National Association of Surety Bond Producers
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May 27, 2015

Lori Bickler, PE
Lincoln Financial Group
Administrative Services
100 North Greene Street
JP2 South
Greensboro, NC 27401

Re: 150 Percent Performance Bond for Jefferson Standard Building Renovation Project

Dear Ms. Bickler:

I am contacting you on behalf of the National Association of Surety Bond Producers (NASBP), a national trade association of surety bond producers, including agencies employing licensed resident and nonresident producers placing bid, performance, and payment bonds on both public and private projects in the State of North Carolina and all other jurisdictions.

We recently received information from some of our members that the owner of the Jefferson Standard Building Renovation project (Project) has included performance and payment bonds as an alternative form of security for the Project. NASBP congratulates the owner for recognizing and designating performance and payment bonds, which are the very best risk management method to ensure prequalified contractors who are capable of performing the contract and paying their subcontractors and suppliers.

NASBP, however, has significant concerns over the requirement in the Supplementary Conditions at subsection 2.26, which mandates a "150 percent Performance Bond." It is customary and standard in the construction and surety industries for performance bonds to be 100 percent of the contract amount, not 150 percent. The performance bond guarantees 100 percent of the performance of the contractor performing the obligation under the contract. The owner is guaranteed and the contract is covered for 100 percent of the contract performance. Accordingly, a 150 percent bond obligation exceeds the obligation of the contractor. Because the surety's obligation is co-extensive with that of the contractor, any surety that issued bonds for this project would have liability at 150 percent of the contract amount. The performance bond is not for the purpose of acting as excess insurance; it guarantees the contractor's performance of the contract. It is thus logical for the bond amount to be 100 percent of the contract amount.

A 150 percent bond alternative will restrict the availability for bonds on the Project. It is highly unlikely that any surety will be comfortable issuing a performance bond at 150 percent of the contract amount, even for qualified and capable contractors. Significantly, this excessive bond amount will eliminate from the bidder pool most, if not all, contractors, since most sureties will be highly reticent to write an obligation that grossly exceeds the scope of the contractor's obligation. With less competition and likely a smaller pool of potential bidders, the owner of the Project may have to shoulder unnecessary additional costs.

NASBP commends the owner for its insight into recognizing and implementing performance and payment bond alternatives as desirable security on the Project. NASBP respectfully requests that the owner consider changing the percentage of the performance bond to 100%, in the interest of robust competitive bidding and lower project cost.

Please let me know if you would like to discuss this matter. Thank you for your prompt consideration of and attention to NASBP's concerns.

Yours sincerely,

Martha L. Perkins

Martha L. Perkins
General Counsel

cc: Mark H. McCallum, CEO