

## CHAPTER 383B

## HENNEPIN COUNTY

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**383B.158 DESIGN-BUILD CONTRACTS.**

Subdivision 1. **Definitions.** (a) In sections 383B.158 to 383B.1585, the definitions in this subdivision apply.

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

(c) “County board” means the Hennepin County Board of Commissioners.

(d) “Design-build selection panel” means the individuals appointed by the county to advise the county administrator and county board in preparing and conducting the design-build selection process. At least three members of the committee must be individuals who are not county employees, a minimum of two members must be professionally licensed under chapter 326, and at least one must be or must have been a commercial contractor. No committee member shall have personal financial interest in the project or with any of the design-build proposals.

(e) “Design-build contract” means a single contract between the county and a design-builder to furnish the architectural, engineering, and related design services as well as the labor, materials, supplies, equipment, and construction services for a project.

(f) “Design-build firm” means a proprietorship, partnership, limited liability partnership, joint venture, corporation, or any type of limited liability company, professional corporation, or any legal entity.

(g) “Design-builder” means the design-build firm that proposes to design and build a project governed by the procedures of this section.

(h) “Design professional” means a person who holds or employs individuals who hold a license under chapter 326 and who is required to be registered under Minnesota law.

(i) “Primary designer” means the designer who is to have primary design responsibility for a project, and does not include designers who are merely consulted by the county and do not have substantial design responsibility, or designers who will or may be employed or consulted by the primary designer.

(j) “Project” means an undertaking for the county to design, construct, erect, or remodel a building or facility, or to design, construct, or reconstruct a county road, bridge, or other infrastructure relating to a county roadway.

(k) “Proposal” means an offer by a design-builder to enter into a design-build contract for a project in response to a request for proposals, including a phase-one or phase-two proposal.

(l) “Request for proposals” or “RFP” means the document or publication through which the county solicits proposals from prequalified design-builders to design and construct a design-build project.

(m) “Request for qualifications” or “RFQ” means a document to prequalify and short-list potential design-builders for a project.

*[For text of subd 2, see M.S.2006]*

**Subd. 3. Restriction.** (a) The number of design–build contracts awarded by the county board must not be more than ten percent of its total projects in any fiscal year.

(b) The board may not enter into a design–build contract under this section unless the county has as employees at least one of each of the following, each of whom must be licensed and registered under state law: an architect, a mechanical engineer, and a civil engineer. In addition, the county must employ a full–time project manager with at least five years of construction management experience.

**Subd. 4. Procedures.** (a) The county board shall, by resolution, adopt implementation procedures consistent with this section for the award of design–build contracts.

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

(1) the establishment of a design–build selection panel appointed by the county to advise the county administrator and the county board in preparing and conducting the design–build selection process, including a recommendation for the selection of a design–build proposal it considers to be of best value to the public;

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

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

(4) preparing and submitting proposals;

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

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

(7) awarding and executing design–build contracts.

*[For text of subd 5, see M.S.2006]*

**History:** 2007 c 70 s 1–3

### 383B.1581 DESIGN–BUILD PROCESS.

*[For text of subd 1, see M.S.2006]*

**Subd. 2. Contents.** The county, after considering recommendations from the design–build selection panel, shall prepare or have prepared an RFQ. The RFQ must include the following:

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

(2) a scope of work statement and schedule;

(3) documents defining the project requirements;

(4) the form of contract to be awarded;

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

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

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

(8) the county board’s estimated cost range of design and construction;

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

(10) the requirement that the primary designer be designated in the response to the RFQ; and

(11) a statement that “past performance” or “experience” does not include the exercise or assertion of a person’s legal rights.

Subd. 3. **Evaluation.** (a) The county shall solicit and evaluate proposals and select a design–builder in two phases.

(b) In phase one, the county board, after considering the recommendations from the design–build selection panel, shall adopt a short list of at least three but no more than five of the most highly qualified firms in accordance with qualifications criteria described in the RFQ. Prior to adoption of the short list, the designer selection committee or the county board may require clarification from the design–builders to ensure conformance of proposals to the RFQ. The county must not consider cost–related or price–related evaluation factors in phase one.

(c) In phase two, the design–build selection panel and the county shall use the evaluation criteria in the RFP to determine the design–build proposal to be the most advantageous and the best value to the public. Prior to award of a contract, the design–build selection panel and, if necessary, the county board may require clarification from the design–builders to ensure conformance of proposals to the RFP.

**History:** 2007 c 70 s 4,5

### **383B.1584 DESIGN–BUILD AWARD.**

The county board, after considering the recommendations of the design–build selection panel, shall award the design–build contract to the proposer with the highest scored proposal based on the evaluation criteria in the RFP. The rationale for the selection of the proposal must be stated at the time of the contract award. The county board may reject any or all proposals, but must not do so to evade the other provisions and policies of this section. If the county board rejects all proposals, it may then solicit new proposals after making appropriate modifications to performance criteria, budget constraints, or qualifications.

**History:** 2007 c 70 s 6

### **383B.1586 [Repealed, 2007 c 70 s 7]**

### **383B.237 LIBRARY SYSTEM.**

The Hennepin County Board of Commissioners may establish and maintain a system of public libraries for the free use of the residents of the county. The board shall determine the locations of the libraries, and may levy taxes for library operations and maintenance on all taxable property within the county. The county may acquire, lease, construct, alter, or contract for the use of any real or personal property necessary for the establishment and operation of a free county library system. Acquisition of real property may be undertaken in accordance with chapter 117.

**History:** 2007 c 121 art 2 s 2

**NOTE:** The amendment to this section by Laws 2007, chapter 121, article 2, section 2, is effective the day after the transactional documents have been fully executed and certificates of local approval have been filed by the Minneapolis Library Board, the city of Minneapolis, and Hennepin County in compliance with Minnesota Statutes, section 645.021, subdivision 3. The Minneapolis Library Board, the city of Minneapolis, and Hennepin County must not file a certificate of local approval until the Minneapolis Library Board, the city of Minneapolis, and the exclusive representatives of at least 80 percent of the represented Minneapolis library employees have reached an agreement addressing the impact of the merger on employees. Laws 2007, chapter 121, article 2, section 6.

### **383B.239 BOARD.**

The county board shall direct, operate and manage the county library system. A county library board consisting of 11 members who reside in the county library service area shall be appointed by the county board. For the first three years following the merger of the Minneapolis Public Library and the Hennepin County library system, three of the members shall be residents of the city of Minneapolis. When appointing members of the county library board who are residents of the city of Minneapolis, the county board must consult with the Minneapolis mayor and city council. The library board shall provide advice and make recommen-

dations on any matter pertaining to the library system to the county board and the library director and shall exercise the powers and perform the duties delegated to it by the county board, which may include, but are not limited to, the establishment of rules governing library operations, review of the annual operating budget for submission to the county board, development of a long-range plan and acceptance of gift and trust funds. The library board shall determine the contents of the collections of the library system and shall be responsible for the use of library meeting rooms.

**History:** 2007 c 121 art 2 s 3

**NOTE:** The amendment to this section by Laws 2007, chapter 121, article 2, section 3, is effective the day after the transactional documents have been fully executed and certificates of local approval have been filed by the Minneapolis Library Board, the city of Minneapolis, and Hennepin County in compliance with Minnesota Statutes, section 645.021, subdivision 3. The Minneapolis Library Board, the city of Minneapolis, and Hennepin County must not file a certificate of local approval until the Minneapolis Library Board, the city of Minneapolis, and the exclusive representatives of at least 80 percent of the represented Minneapolis library employees have reached an agreement addressing the impact of the merger on employees. Laws 2007, chapter 121, article 2, section 6.

**383B.245 LIBRARY LEVY.**

(a) The county board may levy a tax on the taxable property within the county to acquire, better, and construct county library buildings and branches and to pay principal and interest on bonds issued for that purpose.

(b) The county board may by resolution adopted by a five-sevenths vote issue and sell general obligation bonds of the county in the manner provided in sections 475.60 to 475.73. The bonds shall not be subject to the limitations of sections 475.51 to 475.59, but the maturity years and amounts and interest rates of each series of bonds shall be fixed so that the maximum amount of principal and interest to become due in any year, on the bonds of that series and of all outstanding series issued by or for the purposes of libraries, shall not exceed an amount equal to 0.01612 percent of market value of all taxable property in the county as last finally equalized before the issuance of the new series. When the tax levy authorized in this section is collected it shall be appropriated and credited to a debt service fund for the bonds in amounts required each year in lieu of a countywide tax levy for the debt service fund under section 475.61.

**History:** 2007 c 121 art 2 s 4

**NOTE:** The amendment to this section by Laws 2007, chapter 121, article 2, section 4, is effective the day after the transactional documents have been fully executed and certificates of local approval have been filed by the Minneapolis Library Board, the city of Minneapolis, and Hennepin County in compliance with Minnesota Statutes, section 645.021, subdivision 3. The Minneapolis Library Board, the city of Minneapolis, and Hennepin County must not file a certificate of local approval until the Minneapolis Library Board, the city of Minneapolis, and the exclusive representatives of at least 80 percent of the represented Minneapolis library employees have reached an agreement addressing the impact of the merger on employees. Laws 2007, chapter 121, article 2, section 6.

**383B.247 MERGER.**

The county and the library board of the city of Minneapolis may agree to merge their public library systems at a time and in a manner as they may agree as enabled pursuant to Laws 2007, chapter 121.

**History:** 2007 c 121 art 2 s 5

**NOTE:** The amendment to this section by Laws 2007, chapter 121, article 2, section 5, is effective the day after the transactional documents have been fully executed and certificates of local approval have been filed by the Minneapolis Library Board, the city of Minneapolis, and Hennepin County in compliance with Minnesota Statutes, section 645.021, subdivision 3. The Minneapolis Library Board, the city of Minneapolis, and Hennepin County must not file a certificate of local approval until the Minneapolis Library Board, the city of Minneapolis, and the exclusive representatives of at least 80 percent of the represented Minneapolis library employees have reached an agreement addressing the impact of the merger on employees. Laws 2007, chapter 121, article 2, section 6.

**383B.905 AUTHORITY AND DUTIES OF OFFICERS AND DIRECTORS; UNPAID OFFICERS AND DIRECTORS LIABILITY FOR DAMAGES.**

*[For text of subs 1 to 3, see M.S.2006]*

Subd. 3a. **Conflicts of interest.** Conflicts of interest involving directors, officers, or employees of the corporation must be evaluated and resolved under chapter 317A. Directors,

officers, and employees of the corporation are not considered "public officers" for the purposes of sections 471.87 to 471.89. This subdivision does not apply to Hennepin County Commissioners who also serve on the board of Hennepin Healthcare System, Inc.

*[For text of subd 4, see M.S.2006]*

**History:** 2007 c 34 s 1