

AN ORDINANCE AMENDING CITY CODE CHAPTER 135, PURCHASES, TO PROVIDE FOR DESIGN-BUILD PROJECT DELIVERY METHOD

BE IT ORDAINED BY THE BOARD OF ALDERMAN OF THE CITY OF WARSAW, MISSOURI, AS FOLLOWS:

ARTICLE V – DESIGN-BUILD

**Section 1.** That Section 135.180 of the Code of Ordinances of the City of Warsaw, Missouri, is hereby added to read as follows:

Section 135.180 Design-Build Project Delivery Method

- A. Notwithstanding any provision of this Code to the contrary, the City may utilize the design-build project delivery method in accordance with Missouri law (Section 67.5050, RSMo.) for civil works projects regardless of cost of noncivil works projects in excess of \$7,000.00. If Federal funds are being used for the project, then Federal law and regulations will supersede.
- B. Definitions.
1. *Civil Works Projects* – Roads, streets, bridges, utilities, storm drainage and flood control projects.
  2. *Design-Builder* – Any individual, partnership, joint venture or corporation subject to a qualification-based selection that offers to provide or provides design services and general contracting services through a design-build contract in which services within the scope of the practice of professional architecture or engineering are performed respectively by a licensed architect or licensed engineer and in which services within the scope of general contracting are performed by a general contractor or other legal entity that furnishes architecture or engineering services and construction services either directly or through subcontracts or joint ventures.
  3. *Design Criteria Consultant* – A person, corporation, partnership or other legal entity duly licensed and authorized to practice architecture or professional engineering in Missouri that is employed by or contracted by the City to assist the City in the development of project design criteria, requests for proposals, evaluation of proposals, the evaluation of the construction under a design-build contract to determine adherence to the design criteria, and any additional services requested by the City to represent its interest in relation to a project. The design criteria consultant may not submit a proposal or furnish design or construction services for the design-build contract for which its services were sought.
  4. *Design Criteria Package* – The scope and specifications for the design-build project sufficient to permit a design-builder to prepare a response to the City’s request for proposals for a design-build project. The package may include capacity; durability; standards; ingress and egress requirements; performance

requirements; description of the site: surveys; soil and environmental information concerning the site; interior space requirements: material quality standards; design and construction schedules;

site development requirements; provisions for utilities, storm water retention and disposal; parking requirements; applicable governmental code requirements; preliminary designs for the project or portions thereof; and other criteria for the intended use of the project.

5. *Noncivil Works Projects* – Buildings, site improvements and other structures in excess of \$7,000,000 commonly designed by architects.

### C. Process

1. Unless the City employs a design criteria consultant, the City will select and negotiate for the services of a design criteria consultant using a request for qualifications selection process.
2. At least one week prior to publishing the request for proposals (RFP) for a design-builder, the Board of Alderman will publicly disclose at a regular meeting its intent to utilize the design-build method and the project design criteria that will be used to select the design-builder.
3. The City will solicit proposals in a three-stage process. Phase I shall be the solicitation of the design-build team. Phase II shall be the solicitation of a technical proposal, including conceptual design for the project. Phase III shall be the proposal of the construction cost. The City will assign points to each proposal in accordance with law and as set out in the instructions of the RFP.
4. Prior to opening the proposals, the City will publish notice of the RFP once a week for two consecutive weeks in a newspaper of general circulation published in the county where the City is located. The notice will include a description of the project, the procedures for submission and the selection criteria to be used. The RFP will include a time, place and other specific instructions for the receipt of proposals. Proposals not submitted in strict accordance with the instructions will be subject to rejection.
5. The RFP must minimally include the following information about the project and the process:
  - The procedures to be followed for submitting proposals, the criteria for evaluating proposals and their relative weight, and the procedures for making awards;
  - The proposed terms and conditions for the design-build contract, if available;

- The design criteria package;
  - A description of the drawings, specifications or other information to be submitted with the proposal, with guidance as to the form and level of completeness of the drawings, specifications or other information that will be acceptable;
  - A schedule for planned commencement and completion of the design-build contract, if any;
  - Budget limits for the design-build contract, if any;
  - Requirements, including any available ratings, for performance bonds, payment bonds and insurance, if any;
  - The amount of the stipend that will be available (at least one-half of one percent of the total project budget); and
  - Any other information that the City in its discretion chooses to supply including, but not limited to, surveys, soil reports, drawings of existing structures, environmental studies, photographs, references to public records, or affirmative action and minority business enterprise requirements consistent with state and federal law.
6. In Phase I of the RFP, the City will require design-builders to submit a statement of qualification that will include, but is not limited to:
- Demonstrated ability to perform projects comparable in design, scope and complexity;
  - References of owners for whom design-build projects, construction projects or design projects have been performed;
  - Qualifications of personnel who will manage the design and construction aspects of the project; and
  - Names and qualifications of the primary design consultants and the primary trade contacts with whom the design-builder proposes to subcontract or form a joint venture. The design-builder may not replace an identified contractor, subcontractor, design consultant or subconsultant without the written approval of the City.
7. In Phase I, the City Administrator and Planner or designee and the design criteria consultant will evaluate the qualifications of all the design-builders who submitted proposals in accordance with the instructions in the RFP. Architectural and engineering

services will be evaluated in accordance with policy FEB. The City will have the discretion to disqualify any design-builder that lacks the minimum qualifications, based on the opinion of the City.

Upon recommendation of the City Administrator and Planner or designee and the design criteria consultant, the Board of Alderman will select not more than five and not fewer than two design-builders with the appropriate qualifications to proceed to the next step in the process. The City will not consider price or fees when making this decision. The points assigned in Phase I of the evaluation process will not carry forward. The final decision on a design-builder will be made based on points given in Phases II and III. 4

8. The design-builders selected in Phase I will be invited to participate in Phase II and Phase III. The Phase II and III proposals will be submitted to the City concurrently in separate envelopes or separately submitted using other methods designated by the City. The City will reject any proposal that is not submitted on time.
  - Phase II requires the design-builder to submit its design for the project to the level of detail required in the RFP. The design-builder also needs to indicate whether the builder is able to deliver the project on time and within the City's budget. However, the Phase II proposal will not contain any reference to the cost of the design-builder's proposal.
  - Phase III requires the design-builder to submit a firm, fixed cost of design and construction. The Phase III proposal will include bid security and any other information required in the request for proposal.
9. The designs submitted in Phase II will be evaluated, assigned points and ranked in order by the City Administrator and Planner or designee and the design criteria consultant. The ranking will be presented to the Board of Alderman for review, revision and final approval. Phase II will account for at least 40 percent of the total point score. Up to 20 percent of the points awarded in Phase II may be based on the design-builder's qualifications and ability to design, contract and deliver the project on time and within the budget. The City will post notice of the points attributed to each design-builder and the design-builder's ranking in the same location the City posts notice of Board of Alderman meetings.
10. Once the Phase II rankings have been posted, the Phase III cost proposals will be opened and read aloud at the time and place specified in the RFP. Phase III will account for not less than 40 percent of the total point score as specified in the RFP.
11. The lowest responsive bidder will be awarded the total number of points for Phase III. For all other bidders, cost points will be calculated by reducing the maximum points available in Phase III by at least one percent for each percentage point by which the bidder exceeds the lowest bid.

12. The points assigned in Phase III will be added to the points given in Phase II to each design-builder. The responsive bidder with the highest number of points will be awarded the contract. All design-builders who participate in Phase II and Phase III will receive a reasonable stipend as detailed in the RFP. Upon payment of the stipend to any unsuccessful design-builder, the City will acquire a nonexclusive right to use the design submitted. Design-builders who decide to retain all rights in the design forfeit the stipend.
  
13. If the Board of Alderman determines that it is not in the best interest of the City to proceed with the project with the design-builder with the highest number of points, the City will reject all proposals. If this occurs, all qualified and responsible design-builders with lower point totals will receive a stipend, and the design-builder with the highest number of points will receive an amount equal to two times the stipend. The City may solicit new proposals using different design criteria, budget constraints or qualifications.


**Section 2.** This Ordinance shall be in force and effect from and after its date of passage.


Alderwoman Reba Slavens	Aye <u>✓</u>	Nay _____
Alderwoman Lou Breshears	Aye <u>✓</u>	Nay _____
Aldermen Eric Flores	Aye <u>✓</u>	Nay _____
Aldermen Rob Coskey	Aye <u>✓</u>	Nay _____
Aldermen Adam Howe	Aye <u>✓</u>	Nay _____
Aldermen James White	Aye <u>✓</u>	Nay _____

READ THE FIRST TIME THIS 17th DAY OF JUNE 2024.

READ AND PASSED THIS 17th DAY OF JUNE 2024.

This ordinance is approved and passed this 17th day of June 2024.

  
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 Jessica Kendall, City Clerk

  
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 Mayor Eddie Simons