

ATTACHMENT NO. XI.-C: High School Bathroom Project

Suggested motion: Move to Approve the design work and request for proposals

Recommended action: Approve as presented.

It is recommended that the Board approve the Administration to work with Greg Stahler to design a Life Skills bathroom for the high school and request proposals for a Summer 2024 project.

At the Facilities Committee Meeting, it was directed by the Committee to investigate the new process for Design Build Projects. The new law that went into effect on January 1, 2024 allows schools to use design builders for projects within the District. The typical process is to have the District architect design the project and then request proposals for planned facility work in the District. Because it is such a new law in Illinois, I reached out to our attorney to make sure the process was understood for the design build projects. (See the following attachment) Upon reviewing the details from Attorney Scott Nemanich, there are extra steps and additional time that will be needed to choose a contractor who would then need to develop the project to go out for proposals. Seeing as this is a smaller scaled project, and in an effort to save time and complete this project yet this summer, Greg Stahler is being recommended to design and get this project out for proposals. This process would then allow the District to have the restroom completion online for the beginning of school in the Fall and in bringing our students back to their home school.

To: Dr. Michael J. Greenlee, Superintendent
North Boone Community Unit School District 200

From: Scott E. Nemanich, Klein, Thorpe & Jenkins, Ltd.

Date: March 7, 2024

Mike, per your request I am writing this memo regarding the use of design-build for projects. The more I reviewed this, the worse it seemed from a standpoint of time and potential pitfalls.

These are the basic steps:

- a) The district would begin by developing with the assistance of a licensed design professional or public art designer a request for proposals. If that person is not an employee of the district, you may select an independent design professional or public art designer by selecting one pursuant to the Local Government Professional Services Selection Act (THE SAME PROCESS AS YOU WOULD USE TO SELECT AN ARCHITECT).
- b) Once the selection is made, that person working with the district would develop the proposal- the criteria to be included in the proposal is quite detailed- see the attachment with my markings (1)(2) and (3).
- c) Once you are ready to request proposals, you must FIRST ISSUE A NOTICE OF INTENT TO RECEIVE PROPOSALS for the project at least 14 days before you submit the request for proposals. It must be published and placed on the district website. A brief description of the proposed procurement must be included in the notice.
- d) The request for proposals which then follows must be made at least 21 days (28 days for projects over \$12 M) prior to the deadline for submission. The proposals must include a bid bond as well as a separate sealed envelope containing the cost information.
- e) Thereafter, the school district embarks on a 2-phase process for selection. (If the project is less than \$12M, the 2 phases can be combined into one as long as all criteria set forth in Section 15 A -25 are met.
- f) Phase I is an evaluation of criteria as set forth in (4), from which a shortlist is developed.
- g) Once the shortlist is developed of the most highly qualified (5), the district must notify those on the list in writing. Sufficient time must be given to those shortlist entities to prepare their Phase II submissions. The district must include in the request the evaluating factors to be used in the technical and costs submission components of the Phase II submission. The district must establish the relevant importance to be assigned to each evaluation factor and subfactor including any weighting of the criteria (a record of the evaluation scoring is to be maintained). The total project cost criteria weighting factor cannot exceed 30%. (6).

- h) During a review of the Phase II submissions and review of the criteria, the district must employ a design professional to review the technical and costs submissions to determine if they are in accordance with generally accepted industry standards.
- i) The district can then award to the highest overall ranked design-build entity the project. Notice of the award must be made in writing to both the winner and those who were unsuccessful.
- j) Prior to signing the contract, the district may negotiate terms with the selected firm after the award, for the purpose of securing better terms than originally proposed if the salient features of the proposal are not diminished.
- k) At the end of every 6-month period following the award and prior to the closeout, a selected design-build entity must detail, in a written report to the district as set forth in (7).

entity after award, but prior to contract execution, for the purpose of securing better terms than originally proposed if the salient features of the request for proposal are not diminished.

A design-build entity and associated design professionals must conduct themselves in accordance with the relevant laws of this State and the related provisions of the Illinois Administrative Code.

(65 ILCS 5/11-39.2-45 new)

Sec. 11-39.2-45. Reports and evaluation. At the end of every 6-month period following the contract award, and again prior to final contract payout and closure, a selected design-build entity must detail, in a written report submitted to the municipality, its efforts and success in implementing the entity's plan to comply with the utilization goals for business enterprises established in the Business Enterprise for Minorities, Women, and Persons with Disabilities Act and the provisions of Section 2-105 of the Illinois Human Rights Act.

(65 ILCS 5/11-39.2-50 new)

Sec. 11-39.2-50. Exception. Nothing in this Division prevents a municipality from using a qualification-based selection process for design professionals or construction managers for design-build projects.

(65 ILCS 5/11-39.2-55 new)

Sec. 11-39.2-55. Severability. The provisions of this Division are severable under Section 1.31 of the Statute on Statutes.

Section 10. The School Code is amended by adding Article 15A as follows:

(105 ILCS 5/Art. 15A heading new)

ARTICLE 15A. SCHOOL DESIGN-BUILD CONTRACTS

(105 ILCS 5/15A-1 new)

Sec. 15A-1. Short title. This Article may be cited as the School Design-Build Authorization Law.

(105 ILCS 5/15A-5 new)

Sec. 15A-5. Purpose. The purpose of this Article is to authorize school districts to use design-build processes to increase the efficiency and effectiveness of delivering public projects.

(105 ILCS 5/15A-10 new)

Sec. 15A-10. Definitions. As used in this Article:

"Delivery system" means the design and construction approach used to develop and construct a project.

"Design-build" means a delivery system that provides responsibility within a single contract for the furnishing of architecture, engineering, land surveying, and related services, as required, and the labor, materials, equipment, and other construction services for the project.

"Design-build contract" means a contract for a public project under this Article between a school district and a design-build entity to furnish: architecture, engineering, land surveying, public art or interpretive exhibits, and related services, as required, and the labor, materials, equipment, and other construction services for the project.

"Design-build entity" means an individual, sole

proprietorship, firm, partnership, joint venture, corporation, professional corporation, or other entity that proposes to design and construct any public project under this Article.

"Design professional" means an individual, sole proprietorship, firm, partnership, joint venture, corporation, professional corporation, or other entity that offers services under the Illinois Architecture Practice Act of 1989, the Professional Engineering Practice Act of 1989, the Structural Engineering Practice Act of 1989, or the Illinois Professional Land Surveyor Act of 1989.

"Evaluation criteria" means the requirements for the separate phases of the selection process as set forth in this Article and may include the specialized experience, technical qualifications and competence, capacity to perform, past performance, experience with similar projects, assignment of personnel to the project, and other appropriate factors.

"Proposal" means the offer to enter into a design-build contract as submitted by a design-build entity in accordance with this Article.

"Public art designer" means an individual, sole proprietorship, firm, partnership, joint venture, corporation, professional corporation, or other entity that has demonstrated experience with the design and fabrication of public art, including any media that has been planned and executed with the intention of being staged in the physical public domain outside and accessible to all or any art that is exhibited in a public space, including publicly accessible buildings, or interpretive exhibits, including communication media that is designed to engage, excite, inform, relate, or reveal the intrinsic nature or indispensable quality of a topic or story being presented.

"Request for proposal" means the document used by the school district to solicit proposals for a design-build contract.

"Scope and performance criteria" means the requirements for the public project, such as the intended usage, capacity, size, scope, quality and performance standards, life-cycle costs, and other programmatic criteria that are expressed in performance-oriented and quantifiable specifications and drawings that can be reasonably inferred and are suited to allow a design-build entity to develop a proposal.

(105 ILCS 5/15A-15 new)

Sec. 15A-15. Solicitation of proposals.

(a) A school district may enter into design-build contracts. In addition to the requirements set forth by the school board, if the school district elects to use the design-build delivery method, it must issue a notice of intent to receive proposals for the project at least 14 days before issuing the request for the proposal. The school district must publish the advance notice in the manner prescribed by the school board, which must include posting the advance notice online on its website. The school district may publish the notice in construction industry publications or post the notice on construction industry websites. A brief description of the proposed procurement must be included in the notice. The school district must provide a copy of the request for proposal to any party requesting a copy.

(b) The request for proposal must be prepared for each project and must contain, without limitation, the following information:

(1) The name of the school district.

(2) A preliminary schedule for the completion of the contract.

(3) The proposed budget for the project, the source of



funds, and the currently available funds at the time the request for proposal is submitted.

(4) Prequalification criteria for design-build entities wishing to submit proposals. The school district must include, at a minimum, its normal qualifications, licensing, registration, and other requirements; however, nothing precludes the use of additional prequalification criteria by the school district.

(5) Material requirements of the contract, such as the proposed terms and conditions, required performance and payment bonds, insurance, and the entity's plan to comply with the utilization goals for business enterprises established in the Business Enterprise for Minorities, Women, and Persons with Disabilities Act and with Section 2-105 of the Illinois Human Rights Act.

(6) The performance criteria.

(7) The evaluation criteria for each phase of the solicitation. Price may not be used as a factor in the evaluation of Phase I proposals.

(8) The number of entities that will be considered for the technical and cost evaluation phase.

(c) The school district may include any other relevant information that it chooses to supply. The design-build entity may rely upon the accuracy of this documentation in the development of its proposal.

(d) The date that proposals are due must be at least 21 calendar days after the date of the issuance of the request for proposal. If the cost of the project is estimated to exceed \$12,000,000, then the proposal due date must be at least 28 calendar days after the date of the issuance of the request for proposal. The school district must include in the request for proposal a minimum of 30 days to develop the Phase II submissions after the selection of entities from the Phase I evaluation is completed.

(105 ILCS 5/15A-20 new)

Sec. 15A-20. Development of scope and performance criteria.

(a) The school district must develop, with the assistance of a licensed design professional or public art designer, a request for proposal, which must include scope and performance criteria. The scope and performance criteria must be in sufficient detail and contain adequate information to reasonably apprise the qualified design-build entities of the school district's overall programmatic needs and goals, including criteria, general budget parameters, schedule, and delivery requirements.

(b) Each request for proposal must also include a description of the level of design to be provided in the proposals. This description must include the scope and type of renderings, drawings, and specifications that, at a minimum, will be required by the school district to be produced by the design-build entities.

(c) The scope and performance criteria must be prepared by a design professional or public art designer who is an employee of the school district, or the school district may contract with an independent design professional or public art designer selected under the Local Government Professional Services Selection Act to provide these services.

(d) The design professional or public art designer that prepares the scope and performance criteria is prohibited from participating in any design-build entity proposal for the project.

(2)

(e) The design-build contract may be conditioned upon subsequent refinements in scope and price and may allow the school district to make modifications in the project scope without invalidating the design-build contract.

(105 ILCS 5/15A-25 new)

Sec. 15A-25. Procedures for selection.

(a) The school district must use a 2-phase procedure for the selection of the successful design-build entity. Phase I of the procedure must evaluate and shortlist the design-build entities based on qualifications, and Phase II must evaluate the technical and cost proposals.

(b) The school district must include in the request for proposal the evaluating factors to be used in Phase I. These factors are in addition to any prequalification requirements of design-build entities that the school district has set forth. Each request for proposal must establish the relative importance assigned to each evaluation factor and subfactor, including any weighting of criteria to be employed by the school district. The school district must maintain a record of the evaluation scoring to be disclosed in event of a protest regarding the solicitation.

The school district must include the following criteria in every Phase I evaluation of design-build entities:

(1) experience of personnel;

(2) successful experience with similar project types;

(3) financial capability;

(4) timeliness of past performance;

(5) experience with similarly sized projects;

(6) successful reference checks of the firm;

(7) commitment to assign personnel for the duration of the project and qualifications of the entity's consultants; and

(8) ability or past performance in meeting or exhausting good faith efforts to meet the utilization goals for business enterprises established in the Business Enterprise for Minorities, Women, and Persons with Disabilities Act and with Section 2-105 of the Illinois Human Rights Act.

The school district may include any additional, relevant criteria in Phase I that it deems necessary for a proper qualification review.

The school district may not consider a design-build entity for evaluation or an award if the entity has any pecuniary interest in the project or has other relationships or circumstances, such as long-term leasehold, mutual performance, or development contracts with the school district, that may give the design-build entity a financial or tangible advantage over other design-build entities in the preparation, evaluation, or performance of the design-build contract or that create the appearance of impropriety. A design-build entity shall not be disqualified under this Section solely due to having previously been awarded a project or projects under any applicable public procurement law of the State. No proposal may be considered that does not include an entity's plan to comply with the requirements established in the Business Enterprise for Minorities, Women, and Persons with Disabilities Act, for both the design and construction areas of performance, and with Section 2-105 of the Illinois Human Rights Act.

Upon completion of the qualification evaluation, the school district must create a shortlist of the most highly qualified design-build entities. The school district, in its discretion, is not required to shortlist the maximum number of

entities as identified for Phase II evaluation if no less than 2 design-build entities nor more than 6 are selected to submit Phase II proposals. If a school district receives one response to Phase I, nothing herein shall prohibit the school district from proceeding with a Phase II evaluation of the single respondent, if the school district, in its discretion, finds proceeding to be in its best interest.

The school district must notify the entities selected for the shortlist in writing. This notification must commence the period for the preparation of the Phase II technical and cost evaluations. The school district must allow sufficient time for the shortlist entities to prepare their Phase II submittals considering the scope and detail requested by the school district.

(c) The school district must include in the request for proposal the evaluating factors to be used in the technical and cost submission components of Phase II. Each request for proposal must establish, for both the technical and cost submission components of Phase II, the relative importance assigned to each evaluation factor and subfactor, including any weighting of criteria to be employed by the school district. The school district must maintain a record of the evaluation scoring to be disclosed in event of a protest regarding the solicitation.

The school district must include the following criteria in every Phase II technical evaluation of design-build entities:

- (1) compliance with objectives of the project;
- (2) compliance of proposed services to the request for proposal requirements;
- (3) quality of products or materials proposed;
- (4) quality of design parameters;
- (5) design concepts;
- (6) innovation in meeting the scope and performance criteria; and
- (7) constructability of the proposed project.

The school district may include any additional relevant technical evaluation factors it deems necessary for proper selection.

The school district must include the following criteria in every Phase II cost evaluation: the total project cost, the construction costs, and the time of completion. The school district may include any additional relevant technical evaluation factors it deems necessary for proper selection. The total project cost criteria weighting factor may not exceed 30%.

The school district must directly employ or retain a licensed design professional or a public art designer to evaluate the technical and cost submissions to determine if the technical submissions are in accordance with generally accepted industry standards. Upon completion of the technical submissions and cost submissions evaluation, the school district may award the design-build contract to the highest overall ranked entity.

(105 ILCS 5/15A-30 new)

Sec. 15A-30. Small projects. In any case in which the total overall cost of the project is estimated to be \$12,000,000 or less, the school district may combine the 2-phase procedure for selection described in Section 15A-25 into one combined step if all the requirements of evaluation are performed in accordance with Section 15A-25.

(105 ILCS 5/15A-35 new)

Sec. 15A-35. Submission of proposals. Proposals must be

properly identified and sealed. Proposals may not be reviewed until after the deadline for submission has passed as set forth in the request for proposal.

Proposals must include a bid bond in the form and security as designated in the request for proposal. Proposals must also contain a separate sealed envelope with the cost information within the overall proposal submission. Proposals must include a list of all design professionals, public art designers, and other entities to which any work may be subcontracted during the performance of the contract.

Proposals must meet all material requirements of the request for proposal, or they may be rejected as nonresponsive. The school district may reject any and all proposals.

The drawings and specifications of the proposal may remain the property of the design-build entity.

The school district must review the proposals for compliance with the performance criteria and evaluation factors.

Proposals may be withdrawn prior to evaluation for any cause. After evaluation begins by the school district, clear and convincing evidence of error is required for withdrawal.

After a response to a request for qualifications or a request for proposal has been submitted under this Section, a design-build entity may not replace, remove, or otherwise modify any firm identified as a member of the proposer's team unless authorized to do so by the school district.

(105 ILCS 5/15A-40 new)

Sec. 15A-40. Award; performance. The school district may award the contract to the highest overall ranked design-build entity. Notice of award must be made in writing. Unsuccessful design-build entities must also be notified in writing. The school district may not request a best and final offer after the receipt of proposals of all qualified design-build entities. The school district may negotiate with the selected design-build entity after the award, but prior to contract execution, for the purpose of securing better terms than originally proposed if the salient features of the request for proposal are not diminished.

A design-build entity and associated design professionals must conduct themselves in accordance with the relevant laws of this State and the related provisions of the Illinois Administrative Code.

(105 ILCS 5/15A-45 new)

Sec. 15A-45. Evaluation and report. At the end of every 6-month period following the contract award, and again prior to final contract payout and closure, a selected design-build entity must detail, in a written report submitted to the school district, its efforts and success in implementing the entity's plan to comply with the utilization goals for business enterprises established in the Business Enterprise for Minorities, Women, and Persons with Disabilities Act and the provisions of Section 2-105 of the Illinois Human Rights Act.

(7)

(105 ILCS 5/15A-50 new)

Sec. 15A-50. Exception. Nothing in this Article prevents a school district from using a qualification-based selection process for design professionals or construction managers for design-build projects.

(105 ILCS 5/15A-90 new)

Sec. 15A-90. Severability. The provisions of this Article

are severable under Section 1.31 of the Statute on Statutes.

Effective Date: 1/1/2024