

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 5. The Park District Code is amended by adding
5 Sections 8-50, 8-51, 8-52, 8-53, 8-54, 8-55, 8-56, and 8-57 as
6 follows:

7 (70 ILCS 1205/8-50 new)

8 Sec. 8-50. Definitions. For the purposes of Sections 8-50
9 through 8-57, the following terms shall have the following
10 meanings, unless the context requires a different meaning:

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

13 "Design-bid-build" means the traditional delivery system
14 used on public projects that incorporates the Local Government
15 Professional Services Selection Act and the principles of
16 competitive selection.

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

22 "Design-build contract" means a contract for a public
23 project under this Act between any park district and a

1 design-build entity to furnish architecture, engineering, land
2 surveying, landscape architecture, and related services as
3 required, and to furnish the labor, materials, equipment, and
4 other construction services for the project. The design-build
5 contract may be conditioned upon subsequent refinements in
6 scope and price and may allow the park district to make
7 modifications in the project scope without invalidating the
8 design-build contract.

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

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

25 "Evaluation criteria" means the requirements for the
26 separate phases of the selection process for design-build

1 proposals as defined in this Act and may include the
2 specialized experience, technical qualifications and
3 competence, capacity to perform, past performance, experience
4 with similar projects, assignment of personnel to the project,
5 and other appropriate factors. Price may not be used as a
6 factor in the evaluation of Phase I proposals.

7 "Landscape architect design professional" means any
8 person, sole proprietorship, or entity including, but not
9 limited to, a partnership, professional service corporation,
10 or corporation that offers services under the Illinois
11 Landscape Architecture Act of 1989.

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

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

17 "Scope and performance criteria" means the requirements
18 for the public project, including, but not limited to: the
19 intended usage, capacity, size, scope, quality, and
20 performance standards; life-cycle costs; and other
21 programmatic criteria that are expressed in performance
22 oriented and quantifiable specifications and drawings that can
23 be reasonably inferred and are suited to allow a design-build
24 entity to develop a proposal.

1 Sec. 8-51. Authorization for design-build; advertisement.

2 (a) A park district shall have the power to enter into
3 design-build contracts. In addition to the requirements set
4 forth in its ordinances, the park district shall advertise a
5 design-build solicitation at least once in a daily newspaper of
6 general circulation within the county in which the park
7 district is located. The date that Phase I submissions by
8 design-build entities are due must be at least 14 calendar days
9 after the date the newspaper advertisement for design-build
10 proposals is first published. The advertisement shall identify
11 the design-build project, the due date, the place and time for
12 Phase I submissions, and the place where proposers may obtain a
13 complete copy of the request for design-build proposals,
14 including the criteria for evaluation and the scope and
15 performance criteria. The park district is not precluded from
16 using other media or from placing advertisements in addition to
17 the one required under this subsection.

18 (b) A park district may reject any and all bids and
19 proposals received and may readvertise for bids or issue a new
20 request for design-build proposals.

21 (70 ILCS 1205/8-52 new)

22 Sec. 8-52. Solicitation of design-build proposals.

23 (a) When a park district elects to use the design-build
24 delivery method, it must issue a notice of intent to receive
25 proposals for the project at least 14 days before issuing the

1 request for proposal. The park district shall publish notice of
2 the request for the design-build proposal in a newspaper of
3 general circulation within the county in which the park
4 district is located. The park district shall, if possible, post
5 plans and specifications in a related construction industry
6 service publication. A brief description of the proposed
7 procurement must be included in the notice. The park district
8 must provide a copy of the request for proposal to any party
9 requesting a copy.

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

13 (1) A preliminary schedule for the completion of the
14 contract.

15 (2) The proposed budget for the project, the source of
16 funds, and the funds available at the time the request for
17 proposal is submitted.

18 (3) Prequalification criteria for design-build
19 entities wishing to submit proposals. The park district
20 shall include, at a minimum, its normal prequalification,
21 licensing, registration, and other requirements, but
22 nothing contained in this Section precludes the use of
23 additional prequalification criteria by the park district.

24 (4) Material requirements of the contract, including,
25 but not limited to, the proposed terms and conditions,
26 required performance and payment bonds, insurance, and the

1 entity's plan to comply with the utilization goals
2 established by the corporate authorities of the park
3 district for minority and women business enterprises and to
4 comply with Section 2-105 of the Illinois Human Rights Act.

5 (5) The performance criteria.

6 (6) The evaluation criteria for each phase of the
7 solicitation.

8 (7) The number of entities to be considered for the
9 technical and cost evaluation phase.

10 (c) The park district may include any other relevant
11 information that it chooses to supply. The design-build entity
12 shall be entitled to rely upon the accuracy of this
13 documentation in the development of its proposal.

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

23 (70 ILCS 1205/8-53 new)

24 Sec. 8-53. Development of design-build scope and
25 performance criteria.

1 (a) The park district shall develop, with the assistance of
2 a licensed design professional or a landscape architect design
3 professional, as appropriate, a request for proposal, which
4 shall include scope and performance criteria. The scope and
5 performance criteria must be in sufficient detail and contain
6 adequate information to reasonably apprise the qualified
7 design-build entities of the park district's overall
8 programmatic needs and goals, including criteria and
9 preliminary design plans, general budget parameters, schedule,
10 and delivery requirements.

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

17 (c) The scope and performance criteria shall be prepared by
18 a design professional or a landscape architect design
19 professional, as appropriate, who is an employee of the park
20 district, or the park district may contract with an independent
21 design professional selected under the Local Government
22 Professional Services Selection Act to provide these services.

23 (d) The design professional or landscape architect design
24 professional that prepares the scope and performance criteria
25 is prohibited from participating in any design-build entity
26 proposal for the project.

1 (70 ILCS 1205/8-54 new)

2 Sec. 8-54. Procedures for design-build selection.

3 (a) The park district must use a two-phase procedure for
4 the selection of the successful design-build entity. Phase I of
5 the procedure shall evaluate and shortlist the design-build
6 entities based on qualifications, and Phase II will evaluate
7 the technical and cost proposals.

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

20 (1) experience of personnel;

21 (2) successful experience with similar project types;

22 (3) financial capability;

23 (4) timeliness of past performance;

24 (5) experience with similarly sized projects;

25 (6) successful reference checks of the firm;

1 (7) commitment to assign personnel for the duration of
2 the project;

3 (8) qualifications of the entity's consultants; and

4 (9) ability or past performance in meeting or
5 exhausting good faith efforts to meet the utilization goals
6 for minority and women business enterprises established by
7 the corporate authorities of the park district and in
8 complying with Section 2-105 of the Illinois Human Rights
9 Act.

10 The park district may include any additional relevant
11 criteria in Phase I that it deems necessary for a proper
12 qualification review.

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

1 Section 2-105 of the Illinois Human Rights Act.

2 Upon completion of the qualifications evaluation, the park
3 district shall create a shortlist of the most highly qualified
4 design-build entities. The park district, in its discretion, is
5 not required to shortlist the maximum number of entities as
6 identified for Phase II evaluation, except that no less than 2
7 design-build entities nor more than 6 may be selected to submit
8 Phase II proposals. The park district shall notify the entities
9 selected for the shortlist in writing. This notification shall
10 commence the period for the preparation of Phase II technical
11 and cost evaluations. The park district must allow sufficient
12 time for the shortlist entities to prepare their Phase II
13 submittals considering the scope and detail requested by the
14 park district.

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

25 The park district shall include the following criteria in
26 every Phase II technical evaluation of design-build entities:

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

10 The park district may include any additional relevant
11 technical evaluation factors it deems necessary for proper
12 selection.

13 The park district shall include the following criteria in
14 every Phase II cost evaluation: the total project cost and the
15 time of completion. The park district may include any
16 additional relevant technical evaluation factors it deems
17 necessary for proper selection. The total project cost criteria
18 weighing factor shall not exceed 30%.

19 The park district shall directly employ or retain a
20 licensed design professional or landscape architect design
21 professional, as appropriate, to evaluate the technical and
22 cost submissions to determine if the technical submissions are
23 in accordance with generally accepted industry standards.

24 Upon completion of the technical submissions and cost
25 submissions evaluation, the park district may award the
26 design-build contract to the highest overall ranked entity.

1 (70 ILCS 1205/8-55 new)

2 Sec. 8-55. Small design-build projects. In any case where
3 the total overall cost of the project is estimated to be less
4 than \$12,000,000, the park district may combine the two-phase
5 procedure for design-build selection described in Section 8-50
6 into one combined step, provided that all the requirements of
7 evaluation are performed in accordance with Section 8-50.

8 (70 ILCS 1205/8-56 new)

9 Sec. 8-56. Submission of design-build proposals.
10 Design-build proposals must be properly identified and sealed.
11 Proposals may not be reviewed until after the deadline for
12 submission has passed as set forth in the request for
13 proposals. All design-build entities submitting proposals
14 shall be disclosed after the deadline for submission, and all
15 design-build entities who are selected for Phase II evaluation
16 shall also be disclosed at the time of that determination.

17 Phase II design-build proposals shall include a bid bond in
18 the form and security as designated in the request for
19 proposals. Proposals shall also contain a separate sealed
20 envelope with the cost information within the overall proposal
21 submission. Proposals shall include a list of all design
22 professionals, landscape architect design professionals, and
23 other entities to which any work may be subcontracted during
24 the performance of the contract.

1 Proposals must meet all material requirements of the
2 request for proposal or they may be rejected as non-responsive.
3 The park district shall have the right to reject any and all
4 proposals.

5 The drawings and specifications of any unsuccessful
6 design-build proposal shall remain the property of the
7 design-build entity.

8 The park district shall review the proposals for compliance
9 with the performance criteria and evaluation factors set forth
10 in this Act.

11 Proposals may be withdrawn before the due date and time for
12 submissions for any cause. After evaluation begins by the park
13 district, clear and convincing evidence of error is required
14 for withdrawal.

15 (70 ILCS 1205/8-57 new)

16 Sec. 8-57. Design-build award. The park district may award
17 a design-build contract to the highest overall ranked entity.
18 Notice of award shall be made in writing. Unsuccessful entities
19 shall also be notified in writing. The park district may not
20 request a best and final offer after the receipt of proposals.
21 The park district may negotiate with the selected design-build
22 entity after award but prior to contract execution for the
23 purpose of securing better terms than originally proposed,
24 provided that the salient features of the request for proposal
25 are not diminished.

1 Section 99. Effective date. This Act takes effect upon
2 becoming law.