

965.07 DESIGN-BUILD CONTRACTS.

(a) *General Provisions.* Notwithstanding Sections 735.05 through 735.09 of the Ohio Revised Code or any other provision of this Chapter 965, a Design-Build Contract awarded as provided in this Code is valid and enforceable.

(b) *Definition.* “Design-Build” means a project delivery system for improvements to real property by which a person is solely responsible contractually as a contractor to an owner for both the design and construction of the improvement, which design and construction may include a performance-based specification established by the owner rather than a specific design as an improvement goal.

(c) *Design-Build Qualifications.*

(1) At a time Design-Build services are to be provided under a Design-Build Contract, a Design/Builder must be an Entity, employ an Entity, or have as a partner, member, joint venturer, or subcontractor, an Entity that is licensed, registered or otherwise qualified under Ohio law to provide the design professional services and construction services to complete the public improvement project and do business in Ohio.

(2) In accordance with this chapter, a Design/Builder may contract with the City to provide design professional services and construction services that the Design/Builder is not itself licensed, registered or otherwise qualified under Ohio law to perform if the Design/Builder provides the services through subcontracts with licensed, registered or otherwise qualified Entities under Ohio law.

(d) *Procurement Process.*

(1) When a Design-Build Contract, estimated under five hundred thousand dollars (\$500,000) is considered by the City for implementation of a public improvement project, the City may combine the Qualifications and Proposal in a one-step, competitive procurement process to award the Design-Build Contract. A description of the procurement process shall be included in the RFQ-RFP.

(2) A Request for Qualification (RFQ)-Request for Proposal (RFP) will be issued which will include qualification criteria. Of qualified respondents, the City will evaluate and rank the remaining RFQ-RFP, negotiate the Design-Build Contract, and award the Design-Build Contract. Prior to ranking of proposers, the City may require and evaluate submittals of preliminary proposals or resubmittals of proposals from each proposer.

(e) *Qualifications and Ranking of Respondents.*

(1) The City shall advertise the availability of the RFQ-RFP in one or more newspapers of general circulation in the City, once a week for two successive weeks. The advertisement shall provide a general description of the public improvement project and the method for obtaining a copy of the RFQ-RFP.

(2) The RFQ-RFP shall include the following information:

- (A) The location of the public improvement project.
- (B) A general description of the public improvement project.
- (C) A description of the procurement process.
- (D) The submittal requirements for the RFQ-RFP.
- (E) A description of evaluation criteria to be used in ranking Respondents, including an indication of the relative importance of each criterion. The evaluation criteria may include any of the following:

- i. Description of project solution
- ii. Experience.
- iii. Past performance.
- iv. Key staff.
- v. Financial capability and condition.
- vi. Technical approach.
- vii. Criteria for prequalification of subcontractors.
- viii. Price.
- ix. Any other criteria defined in the RFQ-RFP.

(3) The City may interview or seek clarifications from some or all of the Respondents during the evaluation.

(4) After evaluation of the qualifications, in accordance with the criteria set forth in the RFQ-RFP, the City shall rank the most qualified, responsive Respondents. Provided that the City has received at least two responses, the City may rank no less than two Respondents.

(5) If at any time prior to receipt of Proposals, a ranked Respondent withdraws from the procurement process, the City may add a Respondent that was not previously ranked to the short list.

(6) The City may establish a maximum budget for the public improvement project and require all price proposals to be less than the maximum budget in order for a Design-Build Contract to be awarded.

(f) *Evaluation of Proposals and Award of Design-Build Contract.*

(1) The City shall evaluate Proposals in accordance with the procurement process and evaluation criteria defined in the RFQ-RFP.

(2) As defined in the RFQ-RFP, the City may meet with proposers, seek clarifications on proposals, consider proposed alternatives, revise the RFQ-RFP, or require best and final proposals.

(3) Before awarding the contract, the Design-Build proposal must include subcontractor prequalification criteria as approved by the City, and the proposal

must identify at least three prospective bidders for each major subcontract (general, mechanical, electrical, plumbing, sprinkler, as applicable or as determined by the City in the RFQ-RFP) prequalified to bid on the subcontract under an open pricing method.

(4) The City shall evaluate and rank the proposals, and, if applicable, best and final proposals based on the factors, weighting (if applicable), and process identified in the RFQ-RFP.

(5) The City is not required to rank first the proposer that submits the lowest price proposal.

(6) The City may reject any and all proposals.

(7) The City may negotiate a Design-Build Contract term with the highest-ranked proposer, except for those terms identified in the RFQ-RFP as nonnegotiable.

(8) If the City is unable to negotiate a Design-Build Contract term with the highest-ranked proposer, the City may suspend or end negotiations with the proposer and initiate negotiations with the next highest ranked proposer.

(9) The City shall continue in accordance with this procedure until a contract agreement is reached or the selection process is terminated.

(10) Before construction begins pursuant to a Design-Build Contract, the design-build firm shall provide a surety bond to the City in an amount not less than the combined contract values of any work under the Design-Build Contract.

(11) City Council shall approve the Design-Build Contract.