

Exhibit A

IN THE CIRCUIT COURT OF JEFFERSON COUNTY, WEST VIRGINIA

W. HARLEY MILLER CONTRACTORS, INC.,

Plaintiff/Petitioner,

RECEIVED

MAR 13 2015

JEFFERSON COUNTY
CIRCUIT CLERK

v.

CIVIL ACTION NO. 15-C- 62

JEFFERSON COUNTY BOARD OF EDUCATION
c/o Officer or Board Member
110 Mordington Avenue
Charles Town, WV 25414

and

HELBING LIPP RECNY ARCHITECTS, INC.
d/b/a HELBING LIPP RECNY ARCHITECTS
8032 Leesburg Pike
Suite 201
Vienna, Virginia 22182

and

DAVID LIPP
8032 Leesburg Pike
Suite 201
Vienna, Virginia 22182

Defendants/Respondents.

VERIFIED COMPLAINT AND PETITION FOR INJUNCTIVE RELIEF

The Plaintiff/Petitioner, W. Harley Miller Contractors, Inc., by and through counsel, Susan R. Snowden and Martin & Seibert L.C., state the following as its Verified Complaint and Petition for Injunctive Relief against the Defendants/Respondents herein:

INTRODUCTION

1. W. Harley Miller Contractors, Inc. is a West Virginia corporation organized under the laws of the State of West Virginia and registered to do business in the State of West Virginia.

2. Helbing Lipp Recny Architects, Inc., doing business as Helbing Lipp Recny Architects, is a Virginia corporation registered to do business in the State of West Virginia.

3. Mr. David Lipp is a principal of Helbing Lipp Recny Architects and is a resident of the State of Virginia and was the architect responsible for the bid proposal in the instant matter.

4. W. Harley Miller Contractors, Inc. respectfully seeks to bring a complaint against the Jefferson County Board of Education, David Lipp, and Helbing Lipp Recny Architects, demanding injunctive relief and seeking damages resulting from the violation of the respondents of W. Va. Code § 5-22-2 by accepting an erroneous bid for the construction of the Jefferson County Schools Bus Maintenance Facility Renovation, HLRA Project # 114504, hereinafter referred to as the "Bus Facility Renovation".

FACTUAL ALLEGATIONS

5. Jefferson County Board of Education is the owner of the Jefferson County Bus Maintenance Facility which is planned to be renovated.

6. Upon information and belief Jefferson County Board of Education retained the service of Helbing Lipp Recny Architects to act as its agent for the purpose of accepting bids for the Bus Facility Renovation.

7. Upon information and belief David Lipp was the principal for Helbing Lipp Recny Architects who was to act at all times as the agent of Jefferson County Board of Education with regard to the Bus Facility Renovation.

8. On or about February 13, 2015, the Respondents issued an Invitation to Bid with regard to the Bus Facility Renovation with a deadline of March 4, 2015, at 4:00 p.m., a copy of which is attached hereto as **Exhibit 1**.

9. According to the Invitation to Bid, all prime bidding contractors were directed to obtain bid documents directly from Helbing Lipp Recny Architects.

10. Included among the bid documents distributed by Helbing Lipp Recny Architects was AIA Document A701 – 1997, otherwise known as Instructions to Bidders ("Bid Instructions"), a copy of which is attached hereto as **Exhibit 2**.

11. Pursuant to Article 1, Section 1.1 of the Bid Instructions, Bidding Documents include the Bidding Requirements and the proposed Contract Documents. The Bidding Requirements consist of the Advertisement or Invitation to Bid, Instructions to Bidders, Supplementary Instructions to Bidders, the bid form, and other sample bidding and contract forms. **Exhibit 2, p. 2**.

12. Pursuant to Article 1, Section 1.4 of the Bid Instructions, a Bid is a complete and properly executed proposal to do the Work for the sums stipulated therein, submitted in accordance with the Bidding Documents. **Exhibit 2, p. 2**.

13. Pursuant to Article 2 of the Bid Instructions, by submission of a bid, each bidder has certified and represented that:

§ 2.1.1 The Bidder has read and understands the Bidding Documents or Contract Documents...

§ 2.1.2 The Bid is made in compliance with the Bidding Documents.

Exhibit 2, p. 2.

14. Pursuant to Article 3, Section 3.2.2 of the Bid Instructions, Bidders and Sub-Bidders requiring clarification or interpretation of the Bidding Documents shall make a written request which shall reach the architect at least seven days prior to the date for receipt of Bids. **Exhibit 2, p. 3.**

15. Pursuant to Article 3, Section 3.2.3 of the Bid Instructions, interpretations, corrections, and changes of the Bidding Documents are to be made by Addendum. Interpretations, corrections, and changes of the bidding documents made in any other manner will not be binding and Bidders shall not rely upon them. **Exhibit 2, p. 3.**

16. Pursuant to Article 3, Section 3.3.3 of the Bid Instructions, if the Architect approves a proposed substitution prior to receipt of Bids, such approval will be set forth in an Addendum. Bidders shall not rely upon approvals made in any other manner. **Exhibit 2, p. 3.**

17. Pursuant to Article 3, Section 3.4.1 of the Bid Instructions, Addenda will be transmitted to all who are known by the issuing office to have received a complete set of Bidding Documents. **Exhibit 2, p. 3.**

18. Pursuant to Article 3, Section 3.4.3 of the Bid Instructions, Addenda will be issued no later than four days prior to the date for receipt of Bids except as

an Addendum withdrawing the request for Bids or one which includes postponement of the date of receipt of Bids. **Exhibit 2, p. 3.**

19. Pursuant to Article 4, Section 4.1.6 of the Bid Instructions, where two or more Bids for designated portions of the Work have been requested, the Bidder may, without forfeiture of the bid security, state the Bidder's refusal to accept award of less than the combination of Bids stipulated by the Bidder. The Bidder shall make no additional stipulations on the bid form nor qualify the Bid in any other manner. **Exhibit 2, p. 4.**

20. Pursuant to Article 5, Section 5.2 of the Bid Instructions, a bid which in any way is incomplete or irregular is subject to rejection. **Exhibit 2, p. 5.**

21. Pursuant to Article 5, Section 5.3.1 of the Bid Instructions, a Contract will be awarded to the lowest qualified bidder "provided the Bid has been submitted in accordance with the requirements of the Bidding Documents". **Exhibit 2, p. 5.**

22. The bidding documents issued to all prospective bidders included Addendum #1. Addendum #1 indicated that the Respondents were requiring that each bid submitted be quoted in two ways, "First, if requisitions for payment are paid in cash and, second, if they are paid with a credit card." **Exhibit 3, Addendum #1.**

23. Addendum #1 included a revised Form of Proposal which included separate lines for the bidder to provide a quote for accepting payment in the form of cash and for credit card. **Exhibit 3, Revised Form of Proposal.**

24. Pursuant to Paragraph No. 2 of the Revised Form of Proposal, each bidder was required to submit a proposal for all alternatives, in addition to its base

bid. In addition, the Revised Form of Proposal states that "the proposal will be considered non responsive and invalid if the bidder fails to submit a proposal for all Alternates." **Exhibit 3, Revised Form of Proposal, pp. 1-2.**

25. Petitioner W. Harley Miller Contractors, Inc. was a contractor who had received a complete set of bidding documents from the Respondents herein.

26. Pursuant to the bid documents, W. Harley Miller Contractors, Inc. timely submitted a Revised Form of Proposal dated March 4, 2015 which was in compliance with all bidding documents received from the Respondents, including the Bid Instructions and all subsequent Addenda.

27. Upon information and belief, Minghini's General Contractors, Inc. received a complete set of bidding documents which would have included Addendum #1.

28. The Revised Form of Proposal submitted by Minghini's General Contractors Inc. did not contain a quote for a credit card alternative, but rather was marked "N/A" in every location where a bid for utilization of credit cards was to be entered.

29. Upon expiration of the March 4, 2015, 4:00 p.m. deadline, the bids were opened and reviewed by the Respondents. Upon consideration of same, the Contract for the Bus Facility Renovation was awarded to Minghini's General Contractors Inc.

30. Contrary to Article 5, Section 5.2 of the Bid Instructions, the Respondents accepted a bid that was incomplete and irregular. **Exhibit 2, p. 5 and Exhibit 3, Addendum #1.**

31. Contrary to Article 5, Section 5.3.1 of the Bid Instructions, the Respondents accepted a bid that was not submitted in accordance with the requirements of the bidding documents, specifically Addendum #1. **Exhibit 2, p. 5 and Exhibit 3, Addendum #1.**

32. The bids were opened and reviewed by the Respondents, whereupon W. Harley Miller Contractors, Inc. personnel protested the Minghini's General Contractors Inc. proposal as irregular and was advised by David Lipp that Minghini's General Contractors Inc. had called Mr. Lipp and inquired as to whether it was necessary to submit the proposal as required by the Revised Form of Proposal, specifically quotes related to payments *via* credit card. Mr. Lipp informed Minghini's General Contractors Inc. that it was not necessary to submit alternate quotes for payments *via* credit card despite Addendum #1's request for same.

33. Mr. Lipp did not contact W. Harley Miller Contractors, Inc. in advance of the bid submission deadline to inform it that an alternate quote for payment *via* credit card was no longer necessary.

34. Contrary to Article 3, Section 3.23 of the Bid Instructions issued by the Respondents, the Respondents did not issue an Addendum to formalize Mr. Lipp's decision to waive the requirement for the submission of a separate quote for a credit card alternative as set forth in Addendum #1. **Exhibit 2, p. 3.**

35. With respect to advertisement for bids and the requirements associated with proposal forms, W. Va. Code § 5-22-2(b) provides as follows:

(b) The provisions and requirements of this section, section one of article twenty-two of this chapter, the requirements stated in the advertisement for bids and the requirements on the bid form may not be waived by any public entity. The public entity may only reject an

erroneous bid after the opening if all of the following conditions exist: (1) An error was made; (2) the error materially affected the bid; (3) rejection of the bid would not cause a hardship on the public entity involved, other than losing an opportunity to receive construction projects at a reduced cost; and (4) enforcement of the bid in error would be unconscionable. If a public entity rejects a bid, it shall maintain a file of documented evidence demonstrating that all the conditions set forth in this subdivision existed. If the public entity determines the bid to be erroneous, the public entity shall return the bid security to the contractor.

36. The requirements in the advertisement for bid and the Revised Form of Proposal were waived by the Respondents when Mr. Lipp spoke with a representative of Minghini's General Contractors Inc. without notifying all parties of the information and, secondly, when the Respondents accepted the bid of Minghini's General Contractors Inc., which did not follow the conditions of the advertisement for bid, Bid Instructions or Revised Form of Proposal.

37. Pursuant to West Virginia law an erroneous bid should be rejected if (1) an error was made; (2) the error materially affected the bid; (3) rejection of the bid would not cause a hardship on the public entity involved other than losing an opportunity to receive construction projects at a reduced cost; and (4) enforcement of the bid in error would be unconscionable.

38. The Respondents accepted a bid in which an error had been made.

39. The Respondents, in refusing to reject the bid of Minghini's General Contractors Inc. acted in a manner which is unconscionable.

40. Because the bid of Minghini's General Contractors Inc. was not rejected for being in noncompliance and erroneous, W. Harley Miller Contractors, Inc. has suffered damages for the loss of the job and any and all profits attendant thereto.

41. On March 4, 2015, W. Harley Miller Contractors, Inc. lodged a formal written protest to the bid acceptance.

42. On March 11, 2015, at approximately 9:34, Respondent David Lipp notified W. Harley Miller Contractors, Inc. that the Respondent, Jefferson County Board of Education, was aware of the protest but after communications and discussion of same, determined that the proposal was not irregular with respect to the credit card pricing.

43. Respondent, David Lipp has advised and acknowledged to W. Harley Miller Contractors, Inc. that he did not know if the designation of "N/A" on the Minghini's General Contractors Inc.'s bid meant "not applicable" or "not available", thereby admitting that an incomplete, irregular and/or erroneous bid was accepted.

44. Respondent David Lipp has acknowledged to W. Harley Miller Contractors, Inc. that he should not have (a) responded to Minghini's General Contractors Inc.'s phone call request; (b) advised Minghini's General Contractors Inc. that it was not necessary to submit an alternate quote for payments *via* credit card.

45. Respondents, Jefferson County Board of Education and Helbing Lipp Recny Architects, through the actions of their agent David Lipp, have acknowledged that they violated the terms of their own bidding documents, including, but not limited to, the Bid Instructions, Addendum #1 and the Revised Form of Proposal.

46. Petitioner has verified this complaint in accordance with Rule 65 of the West Virginia Rules of Civil Procedure.

47. A temporary restraining order is necessary to prohibit the Bus Facility Renovation from going forward with Minghini's General Contractors Inc., as once the construction begins the harm will be irreparable.

WHEREFORE, for the reasons stated above this Court should grant immediate injunctive relief by enjoining the respondents from proceeding with the acceptance of the Minghini's General Contractors Inc.'s bid or with the work to be done on the Jefferson County Bus Maintenance Facility.


The Petitioner seeks a hearing to impose injunctive relief.

The Petitioner respectfully requests that this Court:

1. Assume jurisdiction of this case;
2. award timely injunctive relief to prohibit the Respondents' acceptance of the Minghini's General Contractors Inc. bid;
3. award timely injunctive relief to prohibit the Respondents from going forward with the Jefferson County Schools Bus Maintenance Facility Renovation;
4. award the contract for the Jefferson County Schools Bus Maintenance Facility Renovation to lowest bidder with a completed bid that is in compliance with the Invitation to Bid and all bidding documents associated therewith;
5. award actual damages; and
6. award damages for loss of profit due to the acceptance of the Minghini's General Contractors Inc. bid.

W. HARLEY MILLER CONTRACTORS, INC.,
By Counsel,

MARTIN & SEIBERT, L.C.

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March 13, 2015

VERIFICATION OF COMPLAINT

STATE OF WEST VIRGINIA)
)
COUNTY OF BERKELEY)

I, James W. Dailey, II, on behalf of W. Harley Miller Contractors, Inc., the Petitioner named in the foregoing Complaint, being duly sworn, state that I have read the Complaint and the facts and allegations contained therein are true, except so far as they are therein stated to be upon information, and that, so far as they are therein stated to be upon information, we believe them to be true.

James W. Dailey, II
James W. Dailey, II
President

13 MAR 15
Date

Taken, sworn to, and subscribed before me this 13 day of March, 2015.

Emily D. Flowers
NOTARY PUBLIC

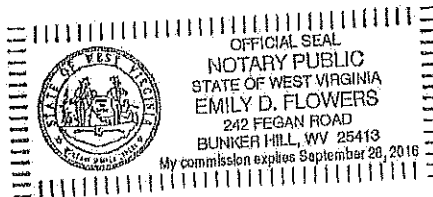


EXHIBIT 1

INVITATION TO BID

The Board of Education of the County of Jefferson, Charles Town, West Virginia, will receive bids for the Jefferson County Schools Bus Maintenance Facility Renovation located at 635 McGarry Blvd., Kearneysville, WV 25430 until 4:00 p.m. local prevailing time on March 4, 2015 at the office of the Jefferson County Board of Education, 110 Mordington Avenue, Charles Town, WV, at which time and place all bids will be publicly opened and read aloud.

Bids shall be submitted in duplicate, on a lump sum basis for renovation of an existing pre-engineered metal building including overhead doors, windows, gutters & downspouts, masonry, drywall, acoustical ceilings, resinous flooring, painting, vehicle maintenance equipment, along with mechanical, electrical and plumbing improvements. A stand-alone fueling facility includes a pre-engineered metal building canopy, underground fuel storage tank, fueling equipment and concrete pavement.

A Pre-bid Conference has been scheduled for February 24, 2015 at 10:00 a.m. at the office of the Jefferson County Board of Education, 110 Mordington Avenue, Charles Town, West Virginia. All prime-bidding contractors are encouraged to attend. A site visit will be conducted following the meeting.

Bid documents are available from Helbing Lipp Recny Architects, 111 West Washington Street, Charles Town, West Virginia 25414. These documents may be obtained in one of the following ways:

1. Contact the architect at 304-725-2255 and request information to access the firm's on-line F.T.P. site. Once access is gained, contractors can download documents at no cost.
2. Paper copies of bid documents may be obtained by contractors depositing \$300.00 with the architect for each set of documents so obtained. The amount of the deposit will not be refunded.

Each bidder must be registered with the West Virginia Department of Tax and Revenue prior to the time and date for Receipt of Bids in order for his bid to be considered. A copy of each bidder's registration certificate shall be included with the Form of Proposal.

All bidders are required to be licensed to perform work in the state as required by the West Virginia Contractor Licensing Act. Each bidder's contractor license number shall be written in the space provided on the Form of Proposal.

The Board of Education of the County of Jefferson, Charles Town, West Virginia, reserves the right to reject any or all bids and to waive any informalities and irregularities in bidding and to accept bids which are considered to be in the best interest of the owner.

A satisfactory bid bond furnished by a solvent surety company authorized to do business in the State of West Virginia, in an amount equal to five percent (5%) of the total amount of bid, payable to Jefferson County Board of Education, shall be submitted with each bid.

The successful bidder will be required to furnish a satisfactory Performance Bond and Payment Bond in the amount of 100% of the accepted bid, and the fee for same shall be included in their bid.

The contractor shall substantially complete the project in 138 calendar days from notice to proceed.

No bid may be withdrawn after the scheduled closing time for the receipt of bids for at least sixty (60) days.

JEFFERSON COUNTY BOARD OF EDUCATION
Alan Sturm, Interim Superintendent

February 13, 2015



AIA[®] Document A701[™] – 1997

EXHIBIT 2

Instructions to Bidders

for the following PROJECT:
(Name and location or address):

THE OWNER:
(Name and address):

THE ARCHITECT:
(Name and address):

TABLE OF ARTICLES

- 1 DEFINITIONS
- 2 BIDDER'S REPRESENTATIONS
- 3 BIDDING DOCUMENTS
- 4 BIDDING PROCEDURES
- 5 CONSIDERATION OF BIDS
- 6 POST-BID INFORMATION
- 7 PERFORMANCE BOND AND PAYMENT BOND
- 8 FORM OF AGREEMENT BETWEEN OWNER AND CONTRACTOR

ADDITIONS AND DELETIONS:

The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

ARTICLE 1 DEFINITIONS

§ 1.1 Bidding Documents include the Bidding Requirements and the proposed Contract Documents. The Bidding Requirements consist of the Advertisement or Invitation to Bid, Instructions to Bidders, Supplementary Instructions to Bidders, the bid form, and other sample bidding and contract forms. The proposed Contract Documents consist of the form of Agreement between the Owner and Contractor, Conditions of the Contract (General, Supplementary and other Conditions), Drawings, Specifications and all Addenda issued prior to execution of the Contract.

§ 1.2 Definitions set forth in the General Conditions of the Contract for Construction, AIA Document A201, or in other Contract Documents are applicable to the Bidding Documents.

§ 1.3 Addenda are written or graphic instruments issued by the Architect prior to the execution of the Contract which modify or interpret the Bidding Documents by additions, deletions, clarifications or corrections.

§ 1.4 A Bid is a complete and properly executed proposal to do the Work for the sums stipulated therein, submitted in accordance with the Bidding Documents.

§ 1.5 The Base Bid is the sum stated in the Bid for which the Bidder offers to perform the Work described in the Bidding Documents as the base, to which Work may be added or from which Work may be deleted for sums stated in Alternate Bids.

§ 1.6 An Alternate Bid (or Alternate) is an amount stated in the Bid to be added to or deducted from the amount of the Base Bid if the corresponding change in the Work, as described in the Bidding Documents, is accepted.

§ 1.7 A Unit Price is an amount stated in the Bid as a price per unit of measurement for materials, equipment or services or a portion of the Work as described in the Bidding Documents.

§ 1.8 A Bidder is a person or entity who submits a Bid and who meets the requirements set forth in the Bidding Documents.

§ 1.9 A Sub-bidder is a person or entity who submits a bid to a Bidder for materials, equipment or labor for a portion of the Work.

ARTICLE 2 BIDDER'S REPRESENTATIONS

§ 2.1 The Bidder by making a Bid represents that:

§ 2.1.1 The Bidder has read and understands the Bidding Documents or Contract Documents, to the extent that such documentation relates to the Work for which the Bid is submitted, and for other portions of the Project, if any, being bid concurrently or presently under construction.

§ 2.1.2 The Bid is made in compliance with the Bidding Documents.

§ 2.1.3 The Bidder has visited the site, become familiar with local conditions under which the Work is to be performed and has correlated the Bidder's personal observations with the requirements of the proposed Contract Documents.

§ 2.1.4 The Bid is based upon the materials, equipment and systems required by the Bidding Documents without exception.

ARTICLE 3 BIDDING DOCUMENTS

§ 3.1 COPIES

§ 3.1.1 Bidders may obtain complete sets of the Bidding Documents from the issuing office designated in the Advertisement or Invitation to Bid in the number and for the deposit sum, if any, stated therein. The deposit will be refunded to Bidders who submit a bona fide Bid and return the Bidding Documents in good condition within ten days after receipt of Bids. The cost of replacement of missing or damaged documents will be deducted from the deposit. A Bidder receiving a Contract award may retain the Bidding Documents and the Bidder's deposit will be refunded.

§ 3.1.2 Bidding Documents will not be issued directly to Sub-bidders unless specifically offered in the Advertisement or Invitation to Bid, or in supplementary instructions to bidders.

§ 3.1.3 Bidders shall use complete sets of Bidding Documents in preparing Bids; neither the Owner nor Architect assumes responsibility for errors or misinterpretations resulting from the use of incomplete sets of Bidding Documents.

§ 3.1.4 The Owner and Architect may make copies of the Bidding Documents available on the above terms for the purpose of obtaining Bids on the Work. No license or grant of use is conferred by issuance of copies of the Bidding Documents.

§ 3.2 INTERPRETATION OR CORRECTION OF BIDDING DOCUMENTS

§ 3.2.1 The Bidder shall carefully study and compare the Bidding Documents with each other, and with other work being bid concurrently or presently under construction to the extent that it relates to the Work for which the Bid is submitted, shall examine the site and local conditions, and shall at once report to the Architect errors, inconsistencies or ambiguities discovered.

§ 3.2.2 Bidders and Sub-bidders requiring clarification or interpretation of the Bidding Documents shall make a written request which shall reach the Architect at least seven days prior to the date for receipt of Bids.

§ 3.2.3 Interpretations, corrections and changes of the Bidding Documents will be made by Addendum. Interpretations, corrections and changes of the Bidding Documents made in any other manner will not be binding, and Bidders shall not rely upon them.

§ 3.3 SUBSTITUTIONS

§ 3.3.1 The materials, products and equipment described in the Bidding Documents establish a standard of required function, dimension, appearance and quality to be met by any proposed substitution.

§ 3.3.2 No substitution will be considered prior to receipt of Bids unless written request for approval has been received by the Architect at least ten days prior to the date for receipt of Bids. Such requests shall include the name of the material or equipment for which it is to be substituted and a complete description of the proposed substitution including drawings, performance and test data, and other information necessary for an evaluation. A statement setting forth changes in other materials, equipment or other portions of the Work, including changes in the work of other contracts that incorporation of the proposed substitution would require, shall be included. The burden of proof of the merit of the proposed substitution is upon the proposer. The Architect's decision of approval or disapproval of a proposed substitution shall be final.

§ 3.3.3 If the Architect approves a proposed substitution prior to receipt of Bids, such approval will be set forth in an Addendum. Bidders shall not rely upon approvals made in any other manner.

§ 3.3.4 No substitutions will be considered after the Contract award unless specifically provided for in the Contract Documents.

§ 3.4 ADDENDA

§ 3.4.1 Addenda will be transmitted to all who are known by the issuing office to have received a complete set of Bidding Documents.

§ 3.4.2 Copies of Addenda will be made available for inspection wherever Bidding Documents are on file for that purpose.

§ 3.4.3 Addenda will be issued no later than four days prior to the date for receipt of Bids except an Addendum withdrawing the request for Bids or one which includes postponement of the date for receipt of Bids.

§ 3.4.4 Each Bidder shall ascertain prior to submitting a Bid that the Bidder has received all Addenda issued, and the Bidder shall acknowledge their receipt in the Bid.

ARTICLE 4 BIDDING PROCEDURES

§ 4.1 PREPARATION OF BIDS

§ 4.1.1 Bids shall be submitted on the forms included with the Bidding Documents.

§ 4.1.2 All blanks on the bid form shall be legibly executed in a non-erasable medium.

§ 4.1.3 Sums shall be expressed in both words and figures. In case of discrepancy, the amount written in words shall govern.

§ 4.1.4 Interlineations, alterations and erasures must be initialed by the signer of the Bid.

§ 4.1.5 All requested Alternates shall be bid. If no change in the Base Bid is required, enter "No Change."

§ 4.1.6 Where two or more Bids for designated portions of the Work have been requested, the Bidder may, without forfeiture of the bid security, state the Bidder's refusal to accept award of less than the combination of Bids stipulated by the Bidder. The Bidder shall make no additional stipulations on the bid form nor qualify the Bid in any other manner.

§ 4.1.7 Each copy of the Bid shall state the legal name of the Bidder and the nature of legal form of the Bidder. The Bidder shall provide evidence of legal authority to perform within the jurisdiction of the Work. Each copy shall be signed by the person or persons legally authorized to bind the Bidder to a contract. A Bid by a corporation shall further give the state of incorporation and have the corporate seal affixed. A Bid submitted by an agent shall have a current power of attorney attached certifying the agent's authority to bind the Bidder.

§ 4.2 BID SECURITY

§ 4.2.1 Each Bid shall be accompanied by a bid security in the form and amount required if so stipulated in the Instructions to Bidders. The Bidder pledges to enter into a Contract with the Owner on the terms stated in the Bid and will, if required, furnish bonds covering the faithful performance of the Contract and payment of all obligations arising thereunder. Should the Bidder refuse to enter into such Contract or fail to furnish such bonds if required, the amount of the bid security shall be forfeited to the Owner as liquidated damages, not as a penalty. The amount of the bid security shall not be forfeited to the Owner in the event the Owner fails to comply with Section 6.2.

§ 4.2.2 If a surety bond is required, it shall be written on AIA Document A310, Bid Bond, unless otherwise provided in the Bidding Documents, and the attorney-in-fact who executes the bond on behalf of the surety shall affix to the bond a certified and current copy of the power of attorney.

§ 4.2.3 The Owner will have the right to retain the bid security of Bidders to whom an award is being considered until either (a) the Contract has been executed and bonds, if required, have been furnished, or (b) the specified time has elapsed so that Bids may be withdrawn or (c) all Bids have been rejected.

§ 4.3 SUBMISSION OF BIDS

§ 4.3.1 All copies of the Bid, the bid security, if any, and any other documents required to be submitted with the Bid shall be enclosed in a sealed opaque envelope. The envelope shall be addressed to the party receiving the Bids and shall be identified with the Project name, the Bidder's name and address and, if applicable, the designated portion of the Work for which the Bid is submitted. If the Bid is sent by mail, the sealed envelope shall be enclosed in a separate mailing envelope with the notation "SEALED BID ENCLOSED" on the face thereof.

§ 4.3.2 Bids shall be deposited at the designated location prior to the time and date for receipt of Bids. Bids received after the time and date for receipt of Bids will be returned unopened.

§ 4.3.3 The Bidder shall assume full responsibility for timely delivery at the location designated for receipt of Bids.

§ 4.3.4 Oral, telephonic, telegraphic, facsimile or other electronically transmitted bids will not be considered.

§ 4.4 MODIFICATION OR WITHDRAWAL OF BID

§ 4.4.1 A Bid may not be modified, withdrawn or canceled by the Bidder during the stipulated time period following the time and date designated for the receipt of Bids, and each Bidder so agrees in submitting a Bid.

§ 4.4.2 Prior to the time and date designated for receipt of Bids, a Bid submitted may be modified or withdrawn by notice to the party receiving Bids at the place designated for receipt of Bids. Such notice shall be in writing over the signature of the Bidder. Written confirmation over the signature of the Bidder shall be received, and date- and time-stamped by the receiving party on or before the date and time set for receipt of Bids. A change shall be so worded as not to reveal the amount of the original Bid.

§ 4.4.3 Withdrawn Bids may be resubmitted up to the date and time designated for the receipt of Bids provided that they are then fully in conformance with these Instructions to Bidders.

§ 4.4.4 Bid security, if required, shall be in an amount sufficient for the Bid as resubmitted.

ARTICLE 5 CONSIDERATION OF BIDS

§ 5.1 OPENING OF BIDS

At the discretion of the Owner, if stipulated in the Advertisement or Invitation to Bid, the properly identified Bids received on time will be publicly opened and will be read aloud. An abstract of the Bids may be made available to Bidders.

§ 5.2 REJECTION OF BIDS

The Owner shall have the right to reject any or all Bids. A Bid not accompanied by a required bid security or by other data required by the Bidding Documents, or a Bid which is in any way incomplete or irregular is subject to rejection.

§ 5.3 ACCEPTANCE OF BID (AWARD)

§ 5.3.1 It is the intent of the Owner to award a Contract to the lowest qualified Bidder provided the Bid has been submitted in accordance with the requirements of the Bidding Documents and does not exceed the funds available. The Owner shall have the right to waive informalities and irregularities in a Bid received and to accept the Bid which, in the Owner's judgment, is in the Owner's own best interests.

§ 5.3.2 The Owner shall have the right to accept Alternates in any order or combination, unless otherwise specifically provided in the Bidding Documents, and to determine the low Bidder on the basis of the sum of the Base Bid and Alternates accepted.

ARTICLE 6 POST-BID INFORMATION

§ 6.1 CONTRACTOR'S QUALIFICATION STATEMENT

Bidders to whom award of a Contract is under consideration shall submit to the Architect, upon request, a properly executed AIA Document A305, Contractor's Qualification Statement, unless such a Statement has been previously required and submitted as a prerequisite to the issuance of Bidding Documents.

§ 6.2 OWNER'S FINANCIAL CAPABILITY

The Owner shall, at the request of the Bidder to whom award of a Contract is under consideration and no later than seven days prior to the expiration of the time for withdrawal of Bids, furnish to the Bidder reasonable evidence that financial arrangements have been made to fulfill the Owner's obligations under the Contract. Unless such reasonable evidence is furnished, the Bidder will not be required to execute the Agreement between the Owner and Contractor.

§ 6.3 SUBMITTALS

§ 6.3.1 The Bidder shall, as soon as practicable or as stipulated in the Bidding Documents, after notification of selection for the award of a Contract, furnish to the Owner through the Architect in writing:

- .1 a designation of the Work to be performed with the Bidder's own forces;
- .2 names of the manufacturers, products, and the suppliers of principal items or systems of materials and equipment proposed for the Work; and
- .3 names of persons or entities (including those who are to furnish materials or equipment fabricated to a special design) proposed for the principal portions of the Work.

§ 6.3.2 The Bidder will be required to establish to the satisfaction of the Architect and Owner the reliability and responsibility of the persons or entities proposed to furnish and perform the Work described in the Bidding Documents.

§ 6.3.3 Prior to the execution of the Contract, the Architect will notify the Bidder in writing if either the Owner or Architect, after due investigation, has reasonable objection to a person or entity proposed by the Bidder. If the Owner or Architect has reasonable objection to a proposed person or entity, the Bidder may, at the Bidder's option, (1) withdraw the Bid or (2) submit an acceptable substitute person or entity with an adjustment in the Base Bid or Alternate Bid to cover the difference in cost occasioned by such substitution. The Owner may accept the adjusted bid price or disqualify the Bidder. In the event of either withdrawal or disqualification, bid security will not be forfeited.

§ 6.3.4 Persons and entities proposed by the Bidder and to whom the Owner and Architect have made no reasonable objection must be used on the Work for which they were proposed and shall not be changed except with the written consent of the Owner and Architect.

ARTICLE 7 PERFORMANCE BOND AND PAYMENT BOND

§ 7.1 BOND REQUIREMENTS

§ 7.1.1 If stipulated in the Bidding Documents, the Bidder shall furnish bonds covering the faithful performance of the Contract and payment of all obligations arising thereunder. Bonds may be secured through the Bidder's usual sources.

§ 7.1.2 If the furnishing of such bonds is stipulated in the Bidding Documents, the cost shall be included in the Bid. If the furnishing of such bonds is required after receipt of bids and before execution of the Contract, the cost of such bonds shall be added to the Bid in determining the Contract Sum.

§ 7.1.3 If the Owner requires that bonds be secured from other than the Bidder's usual sources, changes in cost will be adjusted as provided in the Contract Documents.

§ 7.2 TIME OF DELIVERY AND FORM OF BONDS

§ 7.2.1 The Bidder shall deliver the required bonds to the Owner not later than three days following the date of execution of the Contract. If the Work is to be commenced prior thereto in response to a letter of intent, the Bidder shall, prior to commencement of the Work, submit evidence satisfactory to the Owner that such bonds will be furnished and delivered in accordance with this Section 7.2.1.

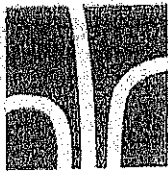
§ 7.2.2 Unless otherwise provided, the bonds shall be written on AIA Document A312, Performance Bond and Payment Bond. Both bonds shall be written in the amount of the Contract Sum.

§ 7.2.3 The bonds shall be dated on or after the date of the Contract.

§ 7.2.4 The Bidder shall require the attorney-in-fact who executes the required bonds on behalf of the surety to affix thereto a certified and current copy of the power of attorney.

ARTICLE 8 FORM OF AGREEMENT BETWEEN OWNER AND CONTRACTOR

Unless otherwise required in the Bidding Documents, the Agreement for the Work will be written on AIA Document A101, Standard Form of Agreement Between Owner and Contractor Where the Basis of Payment Is a Stipulated Sum.



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Lipp
Recny
ARCHITECTS

EXHIBIT 3

**JEFFERSON COUNTY SCHOOLS
BUS MAINTENANCE FACILITY RENOVATION**

03-04-2015
JOB #114504

635 McGarry Boulevard Kearneysville, West Virginia 25430

ADDENDUM #1

Bids Due: March 4, 2015 @ 4:00 p.m.

Addendum Date: March 25, 2015

The Specifications and Drawings for the above named project are hereby revised and amended in the following respects and in these particulars only.

A. CLARIFICATIONS:

1. Owner requests that all bids be quoted two ways. First, if requisitions for payment are paid in cash and, second, if they are paid with a credit card. See attached revised Form of Proposal.
2. Construct two dust partitions prior to the start of construction. One wall extending from the southwest corner of room 185 to column "4H". Provide a 6' -0" x 7' -0" pair of access doors in this wall. The second wall to be installed from column "9H" to the southeast corner of room 163. Partitions to be constructed of 2 x 8" metal studs at 24" o. f. with 5/8" FRT plywood and 6 mil vapor barrier one side. Partition to extend to deck above and be sealed with tape.
3. Provide a 10 mil polyethylene moisture barrier under all new concrete slab pours. This includes the below grade slabs for each in-ground lift.
4. The new light fixture specifications are:
New High Bay LED task light: Lithonia IBH 18000LM SD080 MD MVOLT GZ10 40K 70CRI WH.
Industrial Wall Mounted Emergency Light: Lithonia ELT50 H1212
Industrial Combination Exit/Emergency Light: Lithonia LHQM LED R
5. High pressure washer (equipment item #3718 on drawings) and all associated high pressure piping controls, hose, reel and scabbard will be purchased and installed by the Owner.
6. Provide Add Alternate #4 to provide and install heavy duty asphalt pavement in area indicated to receive heavy duty concrete pavement on drawing A714. Concrete pavement will not be installed. Heavy duty asphalt pavement to comply with attached Heavy Duty Asphalt Pavement Detail.

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Suite 201
Vienna, VA 22182-2741
Ph 703.556.0700 Fx 703.448.7555

Branch Office:

111 West Washington Street
PO Box 1220
Charles Town, WV 25414-1560
Ph 304.725.2255

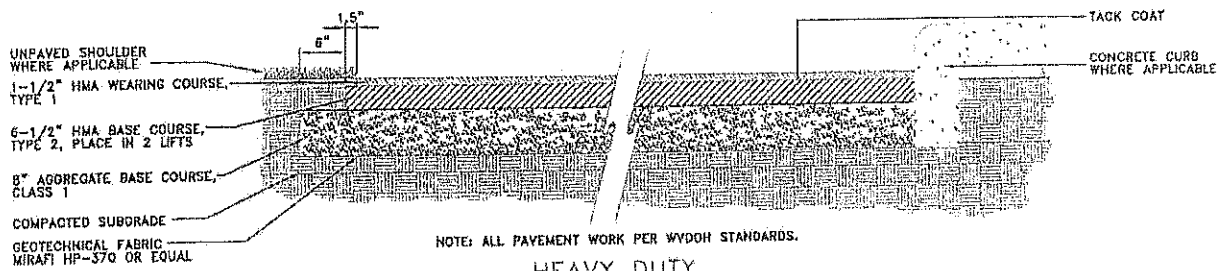
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7. The alternate price to provide additional framing members identified on structural drawing S103 shall be Add Alternate #3 as indicated on the Form of Proposal.
8. The revised Form of Proposal is attached.
9. Pre-Bid Meeting Sign-In sheet is attached.

END OF ADDENDUM #1



NOTE: ALL PAVEMENT WORK PER WYDOH STANDARDS.

HEAVY DUTY

ASPHALT PAVEMENT DETAIL

NOT TO SCALE [P-1107-1001.0*0]

FORM OF PROPOSAL

Bidder's Name

Bidder's Address

Bidder's Phone No.

Bidder's WV Contractor License No.

JEFFERSON COUNTY SCHOOLS BUS MAINTENANCE FACILITY RENOVATION

BIDS DUE: March 4, 2015 @ 4:00 pm

The Board of Education
County of Jefferson
110 Mordington Avenue
Charles Town, West Virginia 25414

I (We) in accordance with your Advertisement for Bids for the Jefferson County Schools Bus Maintenance Facility Renovation having examined drawings and specifications, all as prepared by Helbing Lipp Recny Architects and having visited the site of the proposed work, and being familiar with all of the conditions surrounding this proposal, propose to provide for the project in accordance with the contract documents, within the time stated herein, and at the prices stated below. These prices shall cover all expenses incurred for the work required under the contract documents, for which this proposal is a part.

1. **BASE BID** (Alternates not included. Owner may accept any individual or combination of these bids.)

- Proposal to include all labor, materials, tools, equipment and supervision to perform all renovation work for the Jefferson County Schools Bus Maintenance Facility Renovation for the sum of:

ADD: (cash) _____ Dollars (\$ _____)
ADD: (credit card) _____ Dollars (\$ _____)

2. **ALTERNATE BIDS** (Not included in Base Bid)

The above-stated base bids may be increased by the following alternates with the understanding that the alternate prices include all direct costs, indirect costs, safety costs, overhead, taxes, insurance, profit, delay costs, and any other related costs. The contract time will be the same regardless of the alternates that are selected by the Owner.

NOTE: The bidder must submit a proposal for all Alternates herein below listed. The proposal will be considered non-responsive and invalid if the bidder fails to submit a proposal for all Alternates

Add Alternate #1

Provide and Install a complete fueling station as described and shown on drawings FD-001 through FD-701. This alternate does not include the canopy support structure or the canopy itself. It does include the following:

1. All foundation work necessary to support the canopy.
2. Concrete pavement.
3. Subsurface stormwater drainage system stubbed up and capped off in concrete island.
4. Installation of panel "PP1" and connecting all conduits stubbed out by the site work contractor and pulling wiring from the light duty repair bay #159 to panel "PP1" and making all final connections.
5. Provide an additional 1" conduit from panel "PP1" to stub up in concrete fueling island for future canopy lights.
6. Provide four 2.5" diameter x 8'-0" long galvanized steel posts to mount fueling signage on.

ADD: (cash) _____ Dollars (\$ _____)
ADD: (credit card) _____ Dollars (\$ _____)

Add Alternate #2

Provide and install a complete canopy over the fueling station as shown on drawing A-714. This alternate includes everything from the top of pavement to top of canopy parapet. Provide conduit from stub out in island to canopy lights. Pull required wiring from panel "PP1" to canopy lighting.

ADD: (cash) _____ Dollars (\$ _____)
ADD: (credit card) _____ Dollars (\$ _____)

Add Alternate #3

Remove existing ceiling grid panels, lights, sprinklers and any other necessary items above the ceiling in conference room 123. Install new 2" x 10" sister floor joist across room at 12" o.c. Reinstall previously removed or shifted items to include a new ceiling grid and new acoustical tile. Reuse existing lights and diffusers.

ADD: (cash) _____ Dollars (\$ _____)
ADD: (credit card) _____ Dollars (\$ _____)

Add Alternate #4

Provide and install heavy duty asphalt pavement in area indicated to receive heavy duty concrete pavement on drawing A714. Concrete pavement will not be installed. Heavy duty asphalt pavement to comply with attached Heavy Duty Asphalt Pavement Detail.

ADD: (cash) _____ Dollars (\$ _____)
ADD: (credit card) _____ Dollars (\$ _____)

3. **TIME OF COMPLETION**

It is expressly agreed that all work shall be started immediately upon receipt of Notice to Proceed and shall be substantially completed within the time stated in Section 01 10 00. I (we) further agree to pay as liquidated damages the sum of \$750 for each consecutive calendar day thereafter as herein provided in the Supplementary General and Special Conditions.

4. **BID SECURITY**

Bid Security in the sum of _____ Dollars (\$ _____), in the form of AIA Document A310 is submitted herewith, in accordance with the Instructions to Bidders.

5. **ADDENDA**

The undersigned acknowledges receipt of the following Addenda; the cost, if any, of such revisions has been included in the bid sum:

Addendum No. _____, dated _____

Addendum No. _____, dated _____

Addendum No. _____, dated _____

Addendum No. _____, dated _____

Addendum No. _____, dated _____

6. **NOTICE OF ACCEPTANCE**

In submitting this Bid, it is understood that the right is reserved by the Owner to reject any and all Bids, and to waive all formalities, and to accept any combination of bids in his (their) best interest. If written notice of acceptance of a Base Proposal is mailed, faxed, emailed or delivered to the undersigned within sixty (60) days after the opening thereof, or at any time thereafter before this Bid is withdrawn, the undersigned agrees to execute and deliver a Contract in the prescribed form and furnish the required Bond within ten (10) days after the Contract is presented to him for signature.

If the Base Proposal is accepted and written notice of acceptance of any of the Alternate Proposals is mailed, faxed, emailed or delivered to the undersigned within sixty (60) days after Notice to Proceed, the undersigned agrees to execute and deliver a Change Order in the prescribed form to add any or all alternates at the Alternate Proposal Sums included in this Proposal.

Respectfully submitted,

Seal if Bid is By Corporation

FIRM NAME _____

BY _____

TITLE _____



PRE-BID SIGN-IN

PROJECT : Jefferson Co. Schools
Bus Maintenance Renovation
PROJECT NO: 114504

DATE: 02/24/15
TIME: 10:00 AM

1	Name: BRUCE B DAVIS e-mail: BDAVIS@HLRARCHITECTS.COM	Co. HLR ARCHITECTS Phone: (703) 556-0700
2	Name: Russ Fitzgerald e-mail: r00dFit2@hotmail.com	Co. Jefferson County Schools Phone: (304) 820-5598
3	Name: DAVE LIPP e-mail: DLIPP@HLRARCHITECTS.COM	Co. HELBING LIPP RECNY Phone: 703-556-0114
4	Name: JOHN RECNY e-mail: JRECNY@HLRARCHITECTS.COM	Co. HELBING LIPP RECNY ARCHITECTS Phone: 703-556-0700 (703-851-1262 cell)
5	Name: Don Miller e-mail: dmiller@minghinis.com	Co. Minghinis G.C. Inc Phone: 304-263-9988
6	Name: Jim HARPER e-mail: J.M@ADELCON.COM	Co. ADVANCED ELECTRICAL CONTR Phone: 301-766-0939
7	Name: Bud GLASS e-mail: BudHVAC@yahoo.com	Co. Showard & A/E/Heating Phone: 304-728-3531
8	Name: TERRY AIKENS e-mail: t aikensewhmcontractors.com	Co. W. HARLEY MILLER Phone: 304-267-8959
9	Name: John Ward e-mail: john@alanlylifts.com	Co. Stentilioni - Alan Tyed Associates Phone: 571-422-6861
10	Name: CHRIS B. CARTER e-mail: chrcarter@K12.WV.US	Co. JEFFERSON Co. Transportation Phone: 304-725-7264
11	Name: Robert Poylan e-mail: RBOYLAN@K12.WV.US	Co. Jefferson County Schools Phone: 304-725-7664
12	Name: William 'Todd' GESS e-mail: tgess@callascontractors.com	Co. CALLAS CONTRACTORS Phone: (301) 739-8400
13	Name: Loren R Martin e-mail: loren@cpwequipment.com	Co. CPW Equipment LLC Phone: 717-226-2441 cell
14	Name: Jonathan Miller e-mail: jonmiller@shermetal.com	Co. Mic-Ron Sheet Metal Phone: 304-267-9024

Robert Parker
Rparker@bordie-mechanical.com

Bordie Mechanical
304 260 0935