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State of Minnesota
HOUSE OF REPRESENTATIVES

**EIGHTY-SIXTH
SESSION**

HOUSE FILE No. 1023

February 23, 2009

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The bill was read for the first time and referred to the Committee on State and Local Government Operations Reform,
Technology and Elections

1.1 A bill for an act
1.2 relating to the city of Cannon Falls; authorizing the city to use a design-build
1.3 process to award contracts for construction of a library and fire station.

1.4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.5 Section 1. CITY OF CANNON FALLS; LIBRARY AND FIRE STATION
1.6 DESIGN-BUILD CONTRACTS.

1.7 Subdivision 1. Definitions. (a) In sections 1 to 5, the definitions in this subdivision
1.8 apply.

1.9 (b) "Best value" describes a result intended in acquiring design-build services. Best
1.10 value determination must include price and must measure a responder's qualifications,
1.11 experience, prior performance, and responses to technical and qualitative criteria.

1.12 (c) "Design-build contract" means a single contract between the city and a
1.13 design-builder to furnish the architectural, engineering, and related design services as well
1.14 as the labor, materials, supplies, equipment, and construction services for a project.

1.15 (d) "Design-build firm" means a proprietorship, partnership, limited liability
1.16 partnership, joint venture, corporation, or any type of limited liability company,
1.17 professional corporation, or any legal entity.

1.18 (e) "Design-builder" means the design-build firm that proposes to design and build a
1.19 project governed by the procedures of this section.

1.20 (f) "Design professional" means a person who holds or employs individuals who
1.21 hold a license under Minnesota Statutes, chapter 326, and who is required to be registered
1.22 under Minnesota law.

1.23 (g) "Primary designer" means the designer who is to have primary design
1.24 responsibility for a project, and does not include designers who are merely consulted by

2.1 the city and do not have substantial design responsibility, or designers who will or may be
2.2 employed or consulted by the primary designer.

2.3 (h) "Proposal" means an offer by a design-builder to enter into a design-build
2.4 contract for the project or projects in response to a request for proposals, including a
2.5 phase-one or phase-two proposal.

2.6 (i) "Request for proposals" or "RFP" means the document or publication through
2.7 which the city solicits proposals from prequalified design-builders to design and construct
2.8 a library and a fire station.

2.9 (j) "Request for qualifications" or "RFQ" means a document to prequalify and
2.10 short-list potential design-builders for a project.

2.11 Subd. 2. **Authority.** Notwithstanding Minnesota Statutes, section 471.345, or any
2.12 other law to the contrary, the city of Cannon Falls may solicit and award a design-build
2.13 contract for a project or projects to construct a library and a fire station on the basis of a
2.14 best value selection process as provided in this section.

2.15 Subd. 3. **Procedures.** (a) The city council shall, by resolution, adopt implementation
2.16 procedures consistent with this section for the award of the design-build contract or
2.17 contracts.

2.18 (b) The implementation procedures must, at a minimum, govern:

2.19 (1) the establishment of a design-build selection panel appointed by the city council
2.20 to advise the city in preparing and conducting the design-build selection process, including
2.21 a recommendation for the selection of a design-build proposal it considers to be of best
2.22 value to the public;

2.23 (2) preparing requests for proposals, including procedures for determining the
2.24 appropriate content for each request for proposal;

2.25 (3) standards to be used to qualify or prequalify design-builders;

2.26 (4) preparing and submitting proposals;

2.27 (5) establishing procedures for evaluating proposals in as objective a manner as
2.28 possible;

2.29 (6) establishing safeguards during the procurement process to preserve confidential
2.30 information and proprietary information supplied by those submitting proposals in
2.31 accordance with Minnesota Statutes, chapter 13, including, but not limited to, an offeror's
2.32 price, technical solutions, innovative or unique technology, and innovative or unique
2.33 use of commercially available items; and

2.34 (7) awarding and executing design-build contracts.

3.1 Subd. 4. **Licensing requirements.** (a) A design-builder must be licensed and
3.2 registered to provide the services required to complete the project and do business in
3.3 this state.

3.4 (b) A design-builder may enter into a contract with the city to provide professional
3.5 or construction services that the design-builder is not licensed, registered, or qualified to
3.6 perform, so long as the design-builder provides the services through subcontracts with
3.7 licensed, registered, or otherwise qualified persons in accordance with this section.

3.8 (c) This section does limit or eliminate the responsibility or liability owed by a
3.9 professional on a design-build project to the city or other parties under other law.

3.10 **Sec. 2. CITY OF CANNON FALLS; DESIGN-BUILD PROCESS.**

3.11 Subdivision 1. **Two-phase procedure.** The city of Cannon Falls shall establish a
3.12 two-phase procedure for awarding the design-build contract or contracts.

3.13 Subd. 2. **Contents.** The city council shall prepare or have prepared an RFQ. The
3.14 RFQ must include the following:

3.15 (1) the minimum qualifications of design-builders necessary to meet the requirements
3.16 for acceptance;

3.17 (2) a scope of work statement and schedule;

3.18 (3) documents defining the project requirements;

3.19 (4) the form of contract to be awarded;

3.20 (5) the weighted selection criteria for compiling a short list and the number of firms
3.21 to be included in the short list, which must be at least three but not more than five;

3.22 (6) a description of the request for proposals (RFP) requirements;

3.23 (7) the maximum time allowed for design and construction;

3.24 (8) the city's estimated cost range of design and construction;

3.25 (9) requirements for construction experience, design experience, financial,
3.26 personnel, and equipment resources available from potential design-builders for the
3.27 project and experience in other design-build projects or similar projects, provided that
3.28 these requirements may not unduly restrict competition; and

3.29 (10) the requirement that the primary designer be designated in the response to
3.30 the RFQ.

3.31 Subd. 3. **Evaluation.** (a) The city shall solicit and evaluate proposals and select
3.32 a design-builder in two phases.

3.33 (b) In phase one, the city council shall adopt a short list of at least three but no more
3.34 than five of the most highly qualified firms in accordance with qualifications criteria
3.35 described in the RFQ. Prior to adoption of the short list, the city may require clarification

4.1 from the design-builders to ensure conformance of proposals to the RFQ. The city must
4.2 not consider cost-related or price-related evaluation factors in phase one.

4.3 (c) In phase two, the city shall use the evaluation criteria in the RFP to determine
4.4 the design-build proposal to be the most advantageous and the best value to the public.
4.5 Prior to award of a contract, the city may require clarification from the design-builders to
4.6 ensure conformance of proposals to the RFP.

4.7 **Sec. 3. CITY OF CANNON FALLS; RFP FOR DESIGN-BUILD.**

4.8 During phase two, the city of Cannon Falls shall issue an RFP to the design-builders
4.9 on the short list. The request must include:

4.10 (1) the scope of work, including (i) performance and technical requirements, (ii)
4.11 conceptual design, (iii) minimum specifications, and (iv) functional and operational
4.12 elements for the delivery of the completed project, which must be prepared by a design
4.13 professional qualified to prepare the necessary documents;

4.14 (2) a description of the qualifications required of the design-builder;

4.15 (3) a description of the selection criteria, including the weighting of each criterion;

4.16 (4) copies of the contract documents that the successful proposer will be expected to
4.17 sign;

4.18 (5) the maximum time allowable for design and construction;

4.19 (6) the city's estimated range of cost for design and construction;

4.20 (7) the requirement that a submitted proposal be segmented into two parts, a
4.21 technical proposal and a price proposal;

4.22 (8) the requirement that each proposal be in a separately sealed, clearly identified
4.23 package and include the date and time of the submittal deadline;

4.24 (9) the requirement that the technical proposal include a critical path method,
4.25 bar schedule of the work to be performed, or similar schematic; design plans and
4.26 specifications; technical reports; calculations; permit requirements; applicable
4.27 development fees; and other data requested in the RFP;

4.28 (10) the requirement that the price proposal contain all design, construction,
4.29 engineering, inspection, and construction-related costs, and all other costs of any kind
4.30 of the proposed project;

4.31 (11) the date, time, and location of the public opening of the sealed price proposals;
4.32 and

4.33 (12) other information relevant to the project.

4.34 **Sec. 4. CITY OF CANNON FALLS; REPLACING TEAM MEMBERS.**

5.1 An individual or a design-build firm identified in a response to an RFQ or RFP
5.2 may not be replaced without the written approval of the Cannon Falls city council. The
5.3 city council may revoke an awarded contract if an individual or a design-build firm
5.4 identified in a response to an RFQ or RFP is replaced without the city council's written
5.5 approval. To qualify for the approval, the written request must document that the proposed
5.6 replacement individual or design-build firm will be equal to or better than that described
5.7 in the response to the RFQ or RFP. The city shall use the criteria specified in the RFQ
5.8 or RFP to evaluate the request.

5.9 **Sec. 5. CITY OF CANNON FALLS; DESIGN-BUILD AWARD.**

5.10 The city council of Cannon Falls shall award the design-build contract to the
5.11 proposer with the highest scored proposal based on the evaluation criteria in the RFP.
5.12 The rationale for the selection of the proposal must be stated at the time of the contract
5.13 award. The city council may reject any or all proposals, but must not do so to evade the
5.14 other provisions and policies of this section. If the city council rejects all proposals, it
5.15 may then solicit new proposals after making appropriate modifications to performance
5.16 criteria, budget constraints, or qualifications.