Trisch Arbib

From: Richard Lambeck [rl79@nyu.edu]
Sent: Sunday, November 09, 2008 12:32 PM
To: 'Larry Longua'; James Ramsey; 'H. Claude Shostal'
Cc: Trisch Arbib; Alison Leary; 'Robert Lapiner'
Subject: Sub-Committe Task Force-NYU's Construction Management Agreement-Comments

Larry, James and Claude,

I have reviewed the NYU's Construction Management Agreement (GMP) and my comments are attached.

The following major items were found that could cause an increase to the contractor's costs (out side of the normal materials and labor costs):

1. It seems that the architect is relieved of certain responsibilities (i.e time to review shop drawings, coordination of drawings). However, this may be covered in the architect's agreement.

2. The contractor does not share in the contingency, when savings occur. This is not the normal practice in commercial construction.

3. NYU's vendors take no onus for the work they are performing. It becomes the contractor's responsibility.

4. Consideration should be given for reducing retainage down to 5% after 50% of the work has been completed (only if the contractor and subs are performing the work according to the contract)

5. Obtaining a C of O could take a long time. Thus, this responsibility should belong to NYU (with assistance from the contractor)

6. Why not fee on Change Orders? This is additional work

7. Allowance for working in tenant occupied buildings should be included in any budget.

8. Waiver of Delay Damages-This clause should be eliminated. Not a very fair provision.

9. Payments to the contractor should be made in an expeditious manner. In 30 days, not 45 days.

We can discuss these items at the November 10, 2008 sub-committee meeting.

3/6/2009
CONSTRUCTION MANAGEMENT AGREEMENT

BETWEEN NYU AND A CONTRACTOR

COMMENTS

1. Page 1-Plans and Specifications should be changed to Construction Documents
2. Page 2-Contract documents should also include bulletins, sketches
3. Page 4-Under the definition of Guaranteed Maximum Price, Allowances should be added.
4. Page 6-Retainage-Should consider reducing it down to 5% when the project reaches 50% (if no problems exists with the contractor)
5. Page 6-Schedule-What about NYU’s vendors? They should be part of the schedule
6. Page 7-Who’s responsibility is it to obtain the TCO and or C of O? C of O could take an extended period of time
7. Page 7-Architect to determine Substantial Completion-Need an independent party
8. Page 7-Unit prices should be all inclusive, including any taxes, O.H. + profit, transportation, permits, etc.
9. Page 8-When it says “The bids must be reviewed with NYU.......” What it should say is that all leveling sheets for each trade has to be reviewed by NYU.
10. Page 8-PreConstruction Services-under estimating-During which phases of design? Not specified.
11. Page 8-Value Engineering-Is it for maintaining the budget?
12. Page 9-What is NYU’s policy in regard to Insurance and bonding?
13. The industry has changed of when a GMP will be given. Now at 80% of buy-out of trades. Has NYU accepted this change?
14. Page 11-How is the cost for ALLOWANCES developed and on what type of information?
15. Page 11-Schedule-Who establishes the required dates?
16. Page 11-What onus is placed on the architect to turn around shop drawings?
17. Page 12-Thinking that NYU has to be careful about enumerating items for SAFETY
18. Page 13-Shop drawings-Again no time for turn around by the architect.
19. Page 13-Shop drawing schedule should not include “ANTICIPATED APPROVAL DATES”. The architect should advise NYU what those times will be. Can not put the onus on the contractor, who has no control over the architect.
20. Page 14-(V)- Changes should not be indicated on the shop drawings. New sketches should be prepared by the architect.
21. Page 14-Contractors are not mind readers. All required information should be provided by the architect and the consultants.
22. Page 15-(ii)-What about the architect’s responsibility
23. Page 15-(iii)-What about the architect with the use of CADD, BIM capability?
24. Page 15-(iv)-What onus for the architect?
25. Page 18-(i)-Coordination of all NYU vendors should be shown on the contractors schedule
26. Page 19-(o)-With tenants in the building, schedule is not the only item impacted but cost as well.
27. Page 19-(p)-Will allowances be included in the cost to cover these events?
28. Page 20-(c)-WAIVER OF DELAY DAMAGES-This could be a major cost impact for the contractor.
29. Page 21-(iii)-Why no sharing of savings—even if it is 10-25% of the savings?
30. Page 23-(xiii)-Need clarification on sales tax exemption. Know about Certificate of Capital Improvement. Is material exempt from sales tax?
31. Page 27-(b) How come the contractor does not receive a fee for change order work? This is work that is added to the contract and could have been part of the original contract work.
32. Page 33-(iii)-What about minor costs for mobilization?
33. Page 33-(v)-Architect should only receive 5 days
34. Page 33-(v)-45 days should be changed to 30 days
35. Page 33-(vi)-Reduce to 5% at 50% of work
36. Page 34-(b)(i)-Why would NYU want to take title for something that is not installed. Contractor should take out insurance to protect the item, if NYU paid for it.
37. Page 40-(a)-What does “not covered by NYU’s insurance” mean?
38. Page 44-(a)-What about NYU vendors
39. Page 48 Section 24-How come no dispute procedures have been established (i.e. Partnering, Review Board, Mini Trials, Mediation, etc)?
40. Page 58-EXHIBIT A-Are General Conditions based on % of construction? It should be based on the enumerated costs.