

1 AN ACT concerning local government.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the Forest
5 Preserve District and Conservation District Design-Build
6 Authorization Act.

7 Section 5. Purpose. This purpose of this Act is to
8 authorize forest preserve districts and conservation districts
9 to use design-build processes to increase the efficiency and
10 effectiveness of delivering public projects.

11 Section 10. Definitions. As used in this Act:

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

14 "Design-bid-build" means the traditional delivery system
15 used on public projects that incorporates the Local Government
16 Professional Services Selection Act, the competitive bidding
17 process set forth in Section 6 of the Conservation District
18 Act, the competitive bidding process set forth in subsection
19 (b) of Section 8 of the Downstate Forest Preserve District
20 Act, or the competitive bidding process set forth in Section
21 14 of the Cook County Forest Preserve District Act.

22 "Design-build" means a delivery system that provides

1 responsibility within a single contract for the furnishing of
2 architecture, engineering, land surveying, and related
3 services as required and the labor, materials, equipment, and
4 other construction services for the project.

5 "Design-build contract" means a contract for a public
6 project under this Act between a forest preserve district or
7 conservation district and a design-build entity to furnish:
8 architecture, engineering, land surveying, public art or
9 interpretive exhibits, and related services, as required; and
10 the labor, materials, equipment, and other construction
11 services for the project.

12 "Design-build entity" means any individual, sole
13 proprietorship, firm, partnership, joint venture, corporation,
14 professional corporation, or other entity that proposes to
15 design and construct any public project under this Act. A
16 design-build entity and associated design professionals shall
17 conduct themselves in accordance with the relevant laws of
18 this State and the related provisions of the Illinois
19 Administrative Code.

20 "Design professional" means any individual, sole
21 proprietorship, firm, partnership, joint venture, corporation,
22 professional corporation, or other entity that offers services
23 under the Illinois Architecture Practice Act of 1989, the
24 Professional Engineering Practice Act of 1989, the Structural
25 Engineering Practice Act of 1989, or the Illinois Professional
26 Land Surveyor Act of 1989.

1 "Evaluation criteria" means the requirements for the
2 separate phases of the selection process as defined in this
3 Act and may include the specialized experience, technical
4 qualifications and competence, capacity to perform, past
5 performance, experience with similar projects, assignment of
6 personnel to the project, and other appropriate factors.

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

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

22 "Request for proposal" means the document used by the
23 forest preserve district or conservation district to solicit
24 proposals for a design-build contract.

25 "Scope and performance criteria" means the requirements
26 for the public project, including, but not limited to, the

1 intended usage, capacity, size, scope, quality and performance
2 standards, life-cycle costs, and other programmatic criteria
3 that are expressed in performance-oriented and quantifiable
4 specifications and drawings that can be reasonably inferred
5 and are suited to allow a design-build entity to develop a
6 proposal.

7 Section 15. Solicitation of proposals.

8 (a) A forest preserve district or conservation district
9 may enter into design-build contracts. In addition to the
10 requirements set forth in its local ordinances, when the
11 forest preserve district or conservation district elects to
12 use the design-build delivery method, it must issue a notice
13 of intent to receive proposals for the project at least 14 days
14 before issuing the request for the proposal. The forest
15 preserve district or conservation district must publish the
16 advance notice in the manner prescribed by ordinance, which
17 shall include posting the advance notice online on its
18 website. The forest preserve district or conservation district
19 may publish the notice in construction industry publications
20 or post the notice on construction industry websites. A brief
21 description of the proposed procurement must be included in
22 the notice. The forest preserve district or conservation
23 district must provide a copy of the request for proposal to any
24 party requesting a copy.

25 (b) The request for proposal shall be prepared for each

1 project and must contain, without limitation, the following
2 information:

3 (1) The name of the forest preserve district or
4 conservation district.

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

7 (3) The proposed budget for the project, the source of
8 funds, and the currently available funds at the time the
9 request for proposal is submitted.

10 (4) Prequalification criteria for design-build
11 entities wishing to submit proposals. The forest preserve
12 district or conservation district shall include, at a
13 minimum, its normal prequalification, licensing,
14 registration, and other requirements; however, nothing
15 precludes the use of additional prequalification criteria
16 by the forest preserve district or conservation district.

17 (5) Material requirements of the contract, including,
18 but not limited to, the proposed terms and conditions,
19 required performance and payment bonds, insurance, and the
20 entity's plan to comply with the utilization goals for
21 business enterprises established in the Business
22 Enterprise for Minorities, Women, and Persons with
23 Disabilities Act and with Section 2-105 of the Illinois
24 Human Rights Act.

25 (6) The performance criteria.

26 (7) The evaluation criteria for each phase of the

1 solicitation. Price may not be used as a factor in the
2 evaluation of Phase I proposals.

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

5 (c) The forest preserve district or conservation district
6 may include any other relevant information that it chooses to
7 supply. The design-build entity shall be entitled to rely upon
8 the accuracy of this documentation in the development of its
9 proposal.

10 (d) The date that proposals are due must be at least 21
11 calendar days after the date of the issuance of the request for
12 proposal. In the event the cost of the project is estimated to
13 exceed \$12,000,000, then the proposal due date must be at
14 least 28 calendar days after the date of the issuance of the
15 request for proposal. The forest preserve district or
16 conservation district shall include in the request for
17 proposal a minimum of 30 days to develop the Phase II
18 submissions after the selection of entities from the Phase I
19 evaluation is completed.

20 Section 20. Development of scope and performance criteria.

21 (a) The forest preserve district or conservation district
22 shall develop, with the assistance of a licensed design
23 professional or public art designer, a request for proposal,
24 which shall include scope and performance criteria. The scope
25 and performance criteria must be in sufficient detail and

1 contain adequate information to reasonably apprise the
2 qualified design-build entities of the forest preserve
3 district's or conservation district's overall programmatic
4 needs and goals, including criteria and preliminary design
5 plans, general budget parameters, schedule, and delivery
6 requirements.

7 (b) Each request for proposal shall also include a
8 description of the level of design to be provided in the
9 proposals. This description must include the scope and type of
10 renderings, drawings, and specifications that, at a minimum,
11 will be required by the forest preserve district or
12 conservation district to be produced by the design-build
13 entities.

14 (c) The scope and performance criteria shall be prepared
15 by a design professional or public art designer who is an
16 employee of the forest preserve district or conservation
17 district, or the forest preserve district or conservation
18 district may contract with an independent design professional
19 or public art designer selected under the Local Government
20 Professional Services Selection Act to provide these services.

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

25 (e) The design-build contract may be conditioned upon
26 subsequent refinements in scope and price and may allow the

1 forest preserve district or conservation district to make
2 modifications in the project scope without invalidating the
3 design-build contract.

4 Section 25. Procedures for Selection.

5 (a) The forest preserve district or conservation district
6 must use a two-phase procedure for the selection of the
7 successful design-build entity. Phase I of the procedure will
8 evaluate and shortlist the design-build entities based on
9 qualifications, and Phase II will evaluate the technical and
10 cost proposals.

11 (b) The forest preserve district or conservation district
12 shall include in the request for proposal the evaluating
13 factors to be used in Phase I. These factors are in addition to
14 any prequalification requirements of design-build entities
15 that the forest preserve district or conservation district has
16 set forth. Each request for proposal shall establish the
17 relative importance assigned to each evaluation factor and
18 subfactor, including any weighting of criteria to be employed
19 by the forest preserve district or conservation district. The
20 forest preserve district or conservation district must
21 maintain a record of the evaluation scoring to be disclosed in
22 event of a protest regarding the solicitation.

23 The forest preserve district or conservation district
24 shall include the following criteria in every Phase I
25 evaluation of design-build entities: (i) experience of

1 personnel; (ii) successful experience with similar project
2 types; (iii) financial capability; (iv) timeliness of past
3 performance; (v) experience with similarly sized projects;
4 (vi) successful reference checks of the firm; (vii) commitment
5 to assign personnel for the duration of the project and
6 qualifications of the entity's consultants; and (viii) ability
7 or past performance in meeting or exhausting good faith
8 efforts to meet the utilization goals for business enterprises
9 established in the Business Enterprise for Minorities, Women,
10 and Persons with Disabilities Act and with Section 2-105 of
11 the Illinois Human Rights Act. The forest preserve district or
12 conservation district may include any additional relevant
13 criteria in Phase I that it deems necessary for a proper
14 qualification review.

15 The forest preserve district or conservation district may
16 not consider any design-build entity for evaluation or award
17 if the entity has any pecuniary interest in the project or has
18 other relationships or circumstances, including, but not
19 limited to, long-term leasehold, mutual performance, or
20 development contracts with the forest preserve district or
21 conservation district, that may give the design-build entity a
22 financial or tangible advantage over other design-build
23 entities in the preparation, evaluation, or performance of the
24 design-build contract or that create the appearance of
25 impropriety. No proposal shall be considered that does not
26 include an entity's plan to comply with the requirements

1 established in the Business Enterprise for Minorities, Women,
2 and Persons with Disabilities Act, for both the design and
3 construction areas of performance, and with Section 2-105 of
4 the Illinois Human Rights Act.

5 Upon completion of the qualifications evaluation, the
6 forest preserve district or conservation district shall create
7 a shortlist of the most highly qualified design-build
8 entities. The forest preserve district or conservation
9 district, in its discretion, is not required to shortlist the
10 maximum number of entities as identified for Phase II
11 evaluation, provided that no less than 2 design-build entities
12 nor more than 6 are selected to submit Phase II proposals.

13 The forest preserve district or conservation district
14 shall notify the entities selected for the shortlist in
15 writing. This notification shall commence the period for the
16 preparation of the Phase II technical and cost evaluations.
17 The forest preserve district or conservation district must
18 allow sufficient time for the shortlist entities to prepare
19 their Phase II submittals considering the scope and detail
20 requested by the forest preserve district or conservation
21 district.

22 (c) The forest preserve district or conservation district
23 shall include in the request for proposal the evaluating
24 factors to be used in the technical and cost submission
25 components of Phase II. Each request for proposal shall
26 establish, for both the technical and cost submission

1 components of Phase II, the relative importance assigned to
2 each evaluation factor and subfactor, including any weighting
3 of criteria to be employed by the forest preserve district or
4 conservation district. The forest preserve district or
5 conservation district must maintain a record of the evaluation
6 scoring to be disclosed in event of a protest regarding the
7 solicitation.

8 The forest preserve district or conservation district
9 shall include the following criteria in every Phase II
10 technical evaluation of design-build entities: (i) compliance
11 with objectives of the project; (ii) compliance of proposed
12 services to the request for proposal requirements; (iii)
13 quality of products or materials proposed; (iv) quality of
14 design parameters; (v) design concepts; (vi) innovation in
15 meeting the scope and performance criteria; and (vii)
16 constructability of the proposed project. The forest preserve
17 district or conservation district may include any additional
18 relevant technical evaluation factors it deems necessary for
19 proper selection.

20 The forest preserve district or conservation district
21 shall include the following criteria in every Phase II cost
22 evaluation: the total project cost, the construction costs,
23 and the time of completion. The forest preserve or
24 conservation district may include any additional relevant
25 technical evaluation factors it deems necessary for proper
26 selection. The total project cost criteria weighing factor

1 shall not exceed 30%.

2 The forest preserve or conservation district shall
3 directly employ or retain a licensed design professional or a
4 public art designer to evaluate the technical and cost
5 submissions to determine if the technical submissions are in
6 accordance with generally accepted industry standards.

7 Upon completion of the technical submissions and cost
8 submissions evaluation, the forest preserve or conservation
9 district may award the design-build contract to the highest
10 overall ranked entity.

11 Section 30. Small projects. In any case where the total
12 overall cost of the project is estimated to be less than
13 \$12,000,000, the forest preserve or conservation district may
14 combine the two-phase procedure for selection described in
15 Section 25 into one combined step, provided that all the
16 requirements of evaluation are performed in accordance with
17 Section 25.

18 Section 35. Submission of proposals. Proposals must be
19 properly identified and sealed. Proposals may not be reviewed
20 until after the deadline for submission has passed as set
21 forth in the request for proposals. All design-build entities
22 submitting proposals shall be disclosed after the deadline for
23 submission, and all design-build entities who are selected for
24 Phase II evaluation shall also be disclosed at the time of that

1 determination.

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

9 Proposals must meet all material requirements of the
10 request for proposal or they may be rejected as
11 non-responsive. The forest preserve or conservation district
12 shall have the right to reject any and all proposals.

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

15 The forest preserve or conservation district shall review
16 the proposals for compliance with the performance criteria and
17 evaluation factors.

18 Proposals may be withdrawn prior to evaluation for any
19 cause. After evaluation begins by the forest preserve or
20 conservation district, clear and convincing evidence of error
21 is required for withdrawal.

22 Section 40. Award. The forest preserve or conservation
23 district may award the contract to the highest overall ranked
24 entity. Notice of award shall be made in writing. Unsuccessful
25 entities shall also be notified in writing. The forest

1 preserve or conservation district may not request a best and
2 final offer after the receipt of proposals. The forest
3 preserve or conservation district may negotiate with the
4 selected design-build entity after award but prior to contract
5 execution for the purpose of securing better terms than
6 originally proposed, provided that the salient features of the
7 request for proposal are not diminished.

8 Section 45. Reports and evaluation. At the end of every 6
9 month period following the contract award, and again prior to
10 final contract payout and closure, a selected design-build
11 entity shall detail, in a written report submitted to the
12 forest preserve or conservation district, its efforts and
13 success in implementing the entity's plan to comply with the
14 utilization goals for business enterprises established in the
15 Business Enterprise for Minorities, Women, and Persons with
16 Disabilities Act and the provisions of Section 2-105 of the
17 Illinois Human Rights Act.

18 Section 905. The Conservation District Act is amended by
19 changing Section 6 as follows:

20 (70 ILCS 410/6) (from Ch. 96 1/2, par. 7106)

21 Sec. 6. Officers and employees. As soon as possible after
22 the initial election or the initial appointments, as the case
23 may be, the trustees shall organize by selecting from their

1 members a president, secretary, treasurer, and other officers
2 as are deemed necessary, who shall hold office for 2 years in
3 the case of an elected board, or the fiscal year in which
4 elected in the case of an appointed board, and until their
5 successors are selected and qualify. Three trustees shall
6 constitute a quorum of the board for the transaction of
7 business if the district has 5 trustees. If the district has 7
8 trustees, 4 trustees shall constitute a quorum of the board
9 for the transaction of business. The board shall hold regular
10 monthly meetings. Special meetings may be called by the
11 president and shall be called on the request of a majority of
12 members, as may be required.

13 The board shall provide for the proper and safe keeping of
14 its permanent records and for the recording of the corporate
15 action of the district. It shall keep a proper system of
16 accounts showing a true and accurate record of its receipts
17 and disbursements, and it shall cause an annual audit to be
18 made of its books, records, and accounts.

19 The records of the district shall be subject to public
20 inspection at all reasonable hours and under regulations as
21 the board may prescribe.

22 The district shall annually make a full and complete
23 report to the county board of each county within the district
24 and to the Department of Natural Resources of its transactions
25 and operations for the preceding year. The report shall
26 contain a full statement of its receipts, disbursements, and

1 the program of work for the period covered, and may include
2 recommendations as may be deemed advisable.

3 Executive or ministerial duties may be delegated to one or
4 more trustees or to an authorized officer, employee, agent,
5 attorney, or other representative of the district.

6 All officers and employees authorized to receive or retain
7 the custody of money or to sign vouchers, checks, warrants, or
8 evidences of indebtedness binding upon the district shall
9 furnish surety bond for the faithful performance of their
10 duties and the faithful accounting for all moneys that may
11 come into their hands in an amount to be fixed and in a form to
12 be approved by the board.

13 All contracts for supplies, material, or work involving an
14 expenditure in excess of \$30,000 ~~\$25,000~~, or a lower amount if
15 required by board policy, shall be let to the lowest
16 responsible bidder, after due advertisement, excepting work
17 requiring personal confidence or necessary supplies under the
18 control of monopolies, where competitive bidding is
19 impossible, or as otherwise provided in the Forest Preserve
20 District and Conservation District Design-Build Authorization
21 Act. All contracts for supplies, material, or work shall be
22 signed by the president of the board and by any other officer
23 as the board in its discretion may designate.

24 (Source: P.A. 99-771, eff. 8-12-16.)

25 Section 910. The Downstate Forest Preserve District Act is

1 amended by changing Section 8 as follows:

2 (70 ILCS 805/8) (from Ch. 96 1/2, par. 6315)

3 Sec. 8. Powers and duties of corporate authority and
4 officers; contracts; salaries.

5 (a) The board shall be the corporate authority of such
6 forest preserve district and shall have power to pass and
7 enforce all necessary ordinances, rules and regulations for
8 the management of the property and conduct of the business of
9 such district. The president of such board shall have power to
10 appoint such employees as may be necessary. In counties with
11 population of less than 3,000,000, within 60 days after their
12 selection the commissioners appointed under the provisions of
13 Section 3a of this Act shall organize by selecting from their
14 members a president, vice president, secretary, treasurer and
15 such other officers as are deemed necessary who shall hold
16 office for the fiscal year in which elected and until their
17 successors are selected and qualify. In the one district in
18 existence on July 1, 1977, that is managed by an appointed
19 board of commissioners, the incumbent president and the other
20 officers appointed in the manner as originally prescribed in
21 this Act shall hold such offices until the completion of their
22 respective terms or in the case of the officers other than
23 president until their successors are appointed by said
24 president, but in all cases not to extend beyond January 1,
25 1980 and until their successors are selected and qualify.

1 Thereafter, the officers shall be selected in the manner as
2 prescribed in this Section except that their first term of
3 office shall not expire until June 30, 1981 and until their
4 successors are selected and qualify.

5 (a-5) An officer selected pursuant to subsection (a) may
6 be removed, with or without cause, upon a motion adopted by an
7 affirmative vote of four-fifths of the board of the forest
8 preserve district. Upon adoption of a motion to remove an
9 officer: (i) the office becomes vacant and the former
10 officer's compensation shall be prorated to the date the
11 motion was approved; (ii) if the officer removed is the
12 president then the vice president immediately assumes the
13 duties of the president without president compensation and, if
14 the officer removed is the vice president, treasurer, or
15 secretary, then the president shall select an interim
16 appointee who shall serve until the next regularly scheduled
17 forest preserve district board meeting; and (iii) a new
18 officer shall be selected at the next regularly scheduled
19 forest preserve district board meeting. An officer removed
20 under this Section maintains his or her status as a member of
21 the forest preserve district board.

22 (b) In any county, city, village, incorporated town or
23 sanitary district where the corporate authorities act as the
24 governing body of a forest preserve district, the person
25 exercising the powers of the president of the board shall have
26 power to appoint a secretary and an assistant secretary and

1 treasurer and an assistant treasurer and such other officers
2 and such employees as may be necessary. The assistant
3 secretary and assistant treasurer shall perform the duties of
4 the secretary and treasurer, respectively in case of death of
5 such officers or when such officers are unable to perform the
6 duties of their respective offices. All contracts for
7 supplies, material or work involving an expenditure in excess
8 of \$30,000 ~~\$25,000~~, or a lower amount if required by board
9 policy, shall be let to the lowest responsible bidder, after
10 advertising at least once in one or more newspapers of general
11 circulation within the district, excepting work requiring
12 personal confidence or necessary supplies under the control of
13 monopolies, where competitive bidding is impossible, or as
14 otherwise provided in the Forest Preserve District and
15 Conservation District Design-Build Authorization Act.
16 Contracts for supplies, material or work involving an
17 expenditure of \$30,000 ~~\$25,000~~, or a lower amount if required
18 by board policy, or less may be let without advertising for
19 bids, but whenever practicable, at least 3 competitive bids
20 shall be obtained before letting such contract. All contracts
21 for supplies, material or work shall be signed by the
22 president of the board of commissioners or by any such other
23 officer as the board in its discretion may designate.

24 (c) The president of any board of commissioners appointed
25 under the provisions of Section 3a of this Act shall receive a
26 salary not to exceed the sum of \$2500 per annum and the salary

1 of other members of the board so appointed shall not exceed
2 \$1500 per annum. Salaries of the commissioners, officers and
3 employees shall be fixed by ordinance.

4 (d) Whenever a forest preserve district owns any personal
5 property that, in the opinion of three-fifths of the members
6 of the board of commissioners, is no longer necessary, useful
7 to, or for the best interests of the forest preserve district,
8 then three-fifths of the members of the board, at any regular
9 meeting or any special meeting called for that purpose by an
10 ordinance or resolution that includes a general description of
11 the personal property, may authorize the conveyance or sale of
12 that personal property in any manner that they may designate,
13 with or without advertising the sale.

14 (Source: P.A. 101-544, eff. 8-23-19.)

15 Section 915. The Cook County Forest Preserve District Act
16 is amended by changing Section 14 as follows:

17 (70 ILCS 810/14) (from Ch. 96 1/2, par. 6417)

18 Sec. 14. The board, as corporate authority of a forest
19 preserve district, shall have power to pass and enforce all
20 necessary ordinances, rules and regulations for the management
21 of the property and conduct of the business of such district.
22 The president of such board shall have power to appoint a
23 secretary and an assistant secretary, and treasurer and an
24 assistant treasurer and such other officers and such employees

1 as may be necessary, all of whom, excepting the treasurer and
2 attorneys, shall be under civil service rules and regulations,
3 as provided in Section 17 of this Act. The assistant secretary
4 and assistant treasurer shall perform the duties of the
5 secretary and treasurer, respectively, in case of death of
6 said officers or when said officers are unable to perform the
7 duties of their respective offices because of absence or
8 inability to act. All contracts for supplies, material or work
9 involving an expenditure by forest preserve districts in
10 excess of \$30,000 ~~\$25,000~~ shall be let to the lowest
11 responsible bidder, after due advertisement, excepting work
12 requiring personal confidence or necessary supplies under the
13 control of monopolies, where competitive bidding is
14 impossible, or as otherwise provided in the Forest Preserve
15 District and Conservation District Design-Build Authorization
16 Act. Contracts for supplies, material or work involving an
17 expenditure of \$30,000 ~~\$25,000~~ or less may be let without
18 advertising for bids, but whenever practicable, at least 3
19 competitive bids shall be obtained before letting such
20 contract. Notwithstanding the provisions of this Section, a
21 forest preserve district may establish procedures to comply
22 with State and federal regulations concerning affirmative
23 action and the use of small businesses or businesses owned by
24 minorities or women in construction and procurement contracts.
25 All contracts for supplies, material or work shall be signed
26 by the president of the board or by any such other officer as

1 the board in its discretion may designate.

2 Salaries of employees shall be fixed by ordinance.

3 (Source: P.A. 99-264, eff. 1-1-16.)

4 Section 997. Severability. The provisions of this Act are
5 severable under Section 1.31 of the Statute on Statutes.

6 Section 999. Effective date. This Act takes effect June 1,
7 2022.