Contract by the City, furnish a Contract performance and payment bond(s) in the full amount of the Proposal. Said bond(s) shall cover the entire Contract including the guarantee period required under 109.13. The successful Bidder's failure to return the signed Contract and the Contract performance and payment bond(s) shall be deemed a failure by the Contractor to enter into the Contract and shall release the City from all obligations to the Bidder.

103.06 Execution of Contract. The successful Bidder shall sign and return the Contract, together with the contract performance and payment bond(s) and other required Contract Documents, within ten business days after receiving the Notice of Award and the Contract Documents for signature. No Proposal shall be considered binding upon the City until the Director executes the Contract and it is approved by all required City Agencies and City Council. If the Contract is not executed by the City within thirty days following the effective date of the authorizing legislation approved by

City Council, the successful Bidder will have the right to withdraw its Bid without prejudice.

The Contractor must obtain one copy of the Specifications (CMSC) at its own cost and keep available one copy of the CMSC, and one set of the Contract Documents at the Project site at all times. The City will supply the Contractor with up to five sets of Plans. Any extra sets of Contract Documents required by the Contractor may be purchased from the appropriate Owner Division.

103.07 Failure to Execute Contract and Furnish Performance and Payment Bond(s). Failure of the Bidder to execute the Contract and file acceptable performance and payment bond(s) within ten business days after receiving the Contract Documents for signature shall be cause for the cancellation of the award. Thereafter, depending on the form of Proposal Guaranty, the City may either take as property of the City the Proposal Guaranty check or file a claim under the Bid Bond. Award may then be made to the next lowest, responsive, and responsible Bidder, the Project may be re-advertised, or any other action may be taken as the Director may decide.

103.08 Responsibility to General Public. The Contractor shall defend, indemnify and hold harmless the City of Columbus and any of its agents or representatives, employees, assigns and successors in interest, from and against any lawsuits and causes of action, claims, losses, demands and expenses, including but not limited to reasonable attorney fees and the cost of litigation, damages or liability of any nature whatsoever, for death or injury to any person, including employees or agents of the Contractor, or for damage to or destruction of property of either party hereto or any third party, which arise in any manner from the negligent acts, errors, omissions or willful misconduct of the Contractor and any of its agents, employees or representatives, including any of its subcontractors, in the performance of the Contract for the City of Columbus.

The Contractor shall procure and maintain during the term of the Contract and any applicable warranty period insurance for the liability of damages, which are imposed by law or assumed under Contract with the City of Columbus, in the kind and minimum amounts as specified hereinafter, from insurance companies which are authorized to transact business under the laws of the State of Ohio. The insurance shall protect the Contractor and any Subcontractor performing work under the Contract with the City of Columbus from claims for damages which may arise from operations under the Contract, whether such operation is performed by the Contractor or by any Subcontractor or by anyone directly or indirectly employed by either of them. The cost of such insurance shall be incidental to all contract items. The City of Columbus shall be listed as an 'Additional Insured' on the Commercial General Liability and Comprehensive Automobile liability insurance policies.

Prior to the execution of the Contract, the Contractor shall provide the City of Columbus with a 'Certificate of Insurance', in a satisfactory form, which demonstrates compliance with the requirements of this subsection. The 'Certificate of Insurance' will also reference the Contract and or Project Number for which the work is being performed. The Contractor shall also be responsible for providing a 'Certificate of Insurance' within ten business days after the insurance is renewed. If the insurance is subject to cancellation, then the insurance company shall immediately notify the City of Columbus of such cancellation in accordance with the policy terms for affording such notice. Also, if the insurance is cancelled, then the Contractor will immediately cease

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all operations until the required kind and limits of insurance have been restored. Upon request, the Contractor shall furnish the City of Columbus with a certified complete copy of each policy of insurance.

103.09 Contractor's Insurance. For purposes of complying with 103.08, the Contractor shall furnish evidence of procuring the following types of insurance prior to the execution of the Contract:

A. Commercial General Liability Insurance. This policy shall provide coverage for bodily injury or property damage which may arise from the operations of the Contractor and any of its subcontractors. The policy shall include coverage for premises and operations; independent contractors; products and completed operations; broad form property damage; hazards of explosion, collapse, and underground damage; and contractual liability as applicable to any indemnification hold harmless agreements in the Contract. The minimum limits of liability shall be \$1,000,000 for each occurrence subject to an aggregate liability for products and completed operations of \$2,000,000 and a general aggregate liability of \$2,000,000.

B. Comprehensive Automobile Liability Insurance. This policy shall provide coverage for owned, non-owned, and hired automobiles for all damages arising from bodily injury and property damage with limits of liability of not less than \$1,000,000 per accident with respect to bodily injury, property damage, or death.

C. Worker's Compensation Insurance. The Contractor shall comply with all provisions set forth by the Ohio Bureau of Workers' Compensation during the term of the Contract for the benefit of all employees employed at the project site. If the Contractor shall engage the services of Subcontractors, then it shall require all such Subcontractors to also provide Worker's Compensation insurance for its employees who are employed at the project site. In order to comply with this requirement, the Contractor shall provide the City of Columbus with a copy of the Workers' Compensation Certificate as evidence that it's insurance premium and that of any Subcontractor has been paid. In the event any class of employees engaged in hazardous work under the Contract at the site of the project is not protected under the Worker's Compensation statute, the Contractor shall provide and cause each Subcontractor to provide suitable insurance for the protection of their employees not otherwise protected.

D. Employers Liability Insurance. This policy shall provide coverage for accident or disease which is incurred by an employee of the Contractor in an amount of not less than \$100,000 for bodily injury by Accident for each accident, \$100,000 for bodily injury by Disease for each employee, and a policy limit of \$500,000 for bodily injury by disease.

E. Builders Risk Insurance. When required, the Contractor shall procure and maintain during the term of the Contract Builders Risk insurance to protect the work being performed under the Contract from loss as a result of fire, hail, lightning, theft, wind storm, and vandalism in the full amount of the Contract. The cost for this insurance shall be included in the unit price for 'Item Special – Builders Risk Insurance'.

F. Railroad Protective Liability Insurance. When required, the Contractor shall procure and maintain during the term of the Contract a Railroad Protective Liability insurance policy, for the benefit of the named railroad as respect the operations of the

Contractor and its Subcontractors, with limits of liability as specified by the railroad, for damages arising from bodily injury, death, or property damages combined in any one occurrence. The cost for this insurance shall be included in the unit price for 'Item Special – Railroad Protective Insurance'.

G. Professional Liability Insurance. When required, the Contractor shall furnish evidence that it or any of its Sub-consultants maintain Professional Liability insurance, for liability which may arise from the negligent acts, errors, or omissions of operations performed under the Contract, in an amount not less than \$1,000,000 for each claim. If such policy is written on a 'claims-made' form, then it shall have a retroactive date of no later than the effective date of the Contract, and such policy shall be maintained for a period of not less than two years after the project has been accepted by the City of Columbus.

An excess liability insurance policy may be utilized to satisfy the requirements of insurance for Commercial General Liability and Comprehensive Automobile Liability insurance. If such a policy is utilized, then the City of Columbus shall be listed as an 'Additional Insured'. If the insurance required of this Section is not renewed or if the available insurance is less than the required minimum amounts specified herein as a result of a change or modification in coverage or if the limits of liability are impaired by claims so as to reduce the amount of available insurance, then the Contractor shall so notify the City of Columbus in which case the City of Columbus may at its sole discretion consider the Contractor in default of its Contract, refuse to make any further payment to the Contractor until such time the deficiency in insurance is satisfactorily resolved, or use any retained funds which are due the Contractor in order to remedy the deficiency. If any part of the Contract is let to a Subcontractor, then the Contractor is responsible for the part subcontracted work being adequately covered by insurance herein-above described.