

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF HARRISONBURG,  
VIRGINIA ADOPTING PROCEDURES FOR THE PROCUREMENT OF DESIGN-  
BUILD CONTRACTS EFFECTIVE JANUARY 1, 2022**

**WHEREAS**, the Code of Virginia requires that prior to issuing a Request for Proposal for any design-build contract, the public body shall have adopted by resolution written procedures governing the selection, evaluation, and award of such contract.

**NOW, THEREFORE**, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF HARRISONBURG, VIRGINIA this December 14, 2021, in accordance with the provisions of Chapter 43.1 of the Code of Virginia, City Council hereby adopts the following procedures for the procurement of Design-Build (“D-B”) contracts, as defined in the Chapter, which shall be followed by all departments of the City of Harrisonburg (“City”). These procedures shall be effective January 1, 2022.

- A. **DEFINITION:** Pursuant to §2.2-4379 of the Code of Virginia, *Design-Build Contract* means a contract between a public body and another party in which the party contracting with the public body agrees to both design and build the structure, or other item specified in the contract.
- B. **LEGISLATIVE AUTHORITY:** Under the authority of the Code of Virginia, the City may contract to secure D-B projects on a fixed price or not-to-exceed basis in accordance with these procedures and the regulations adopted pursuant to §2.2-1502 of the Code of Virginia.
- C. **CRITERIA AND APPROVAL FOR USE OF D-B CONTRACTS:** The City shall follow all the criteria for use of D-B as set forth in the Code of Virginia.
- D. **PREDETERMINATION PROCEDURES:** Pursuant to § 2.2-4382 (B), prior to making a determination as to the use of D-B for a specific construction project, the City shall have in its employ or under contract a licensed architect or engineer with professional competence appropriate to the project who shall (i) advise the City regarding the use design-build for that project and (ii) assist the City with the preparation of the Request for Proposal (RFP) and the evaluation of such proposals.

Pursuant to § 2.2-4382 (C), a written determination shall be made in advance by the City that competitive sealed bidding is not practicable or fiscally advantageous, and such writing shall document the basis for the determination to utilize D-B. The determination shall be included in the Request for Qualifications and be maintained in the procurement file.

- E. **USE OF STATE OR FEDERAL TRANSPORTATION FUNDS:** If state or federal

transportation funds are used for the contract, the City shall comply with §§ 33.2-209 and 33.2-214 of the Code of Virginia, and shall request from the Virginia Department of Transportation the authority to administer the project in accordance with pertinent state and federal guidelines (which are discussed in Section VIII below).

- F. **D-B SELECTION PROCEDURES:** The following procedures shall be used in selecting a Design-Builder and awarding a contract:
- a. The City shall appoint an Evaluation Committee (“Committee”) which shall consist of at least three (3) members from the City, including a licensed design professional, if possible.
  - b. The basis of the award of the contract shall be in accordance with the Code of Virginia and the criteria for the award shall be established in advance and provided in the Request for Proposals (RFP) document. It is noted that cost is a critical component of the selection process.
  - c. Selection of Qualified Offerors (STEP 1): On projects approved for D-B, the City shall conduct a prequalification process as follows to determine which Offerors are qualified to receive Request for Proposals (RFPs).
    - i. The City shall prepare a Request for Qualifications (“RFQ”) containing the City’s Facility Requirements, building and site criteria, site and survey data (if available), the criteria to be used to evaluate RFQ Responses and other relevant information, including any unique capabilities or qualifications that will be required of the contractor. All Offerors shall have a licensed Class “A” contractor and an Architect or Engineer registered in the Commonwealth of Virginia as part of the Project Team.
    - ii. The RFQ shall be posted in accordance with Chapter 43.1 and the City shall include in the RFQ acceptable methods of response submission.
    - iii. The Committee shall evaluate each Offeror’s RFQ responses and any other relevant information and shall determine which Offerors are fully qualified and suitable for the project.
    - iv. The RFQ evaluation shall result in a short list of at least two (2) Offerors to receive the RFP. An Offeror may be denied prequalification only as specified under § 2.2-4317 or those capabilities or qualifications beyond licensure set out in the RFQ, but the short list shall consist of those deemed best qualified. It is possible for an offeror to be found qualified, but not be selected to the short list.
    - v. The RFQ evaluation process shall evaluate an Offeror’s to determine whether the Offeror has constructed, by any method of project delivery, at least three (3) projects similar in program and size.
    - vi. At least thirty (30) days prior to the date established for the submission of proposals, the City shall advise in writing each Offeror which sought prequalification whether that Offeror has been prequalified. In the event

that an Offeror is denied prequalification, the written notification to such Offeror shall state the reasons for such denial of prequalification and the factual basis of such reasons.

d. Selection of Design-Build Contractor (Step 2):

- i. The City shall send an RFP to the D-B Offerors on the short list for the project and request formal proposals from them. The criteria for award shall be included in the RFP. The City shall include in the RFP if responses may be submitted electronically and/or via paper response.
- ii. Sealed Technical Proposals as described in the RFP shall be submitted to the City. Cost Proposals shall be sealed separately and submitted to the City. The Cost Proposals shall be kept sealed until the evaluation of the Technical Proposals and design adjustments are completed.
- iii. The Committee will evaluate the Technical Proposals based on the criteria contained in the RFP. It will inform each D-B Offeror of any adjustments necessary to make its Technical Proposal fully comply with the requirements of the RFP. In addition, the City may require that Offerors make design adjustments necessary to incorporate project improvements and/or additional detailed information identified by the Committee during design development.
- iv. Based on the adjustments made to the Technical Proposals, the Offeror may amend its Cost Proposal.
- v. The Committee shall evaluate (and rank if technical rankings are to be considered as a criterion for award) the Technical Proposals and the Cost Proposals. After evaluation and ranking, the Committee shall conduct negotiations with two (2) or more offerors submitting the highest ranked proposals. The Committee shall make its recommendation for the selection of an offeror to the City based on its evaluation of the Technical Proposal, Cost Proposal, and the outcome of negotiations.  
Should the City determine in writing and in its sole discretion that only one Offeror is fully qualified, or that one Offeror is clearly more highly qualified than the others under consideration, a contract may be negotiated and awarded to that Offeror after approval of the Procurement Manager. Otherwise, the City shall open the Cost Proposals and apply the criteria for award as specified in the RFP and approved by the Procurement Manager.
- vi. The Committee shall make its recommendation for the selection of a Design Builder to the Procurement Manager. The contract shall be awarded to the Offeror who is fully qualified and has been determined to have provided the best value in response to the RFP. Once the selection has been made as to which Offeror will be awarded the contract, the Procurement Manager will post a Notice of Award on eVA at

[www.eva.virginia.gov](http://www.eva.virginia.gov).

- vii. The award documentation will subsequently be followed by a contract incorporating by reference all the requirements, terms and conditions of the solicitation and the Offeror's Technical and Cost Proposals as negotiated.
- viii. The City will notify all Offerors who submitted proposals which Offeror was selected for the project. In the alternative, the City may notify all Offerors who submitted proposals of the City's intent to award the contract to a particular Offeror at any time after the City has selected the Design-Builder. When the terms and conditions of multiple awards are so provided in the RFP, awards may be made to more than one Offeror.
- ix. Upon request, documentation of the process used for the final selection shall be made available to the unsuccessfully Offerors.

Adopted this 14<sup>th</sup> day of December 2021.

---

Deanna R. Reed, Mayor

ATTEST:

---

Pamela Ulmer, City Clerk