

BEN FRANKLIN TRANSIT

– BFT Maintenance Shop Progressive Design-Build Project

1. Description of the controls your organization will have in place to ensure that the project is adequately managed.
 - a. Communications – please give us a better understanding of what this will resemble through the procurement process and into the construction and closeout process? What are the needs and expectations of BFT? You tell us a “variety of tools” will be used while ensuring proper authority for decisions. This is very vague, please elaborate.
- Procurement Process Communication:
 - A thorough explanation of the procurement process is provided in response to Question 2 below. This answer explains the communications process for the procurement.
 - BFT Director of Contracts and Purchasing will advertise the RFQ on Opengov.com as well as Seattle DJC and other publications and the RFQ will be made available to interested parties.
 - BFT, Wenaha Group, and Progressive Design-Build Consulting will hold an orientation and kickoff meeting with the selection committee to provide training and prepare the members prior to receiving the SOQ's.
 - At completion of consensus scoring by the committee, all firms will be notified in writing of the shortlisted firms and the shortlisted firms will be furnished with the RFP documents and invited to submit a response.
 - During the RFP phase the selection committee will engage with each shortlisted firm during interactive meetings led by the Design-Builders.
 - Once the committee has selected the highest scored finalist, a report on the procurement process and the committee's recommendation will be presented to the board for authorization to award.
 - Following this authorization, BFT Project Manager and Wenaha Group will negotiate mutually agreeable contract terms in accordance with the documents provided during the procurement process and the proposal provided by the Design-Builder.
 - Throughout the procurement process, BFT Project Manager, Director of Purchasing, Chief Planning and Development Officer and Wenaha Group will continue already established weekly meetings to provide update on progress and collaborate to ensure a compliant and effective process.
- Design, Construction and Closeout Phase Communication:
 - BFT needs and expects a clear, consistent dialogue between the selected contractor, Wenaha Group, and themselves, with the ability to maintain adaptability and flexibility in the event that unexpected changes arise that need quick, decisive action.
 - Wenaha Group is working with BFT to refine the current decision making process to make sure that its decisions during the development of the design and during the construction of the project are timely and informed.
 - Wenaha Group will facilitate weekly project meetings to include a minimum of BFT Project Manager, Wenaha Group Project Manager and the project level staff of the Design-Builder. The Design-Builder will be required to set agendas and distribute minutes of these meetings for distribution to identified stakeholders.
 - A stakeholder register will be utilized to identify all stakeholders and define their respective level of engagement during various phases of design and construction. The

register will identify decision points and specify the level of authority and engagement required of each stakeholder for each decision point. BFT Project Manager will provide continually monitoring of the register and will coordinate other BFT stakeholders and decision makers for responsive decision making.

- BFT Project Manager and Wenaha Group will review documentation and reports from the Design-Builder in order to compose a monthly project report which they will present to BFT leadership in an already established monthly meeting with BFT Chief Planning and Development Officer and BFT CEO who will then present the report to BFT Board in bi-monthly meetings.

b. Budget – the very same question as above. Your response is vague and is non-committal. What tools and what frequency, etc.?

- Throughout the project, Wenaha Group will track all project costs against the established budget and provide analysis to BFT Project Manager and designated stakeholders no less than once per month as part of the monthly project report.
- Wenaha Group will review all project invoices and contractor payment applications and consult with BFT Project Manager and Director of Contracts and Purchasing regarding payment. Monthly reconciliation meetings will be held between Wenaha Group and BFT to ensure alignment on all costs.
- The Design-Builder will be required to utilize Target Value Design budget techniques and provide updated cost estimates including a comparison of amounts in relation to the available budget at agreed upon intervals and/or milestones.
- BFT Project Manager, Wenaha Group and the Design-Builder will continually collaborate to provide value analysis and facilitate decision making focused on maximizing value within the available project funds. The Design-Builder will be required to keep a decision log to document team decisions.
- The Design-Builder will be required to keep a trend log to identify potential changes to the project as well as a log of all project contingencies and track all approved contingency use with regular review during weekly project meetings.
- BFT will maintain a project contingency outside of the design-build contract to cover owner-added scope or change order costs relating to unforeseen conditions. The contingency will be not less than five percent of the anticipated contract value, compliant with RCW 39.10.220(1)(a). BFT Project Manager and Wenaha Group will report on owner contingency usage and risks as a part of the monthly report.
- The Design-Builder will be required to collaborate with BFT Project Manager and Wenaha Group to maintain a betterments log of desired value-added scope items. This log will be updated at the weekly construction meetings as the team collaborates to prioritize items, identify available funds and make timely decisions on possible inclusion of specific betterments.

c. Schedule – the very same question above. Your response is vague and is non-committal. What tools and frequency etc.? Does the owner provide input?

- A proposed schedule of project milestones will be provided in the RFQ/RFP documents.

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- Once selected, the Design-Builder will collaborate with BFT Project Manager, identified stakeholders and Wenaha Group to establish a detailed project schedule for all phases of the project.
 - The Design-Builder will be required to provide weekly short-term look ahead schedules to be reviewed at project meetings. They will also provide monthly updates of the overall project schedule in conjunction with progress payment applications.
 - BFT Project Manager and Wenaha Group will review the look ahead and overall schedule updates and collaborate with the Design-Builder regarding necessary schedule recovery and/or opportunities. Analysis of the schedule status and risks/opportunities will be communicated as part of the monthly project report.
2. Please provide a brief description of your planned DB procurement process.
- a. Telling us that Robynne will handle it does not suffice. Please write down your process and explain it so we are convinced you understand the process.
- The PRC application requests a brief explanation of the process which BFT provided in the application. At the request of the PRC the following is a more thorough explanation so that the PRC can be assured that Robynne will guide BFT through a process compliant with the RCWs.
 - Compliant with RCW 39.10, BFT has developed a procurement that includes a Request for Qualifications (RFQ) and a Request for Proposals (RFP).
 - Consistent with RCW 39.10.330, the Request for Qualifications will include the following:
 - (a) A description of the project including the estimated design-build contract value and the intended use of the project;
 - (b) The reasons for using the design-build procedure;
 - (c) A description of the qualifications to be required of the proposer;
 - (d) A description of the process the public body will use to evaluate qualifications and finalists' proposals, including evaluation factors and the relative weight of factors and any specific forms to be used by the proposers;
 - (i) Evaluation factors for qualifications shall include technical qualifications, such as specialized experience and technical competence of the firms and the key design and construction personnel; capacity to perform; the proposer's past performance in utilization of business entities certified with the office of minority and women's business enterprises, including small businesses and business entities certified with the department of veterans affairs, to the extent permitted by law; ability to provide a performance and payment bond for the project; and other appropriate factors. Cost or price-related factors are not permitted in the request for qualifications phase;
 - (ii) Evaluation factors for finalists' proposals shall include the management plan to meet time and budget requirements and one or more price-related factors. Evaluation factors must include a proposer's inclusion plan for business entities certified with the office of minority and women's business enterprises, including small businesses and business entities certified with the department of veteran's affairs as subconsultants, subcontractors, and suppliers for the project, to the extent permitted by law. Evaluation factors may also include, but not be limited to, the technical approach or the design concept;
 - (e) Protest procedures including time limits for filing a protest, which in no event may limit the time to file a protest to fewer than four business days from the date the proposer was notified of the selection decision;

- (f) The proposed contract;
- (g) The honorarium to be paid to finalists submitting responsive proposals and who are not awarded a design-build contract;
- (h) The schedule for the procurement process and the project; and
- (i) Other information relevant to the project.
- BFT will establish an evaluation committee to evaluate the responses to the RFQ based solely on the factors, weighting, and process identified in the RFQ and any addenda. Based on the evaluation committee's findings, BFT will select ideally 3 but not more than 5 responsive and responsible finalists to submit proposals.
- The RFQ will include BFT's Project Goals and a specific definition of the Projects of Similar Scope and Complexity, which will allow Proposers a deeper understanding of the project so that they can submit Proposals that are better informed, and BFT will be better able to produce a short list that is defensible and consistent with the evaluation factors.
- The Design-Build Contract will be one that has been used in dozens of progressive design-build projects. The contract will include two Phases. Phase 1 will start with the Validation Period where the parties will align their understanding of the Project scope, schedule, and price. Phase 1 will then go into the Design Development and Pre-construction Period where the parties will collaboratively develop the final scope, schedule, and price culminating with a Guaranteed Maximum Price Proposal. Throughout Phase 1, the parties will constantly communicate and collaborate to achieve alignment. If the parties enter into the GMP Amendment, the contract will go into Phase 2 where the Design-Builder completes design and implements construction, commissioning, and closeout of the Project. The contract is consistent RCW 39.10.320, 39.10.330, as well as with DBIA Best Practices. Robynne has taught the DBIA Contracts and Risk Management Class since 2004 and is a past Chair of the following DBIA National Committees: Legislation, Contracts, Education, and Progressive Design-Build Best Practices. She is also a former member of the DBIA National Board, and the DBIA NW Region Board. Robynne has been practicing construction law in Washington since 1991 and is one of the foremost authorities on design-build law and contracts in the country. Her philosophy in drafting design-build contracts is to create fair contracts that benefit all parties. Indeed, the contract that will be used in this project has been vetted by the industry, and Robynne frequently hears that it is fair from the design-builder community.
- BFT will use facilitated, consensus-based scoring to select the Finalists. The development of the RFQ and the evaluation of Proposers is consistent with the following:
 - The Universal Design-Build Best Practices from DBIA, which Robynne helped to draft and revise,
 - The DBIA Progressive Design-Build Best Practices Course, for which Robynne is a co-author and has been instructing since 2018,
 - The DBIA Progressive Design-Build Deeper Dive, for which Robynne was the primary author,
 - The DBIA Progressive Design-Build Best Practices which haven't been published but for which Robynne is one of the primary authors; and
 - The dozens of progressive design-build procurements where Robynne has assisted Washington public agencies pursuant to RCW 39.10.
- BFT will notify all Proposers of the Finalists selected to move to the next phase of the selection process. The selection process will not proceed to the next phase until two business days after all Proposers are notified on the evaluation committee's selection decision. Proposers who are not selected as finalists may request and will receive their scoring summary. BFT is

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aware that the selection process may not advance to the next phase of the selection until two business days after any final protest decision is transmitted to the protestor.

- BFT will issue a Request for Proposals that include any specific forms to be used by the Finalists and submission of a summary of the Finalists' accident prevention program and an overview of its implementation. The RFP will also ask for the Finalists' specific preliminary plans for the project, including but not limited to a preliminary Project Management Plan, a preliminary Guaranteed Maximum Price Development Plan, a preliminary Design Management Plan, and a preliminary Construction Management Plan. The RFP will also request a Price Proposal that, consistent with the practice of public owners in Washington state and DBIA Best Practices, will likely be limited to the Design-Builder's home office overhead and fee percentage.
- The RFP process will also include a series of confidential meetings with the Finalists. The first is an Interactive Meeting where the Finalists are invited to discuss issues and risks that are specific to the Project that occurs prior to the submission of the Proposals. At the sole discretion of BFT, the Finalists will be invited to an interview after the submission of the Proposals.
- BFT will establish an evaluation committee to evaluate the Proposals submitted by the Finalists. The Finalists' proposals will be evaluated and scored based solely on the factors, weighting, and process identified in the RFQ, the RFP, and any addenda published by the public body. BFT will initiate negotiations with the Finalists submitting the highest scored proposal. If BFT is unable to execute a contract with the Finalist submitting the highest scored proposal, negotiations with that Finalist may be suspended or terminated and BFT may proceed to negotiate with the next highest scored Finalist. BFT will continue with this procedure until a contract agreement is reached or it terminates the selection process.
- BFT will notify all Finalists of the selection decision and make a selection summary of the final Proposals available to all Proposers within 2 business days of the notification. If BFT receives a timely written protest from a Finalist, BFT will not execute a contract until two business days after the Final protest decision is transmitted to the protestor.
- The Design-Builder that is awarded the contract will submit a performance and payment bond consistent with the recently amended provisions of RCW 39.10.330.
- The design-build agreement will require the firm awarded the contract to track and report to the public body and to OMWBE its utilization of OMWBE certified businesses and veteran certified businesses.
- BFT will provide appropriate honorarium payments to Finalists submitting responsive Proposals that are not awarded a design-build contract. The honorarium will be sufficient to generate meaningful competition and will recognize the level of effort required to meet the selection criteria.
- Robynne was not only involved in the drafting of RCW 39.10.330 in its current form, she has been involved in every amendment to the statute, including the most recent amendment altering the timing of the performance and payment bond. Robynne was the vice-chair of CPARB's Reauthorization Committee in the last round of reauthorization in 2020-2021.