

**2013 SENATE TRANSPORTATION**

**SB 2173**

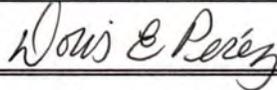
# 2013 SENATE STANDING COMMITTEE MINUTES

## Senate Transportation Committee Lewis and Clark Room, State Capitol

Senate Bill 2173  
January 31, 2013  
Recording job number 18081

Conference Committee

Committee Clerk Signature



### **Explanation or reason for introduction of bill/resolution:**

To create and enact three new subsections to section 24-01-01.0 and two new sections to chapter 214-02 of North Dakota Century Code, relating to design-build procurement for state highways.

### **Minutes:**

Attached testimony: 12

**Senator Wardner** introduced the bill. This is not mandatory. It is a tool in a toolbox for our North Dakota Department of Transportation (DOT). We think that, in western North Dakota, where we need to get some projects done in a timely fashion, this would probably work.

**Senator Cook**: District 34: Almost all states have this tool in their tool box, we do not. Top of page 2 line 1, the department may utilize Design-Build so it is just a tool. Most states use it very seldom, generally they continue to use design bid build. There are situations where design build is the best way to move forward on a project that would benefit the state and therefore the taxpayers of the state. In some states the decision is made by the head of the Department of Transportation (DOT). Others have some sort of committee made up of three or four people from the industry, from engineering, and from the state that would look at a project and together decide if the project should be built in a Design-Build method. Mr. Hanson and I had a conversation about the merits of Design-Build trying to get him to say that we can work together and do this but they don't like the idea. I met with a lot of engineers and listened to their concerns. It is a change in how we do business in the state of North Dakota. There is a fear that large contractors from out of state will be the only ones that get to come here and compete. I think we can compete with anybody and if we can't, we need to get up to speed and do it. So that if we don't have a lot of construction jobs in North Dakota our people continue to make a living going to other states, and that is where they would have to compete in cases of design build. In page 3 line 5 you will see the criteria for being selected. I'd ask the question: how do you ever show that if you haven't done one. That is something that you need to talk about. Our contractors can go into other states and compete, set the standards. It is something that has to be done right if it is going to be successful. The initial contract will need to be well drafted. North Dakota Department of Transportation (DOT) has to have working for them people who understand Design-Build, just as much as the contractors and the engineering firms do. NDSU has a program to educate in Design-Build. Think about it, we are educating kids to design build roads; they are not going to have a job in North Dakota if that is what they want to do. I think the bill needs to pass. We may pass it and may never get to use it, but it has to be in the tool box.

**Senator Sinner** Has this idea been ever been proposed before in North Dakota?

**Senator Cook**: Last session we had a Design-Build bill for vertical construction buildings, it was defeated. We passed a pilot project for two small projects, so there is a little history here

**Representative Heller**: District 33 in Beulah I encourage you to pass this bill. I also attended the conference with Senator Cook joining over 600 other participants most of whom were representing private companies and state agencies. They already use this delivery method. In this method all the players involved really get to use their creativity. If they are within a certain budget, creativity really flourishes because everybody gets to do to the best of their ability to build within the constraints of the contract. They are not so rigid in what they can do. I only see this as a win-win for our infrastructure needs in our state. This will be a valuable tool to have in our North Dakota Transportation tool box.

**Richard Thomas** representing the Design-Build Institute of North America. In favor of this bill, testimony #1 passed around a couple of packets of letters from other DOTs and other owners, sharing their experience with specific Design-Build projects testimony #2 and copy of presentation showing the study results, testimony #3

**Cal Klewin**, Executive Director of the Theodore Roosevelt Expressway Association. Written testimony # 4, in favor. Distributed written testimony from **Doug Heil**, partner in Bakken Housing Partners, development manager of Fox Hills Village in Watford City, ND (testimony # 5), **Brent Sanford**, Mayor of Watford City (testimony #6), and **Dan Kalil**, Williams County (testimony #7) all in favor of this bill.

**Scott Rising**, representing North Dakota Soybean Growers Association, Change is difficult. What we see in this bill is an opportunity to pass a piece of legislation that gives the public approval for change to grow some enthusiasm for a potential tool within the state of North Dakota that has seen limited use, up to this point. We in agriculture understand that we can't do business like we used to, for that we turn to folks like Ag Research and Ag Extension people to give us a hand. We are certain that kind of resources are available to folks in the construction business across the state we like the work they do as we move our product from farm to market. We can't let things that have potential for us don't exist. I would encourage that with the passage of this bill you will give folks an opportunity to change for all of the benefit and outcome we need to see in the infrastructure part of this state.

**No other testimony in support. Testimony in opposition:**

**Russ Hanson**, represents the Associated General Contractors of North Dakota (AGC of N D) A bill introduced in the 2007 session, in the house, proposed to provide the ability to implement design-build for five projects, that bill failed. In 2009, a bill passed both house and senate, allowing two pilot projects utilizing Design-Build, one being a box culvert the other a signal lighting project. We oppose this bill. Testimony #8 includes chart showing the investment versus the average number of bidders per project. We are concerned about getting things done timely and improving an already good system to the point that we have worked with North Dakota Department of Transportation (DOT). We put together an

Accelerated Projects Committee, a group with North Dakota Department of Transportation (DOT) and a group with our contractors. We met several times to talk about ways that we can speed up the processes. With the current system in North Dakota the tax payer is getting good value, we have the resources, see attached chart showing how competitive the bidding process is even thou our program has increased dramatically over the past few years. MN uses Design-Build the most, among our neighboring states, we have seen that thou they have a tool in the toolbox the tool is gathering a lot of dust and for that reason we don't see the need for it to be implemented. I recommend a do not pass.

**Chairman Oehlke**

Who can make these projects go quicker? Case in point: a specific roadway contractor got wet weather, erosion control engineer insisted they had to be there when the finishing work was being done, out of state engineer and contractor could not find time for both of them being there, North Dakota Department of Transportation (DOT) had no say so project got delayed.

**Russ Hanson**: I am not sure

**Harley Neshem** President, Gratech Company, Ltd. Berthold Here today as a taxpayer, life-long resident of North Dakota and as a contractor (written testimony # 9) This bill seeks to impose a closed door system of contracting that favors a few. That is in direct contrast to the open, competitive and equally fair system that has served us well.

**Senator Campbell** What is the profit margin for local vs. out of state contractor?

**Harley Neshem** I do not know A few years ago, contractors that made a profit were working at a two percent margin of the sales dollars.

**Dan Swingen**, President, Swingen Construction Company written ( testimony #10) in opposition. As a contractor involved with Design Build and Design Bid Build, I found Design Bid Build the most economical, more transparent, more objective. It ensures tax payers of the most competitive price and therefore the best use of the public funds.

**Senator Sitte**: Regarding the second project, how many bids were there? Is the learning curve the others spoke about the reason why there were so few. Are you involved in design build in other states?

**Dan Swingen** three bids. Speaking for our own company we went through the learning curve, when we came out the other end I did not see the value in using horizontal design build Currently we are not involved in any, we chose not to participate.

**Bonnie Staiger** representing American Council of Engineering Companies (ACEC) and the American Institute of Architects (AIAND) AIAND opposes this bill and any design build legislation in any Chapter of the Century Code. NDSU may offer a degree in design build those students can practice and participate in that procurement model in the private sector at any time; there are architects who do design build. ACEC has concerns about cost reduction, time saving, administering, timelines of the procurement process including the

NEPA (National Environmental Policy Act) the right of way process and the selection committee process.

**Alan Estvold**, President, Ackerman-Estvold Engineering and Management Consulting, Inc., Minot North Dakota works for the North Dakota Department of Transportation (DOT) for the cities and the counties, opposes this bill. Presently we are hired by the city/county, we work for the taxpayers. If we go to Design-Build, I would be working for the contractors. Real cost reduction of Design-Build is questionable, who will make that determination? I don't believe there will be any expedition of the completion of the projects; most involve environmental and right of way processes that are slow and tedious. If in wetlands there is Corps of Engineers involvement, there might be archeology situations, biological situations where you work with Fish and Wild Life. These are federal agencies over which no one has control. The right of way process involves eminent domain process. I have issues with the method of selection; the committee that is in this bill is at least three individuals. I think the low bids process benefits the taxpayers best. The bill is very subjective in the selection process. I don't know that there is any time savings with design build. Do not pass

**Vice Chairman Armstrong** How much of the engineering work does North Dakota Department of Transportation (DOT) sub out?

**Alan Estvold** a considerable amount

**Bill Kalanek**, representing The Dakotas Chapter of the National Electrical Contractors and the North Dakota Association of Plumbing, Heating and Mechanical Contractors in opposition of this bill, (written testimony #11). With design build the subcontractors are shut out of the bid process, more inequitable process, less transparent and more cumbersome.

**Vice Chairman Armstrong** How does the work get done if subcontractors are shut out?

**Bill Kalanek**: In design build subcontractors are part of the team as a whole. The project goes as one bid. Under the current system agencies parse out the bid to subcontractors, separate bids which amounts to lots of less dollars at the end and is more economical for the agency. **Senator Laffen** District 43, did extensive research on this issue last session. He could come up with no instance in which a single bid amounted to less than the combined total of three separate bids. It was in vertical projects that Design-Build was a topic last session.

**Senator Flakoll** Is there any safeguard, in either scenario of vertical integration, if the primary contractor also owns the subcontracting companies? If you are being paid in cost plus, and have your own people deciding what the cost is, then what are the safeguards there?

**Bill Kalanek**: You talking about an umbrella entity which might own the subcontract companies underneath them so they can then award those contracts essentially to their subsidiaries, so there isn't transparency there. Under the proposed bill I don't know if there are any protections against that. Under the current system when bids are submitted you

have the public vetting of each individual contractor. Under Design-Build I think there is some potential for that when the contractor decides who will work for them.

No additional testimony in opposition

**Mark Anderson**, Managing Partner and a Senior Transportation Engineer at Kadrmas, Lee and Jackson As and engineering firm we are not opposed to Design-Build, however we cannot support the parameters and constraints of implementing Design-Build as outlined in SB 2173. There are mentions four items that would be needed to successfully implement Design-Build in North Dakota, see written testimony #12.

**Senator Sitte** When the North Dakota Department of Transportation (DOT) has excess projects, is there competitive bidding or do they just award it?

**Mark Anderson** The process involves qualifications based selection in which we submit proposals and lay out previous projects, experience, personnel, who can work on the project; then we go through the interview process typically with North Dakota Department of Transportation (DOT) and they select the most qualified to do the work

**Vice Chairman Armstrong** For the interview, is it a committee or one person, are they employees of North Dakota Department of Transportation (DOT)

**Mark Anderson** It is a committee, all North Dakota Department of Transportation (DOT) staff. If it is a local government project, where a city or county is involved, they sometimes have a representative as well.

**Senator Flakoll** If this bill were to pass, do you think your organization would make important modifications to compete for Design-Build projects in North Dakota?

**Mark Anderson** we have completed two design build projects in our history. One with Mr. Swingen, another in Montana. We go after the project and adjust strategy. The biggest concern is going from working on the agency side to actually working for the contractor

**Senator Sinner** How many states KLJ work in today?

**Mark Anderson** Primarily in five, probably up to a dozen other ones more so on the telecommunications side not so much in the vertical or horizontal build market

**Chairman Oehlke** Do you do Design-Build in the private sector?

**Mark Anderson** No

No additional testimony. Hearing Closed

# 2013 SENATE STANDING COMMITTEE MINUTES

Senate Transportation Committee  
Lewis and Clark Room, State Capitol

Senate Bill 2173  
January 31, 2013  
Recording job number 18109

Conference Committee

Committee Clerk Signature

*Doris E. Pérez*

## Explanation or reason for introduction of bill/resolution:

To create and enact three new subsections to section 24-01-01.0 and two new sections to chapter 214-02 of North Dakota Century Code, relating to design-build procurement for state highways

## Minutes:

Attached testimony: 3

**Chairman Oehlke** Opened discussion on SB 2173

**Vice Chairman Armstrong** Distributed proposed changes to the bill draft. He walked committee through proposed changes. See attached testimony #1

**Senator Sitte** I like this because they can start with small projects and see whether or not they can compete with them or not I think it is a great ideas

**Senator Flakoll** Regarding sub section 2 line 27 portion on the "recognized design-build certification program" There is none available in North Dakota that I am aware of. We checked with NDSU, they have one class see attached testimony #2 . The classes they offer are for buildings not roads they do not offer a major or a minor in Design-Build.

**Senator Campbell** You want to compromise instead of killing it and maybe give them two projects

**Vice Chairman Armstrong** Yes, if it works and has any chance of helping my district I am for it. I think it's at emergency status

Discussion followed. **Chairman Oehlke** discussed statistics provided in Russ Hanson's testimony this morning ( see attachment #3, copy testimony 8, pages 3 and 4)

**Grant Levi** Interim Director North Dakota Department of Transportation (DOT) to answer questions and address concerns from committee

**Chairman Oehlke** There are two things we are curious about: first, the number of road projects that you would be proposing for this next biennium and second the total dollar amount of those projects. Is it possible to separate it out from your total budget.?

**Grant Levi** when you look at all costs associated with road construction the portion of our budget that is all cost associated with is about two billion includes engineering right of way utilities those...

(Discussion continued on next set of minutes)

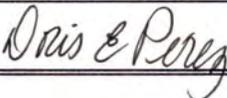
# 2013 SENATE STANDING COMMITTEE MINUTES

**Senate Transportation Committee**  
Lewis and Clark Room, State Capitol

Senate Bill 2173  
January 31, 2013  
Recording Job number 18110

Conference Committee

Committee Clerk Signature



**Explanation or reason for introduction of bill/resolution:**

To create and enact three new subsections to section 24-01-01.1 and two new sections to chapter 24-02 of the North Dakota Century Code, relating to design-build procurement for state highways.

**Minutes:**

Attached testimony: none

Discussion continued on SB 2173

**Grant Levi** Interim Director North Dakota Department of Transportation (DOT) The portion of our budget that is all cost associated is about one point four million. It includes engineering, right of way that is off the top of my head I can refine these figures and we can get them to you.

**Senator Flakoll** Are there already provisions that North Dakota Department of Transportation (DOT) can utilize in the event they want/need to fast track something, i.e. catastrophic incident, high use bridge/road?

**Grant Levi** If there is a disaster/emergency event there are provisions in federal law and state law that allow us to fast track the restoration of services. We work very closely with the environmental community to work out agreement so that we can streamline the environmental process and move forward quickly to do that. With respect to nonemergency events then the work required to do depends on funding source (federal or state) and if there are any impacts associated with the project that would make it tie to some other federal rules and regulations i.e. if we are working on top of the road, using state dollars and we are not impacting any wetlands or environmental process is very quick from design to delivery of product. If we are doing a state project where we are re-grading the roadway and are impacting core properties, jurisdictional wetlands, we still need to go through the environmental process before we can bid the project. The key is if we are using state funds we can design and do environmental work simultaneously if we are using federal dollars we need to get environmental approval before we go to full design. Right now with the significant dollars which are included in SB 2012 in state funds we streamlined process considerably and we simultaneously do environmental work while we are doing design work.

**Senator Flakoll** Are there any thresholds in the law regarding the number of millions of dollars that you can't fast track if the cost is hugely significant?

**Grant Levi**: There are thresholds in law that require us to take additional steps for larger projects. There are things like value engineering steps that we need to take and the threshold is about 25 million dollars for that, if we are using federal funds. If you have a small bridge, a very small impact, we still need to go thru an environmental review. Many times we can show that the environmental impacts are negligible because there is less of a footprint. If we deal with a large structure covering a greater area and sometimes that is what causes time delays.

**Senator Flakoll** there was a bridge clipped by a truck what was the case in terms of remediation for that ?

**Grant Levi** It was a steel truss bridge that was hit and damaged because it did not impact anything from an environmental perspective it was all on top of the roadway the process that we went thru was one in state law we are usually required to advertise twenty one days but because it was an emergency repair we did not have to advertise we declared an emergency went out and got a contractor to come in and do the immediate repairs. That took us a while to do in that particular case because we had to special order some members to put in place it became more complex because we needed materials

**Chairman Oehlke** you have pre-approved contractors you use for that type of thing, how big a project can you use a preapproved contractor on?

**Grant Levi** when it comes to an emergency such as that there are no provisions in law that prevent us from going forward and negotiating with contractors to do the work. I we have a very significant sized project we quickly put together a set of plans we were able to not have to advertise we took bids because the dollar amount was very high.

**Chairman Oehlke** That would be sort of a mini Design-Build?

**Grant Levi** there are occasions where that happens

**Chairman Oehlke** Are these pre- approved contractors that you have a list of ? Are they pre-approved every year? Are they all in-state or out of state pre- approved contractors

**Grant Levi** In the contracting side it is called the prequalification process which reviews the contractors I believe it is done every year, sometimes it is a cursory review but we work off that list to do certain types of work . They can be from anywhere as long as they meet the requirements GL one of the advantages of Design-Build is to allow others to come into the arena look and provide creativity however one of the provisions that we have in all our contracts is the provision called value engineering which if a contractor comes in and can do something differently which saves them and us money we share the savings in going forward.

**Senator Campbell** In essence we already have a proponent of Design-Build that is allowed right now bidding in for contracts

**Grant Levi** That is correct in the sense that we have an opportunity for the contract to be creative within our existing contracts the difference between a Design-Build and the Design-Bid-Build our present process is that with the value engineering proposal I shared they don't capture all the savings because the state captures a portion of it thru negotiations because they bid a price. Some contractors are aware of that when they come in and bid already and put that in their numbers.

**Senator Flakoll** you are getting estimates, under the bid process if you bid it out and they are under the estimate the state keeps the entire percent as opposed to sharing the cost savings?

**Grant Levi** that is correct. Value engineering currently in place: a contractor comes in bids a project we take the low bid of the contractors that meet all of the requirements of the contract when they come in we sign a contract with them to do the work for that price. After that a contractor can come forward and say he can do the job even cheaper if we allow them to it a different way, we look at it and if we can say it is providing the same product that we were looking for when we put the contract out we negotiate with them a price reduction to the contract and then we share that price reduction (savings) with them at fifty-fifty or a negotiated relationship so the tax saver would save more money. Right now we are outsourcing approximately sixty to seventy percent of our engineering related work

**Senator Flakoll** does your office routinely do three sixty analysis and go in and at times deselect an estimator if they continue to have bad estimates that are outside of the actual cost of the project

**Grant Levi** we have a process by which we tell all our estimators what they should follow and we track every bid placed through the state and we try to make adjustments locally so we know we don't do that. We don't say to a consultant because your estimates have been 10% above we will not allow you to do it anymore because they are following a process that we have established using our average bid prices and making adjustments accordingly

**Senator Campbell** The two Design-Build small projects did not seem to work very well why they did not work , would they work on a thirty million dollar project?

**Grant Levi** the two projects we attempted to undertake, the signal light and the box culvert, the box culvert went forward and we determined at that point that our present process probably would have been a little cheaper. The reason for walking thru those projects was for us to start to develop procedures and work with the industry to lay out a process by which Design-Build could be used, if at some point someone decides to use it. I am probably not the expert to talk about what other states are doing, others are using Design-Build and Design-Bid-Build as well.

**Senator Sitte** if this bill were to pass can you tell us what sort of projects do you envision that Design-Build would be helpful for and what sort of projects would it not work at all in ?

**Grant Levi:** At this point in time I am not in a position to make that judgment. We would have to take a look at our program and see where we sit . What we have under

development today to deliver the program that is in SB 2012 is being developed following the process we have in place. We are working on the environmental process at the same time we are working on design. Our intent is to bring those two together so I wouldn't see us trying to step into those projects and add any different method for bidding that what we have under development because they are far along at this point

**Senator Sitte** I guess we are talking about the twenty million dollars, because this only deals with projects more than twenty million dollars yet some of the testimony was that maybe it would be better to go with smaller projects so some of this local contractors could get their feet wet in trying Design-Build in a small basis. Can you differentiate that way?

**Grant Levi** Other states, like Florida, do small project. The state of Utah uses Design-Build for signal lights so other states are using it for different types of projects.

**Senator Sitte** now that you are outsourcing so much of your engineering are those projects bid or do you just select the engineers based on pre-qualifications ?

**Grant Levi** The contracting work and the method we use to select contractors is different than the method used to select engineers State statute is pretty prescriptive in how we select engineering services. Our first step is to put out a request for them to submit an interest and show their qualifications Once we have determined that they are qualified we select the most qualified for a job, the next step is then sit down and negotiate costs if we can't agree to negotiate a cost we move on to the next engineer which is much different that the construction contracting world.

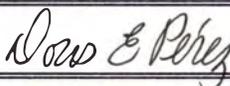
Chairman Oehlke closed the discussion

# 2013 SENATE STANDING COMMITTEE MINUTES

Senate Transportation Committee  
Lewis and Clark Room, State Capitol

Senate Bill 2173  
February 1, 2013  
Recording Job Number 18127  
 Conference Committee

Committee Clerk Signature



## Explanation or reason for introduction of bill/resolution:

A BILL for an Act to create and enact three new subsections to section 24-01-01.1 and two new sections to chapter 24-02 of the North Dakota Century Code, relating to design-build procurement for state highways.

## Minutes:

Attached testimony: 1

Chairman Oehlke opened the discussion on SB 2173

**Vice Chairman Armstrong** what is appropriate for this bill is maybe in question. So on subsection k I would write or thirty million dollars whichever is less. That would be approximately two percent of the one point four billion which was the lower number that was given to us yesterday by Director Jackson. I move to adopt the amendments.

**Senator Flakoll** second

No discussion. Voice vote all in favor

Senator Sinner not present for vote. Adjourned until 9:30

**February 8, 2013**

**Chairman Oehlke** Opened the discussion on SB 2173

**Vice Chairman Armstrong** Moved do pass as amended

**No one seconded**

**Senator Sitte** moved do not pass as amended

**Senator Sinner** seconded

Roll call vote: 6 Yes 1 No 0 absent not voting

**Carrier Senator Sinner**

**FISCAL NOTE**  
**Requested by Legislative Council**  
**01/28/2013**

Amendment to: SB 2173

- 1 A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2011-2013 Biennium		2013-2015 Biennium		2015-2017 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures						
Appropriations						

- 1 B. **County, city, school district and township fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

	2011-2013 Biennium	2013-2015 Biennium	2015-2017 Biennium
Counties			
Cities			
School Districts			
Townships			

- 2 A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

This bill would allow NDDOT to utilize the design/build methodology for certain road projects.

- B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

This bill provides NDDOT with an alternate method that can be used to design and construct a highway project. While this methodology might increase some costs associated with the project, it may also expedite the completion of the project in some cases, thus reducing some costs. In essence, this bill provides NDDOT with another option for road construction, but doesn't have a significant fiscal impact.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

- A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*
- B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*
- C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

**Name:** Shannon L. Sauer

**Agency:** NDDOT

**Telephone:** 328-4375

**Date Prepared:** 01/30/2013

**FISCAL NOTE**  
**Requested by Legislative Council**  
**01/28/2013**

Bill/Resolution No.: SB 2173

- 1 A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2011-2013 Biennium		2013-2015 Biennium		2015-2017 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures						
Appropriations						

- 1 B. **County, city, school district and township fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

	2011-2013 Biennium	2013-2015 Biennium	2015-2017 Biennium
Counties			
Cities			
School Districts			
Townships			

- 2 A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

This bill would allow NDDOT to utilize the design/build methodology for certain road projects.

- B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

This bill provides NDDOT with an alternate method that can be used to design and construct a highway project. While this methodology might increase some costs associated with the project, it may also expedite the completion of the project in some cases, thus reducing some costs. In essence, this bill provides NDDOT with another option for road construction, but doesn't have a significant fiscal impact.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

- A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

- B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

- C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*



**Name:** Shannon L. Sauer

**Agency:** NDDOT

**Telephone:** 328-4375

**Date Prepared:** 01/30/2013



February 8, 2013

2/8/13  
TD

PROPOSED AMENDMENTS TO SENATE BILL NO. 2173

Page 2, line 2, remove "on the"

Page 2, line 3, remove "state highway system which has an estimated cost of twenty million dollars or more."

Page 2, after line 27, insert:

- "4. If the department utilizes the design-build method, it may train key personnel and develop procedures in accordance with accepted design-build best practices. The design-build training of key department personnel may be through an accredited university or a nationally recognized design-build certification program.
  
5. The department may not exceed two percent of the department's total annual projects, or thirty million dollars, whichever is less, for projects utilizing the design-build method."

Renumber accordingly



Date: 2/08/13  
 Roll Call Vote #: 2

**2013 SENATE STANDING COMMITTEE  
 ROLL CALL VOTES  
 BILL/RESOLUTION NO. 2173**

Senate TRANSPORTATION Committee

Check here for Conference Committee

Legislative Council Amendment Number \_\_\_\_\_

Action Taken:  Do Pass  Do Not Pass  Amended  Adopt Amendment  
 Rerefer to Appropriations  Reconsider

Motion Made By Senator Armstrong Seconded By No one

Senators	Yes	No	Senator	Yes	No
Chairman Dave Oehlke			Senator Tyler Axness		
Vice Chairman Kelly Armstrong			Senator George Sinner		
Senator Margaret Sitte					
Senator Tim Flakoll					
Senator Tom Campbell					

Total (Yes) \_\_\_\_\_ No \_\_\_\_\_

Absent \_\_\_\_\_

Floor Assignment \_\_\_\_\_

If the vote is on an amendment, briefly indicate intent:



REPORT OF STANDING COMMITTEE

**SB 2173: Transportation Committee (Sen. Oehlke, Chairman)** recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO NOT PASS** (6 YEAS, 1 NAYS, 0 ABSENT AND NOT VOTING). SB 2173 was placed on the Sixth order on the calendar.

Page 2, line 2, remove "on the"

Page 2, line 3, remove "state highway system which has an estimated cost of twenty million dollars or more."

Page 2, after line 27, insert:

- "4. If the department utilizes the design-build method, it may train key personnel and develop procedures in accordance with accepted design-build best practices. The design-build training of key department personnel may be through an accredited university or a nationally recognized design-build certification program.
  
5. The department may not exceed two percent of the department's total annual projects, or thirty million dollars, whichever is less, for projects utilizing the design-build method."

Renumber accordingly

**2013 TESTIMONY**

**SB 2173**

Testimony presented by

Richard Thomas

Director, State/Local Legislative Affairs

Design-Build Institute of America

to the

North Dakota Senate Transportation Committee

Senator Dave Oehlke, Chairman

Thursday January 31, 2013

Chairman Oehlke; members of the Committee, my name is Richard Thomas and I am representing the Design-Build Institute of America. I appreciate having the opportunity to speak in favor of Senate Bill 2173 and I would also like to thank Senators Wardner, Cook and Warner for introducing it.

As Senators and members of the Transportation Committee taxpayers have put their faith in you to provide a modern 21<sup>st</sup> century transportation system that delivers high quality projects as quickly and as cost effectively as possible. As I have gotten to know each of you I believe this a responsibility you all take very seriously.

North Dakota is at a critical juncture, the combination of flooding, short construction seasons, and the oil boom have created the perfect storm for infrastructure. The North Dakota DOT has an unenviable task of trying to deliver projects on a scale never seen before. They have taken measures to expedite these projects but having only traditional delivery method to meet this challenge is akin

to tying one of their hands behind their back. Most states today have a full toolbox at their disposal to meet this challenge including tools like design-build.

Today the only tool at their disposal is the traditional design-bid-build delivery method. An engineer will design 100% of the project; then put it out for bids, picking the low bidder. This method works well on simple projects but also has several weaknesses. The first weakness is the lack of collaboration between the engineer and the contractor. Because the contractor does not come on board until the project is completely designed, there are often disputes resulting in lawsuits, change orders and delays. This is a major problem in construction today; most DOTs get hundreds if not thousands of change orders each year. Prior to the Army, Navy and Justice Department switching from traditional methods to design-build, they each typically had a billion dollar back log of projects annually due to change orders and claims. Since switching to design-build these agencies don't even have a claims office anymore. Traditional methods also provide very little cost certainty and studies show that these projects generally cost 6-10% more than design-build projects. The biggest weakness of course with our traditional method is that it takes longer to deliver these projects, sometimes a lot longer.

Design-build on the other hand has been a valuable tool for state governments for many years. 46 states are using design-build today and it is now 40% of the construction market share today. Because the engineer and the contractor are part of a team, the conflicts which lead to change orders, lawsuits and delays are virtually eliminated. A survey done by the Federal Highways Administration shows that the number one reason state DOTs use design-build is the urgency of a project. Though North Dakota has surplus I am sure that you are concerned about delivering project cost effectively. As I said, studies show a 6-10% cost advantage using design-build; now that can vary greatly by project, but what design-build does give you that that your current delivery method does not, is an early guaranteed maximum price. This price certainty makes it easier for the DOT to manage its budget and plan into the future. When state are faced with disasters, like Katrina or the collapse of the 35W bridge, severe project backlogs or growing congestion they often turn to design-build. Studies show that design-build delivers projects 33% faster without sacrificing quality. In fact when it comes to quality, design-build out performs every other delivery method in every category measured.

Design-build has grown dramatically over the last five years. The number of design-build projects has doubled both in terms of the number of projects and the value of those projects. It is being used by local, state and federal governments today. In fact almost half of all the design-build laws passed over the last three years gave cities and counties design-build authority. Design-build is used in every construction sector and on big and small projects alike. The “big ticket” projects often get the headlines but the truth is \$2 million projects are far more common than the “mega” projects. Another major reason DOTs use design-build is the opportunity for innovation. With our current system, contractors bid on one design-concept and the only competition is price, with design-build you will have 3-5 teams coming to the table with not only competing price proposals but also different design and construction concepts. One innovative design-build concept is the use of incentives. Generally these incentives are financial they may be used to increase the speed of the project, keep traffic lanes or increase local participation.

Speaking of participation I have heard some say that North Dakota contractors, engineers and even the DOT cannot compete in a design-build world. I will not sugar coat my comments in this regard. Not only are these statements false; I think they are insulting. As a contractor and in my capacity at DBIA I have worked with contractors and engineers in 38 states and I know that in the Midwest we have some of the best contractors and engineers in the country. They are smart, hardworking and very competitive. In forty six states the industry has made the transition to alternative delivery and some contractors here have already made the transition using design-build in North Dakota on private projects and on public projects in other states. Without a doubt there will be a learning curve for contractors, engineers and owners alike. However, there is training and technical assistance readily available from universities, construction groups and state and federal agencies. Every one of North Dakota’s neighbors is, not only utilizing design-build on transportation projects, they are using it on municipal and county as well and I don’t believe the industry here takes a back seat to anyone.

As I said when I started today, North Dakota is at a critical juncture today. As members of the Transportation Committee you probably know better than most, the unique infrastructure challenges the state faces right now and the sense of urgency required to meet this challenge. These transportation dollars don’t belong to DBIA or the construction industry, they belong to the taxpayers and I hope you

agree that they deserve a 21st Century project delivery methods. I don't think the choices you face could be any clearer. Passage of this bill will give the DOT a valuable tool to deliver projects in the future, faster and more cost effectively without sacrificing quality. Failure to pass this bill means we set the state back another two years.

Again, I appreciate the opportunity to address you here today and I would be happy to take any questions you might have.



# The Design-Build Institute of America Owner Letters, Design-Build

*Richard Thomas*





BOBBY JINDAL  
GOVERNOR

STATE OF LOUISIANA  
DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT

P.O. Box 94245  
Baton Rouge, Louisiana 70804-9245

www.dotd.la.gov

May 10, 2010



SHERRI H. LEBAS, P.E.  
SECRETARY

Design-Build Institute of America  
ATTN: 2012 Awards Competition  
1331 Pennsylvania Avenue, NW, 4<sup>th</sup> Floor  
Washington, D.C. 20004

Re: 2012 DBIA National Design-Build Awards  
Transportation – John James Audubon Bridge Project

Dear DBIA,

It is with great pleasure that I write this letter in support of the John James Audubon Bridge Design-Build Project and the entire Project Team's submittal for the project in the 2012 DBIA National Design-Build Awards Program. As the Owner, we are quite proud of this landmark transportation facility. It links two communities historically separated by the Mississippi River with an aesthetic virtue that has iconographic power for the region and the state.

Projects of this magnitude routinely face complications and challenges and the John James Audubon Project is no different in that regard. In spite of the complications and challenges faced, this project stands as a testament to what can be accomplished when parties work together for a common purpose. Through the design-build project delivery process all parties were able to work together to complete the project successfully. It is in recognition of that unified approach to delivering the project that we submit this application as a unified Team – the Owner, Louisiana Department of Transportation and Development; the Design-Builder, Audubon Bridge Constructors (*a joint venture of Flatiron, Granite, and Parsons Transportation*); and the Program Manager, Louisiana TIMED Mangers (*a joint venture of GEC, PB Americas, and The LPA Group, a unit of Michael Baker*).

As the Owner, we take great satisfaction in both the beauty of the record setting cable-stayed span over the Mississippi River and the overall quality of the entire 12 mile long new transportation facility. We appreciate the dedication of the firms and the individuals that worked so diligently to make it a reality for Louisiana. It is our hope that the pride in the project delivered and the people involved shows through in our Team's award submittal.

We thank DBIA for their consideration of this award submittal, and we look forward to future collaborative efforts with the design-build industry and DBIA.

Sincerely,

A handwritten signature in black ink that reads "Sherri H. LeBas".

Sherri H. LeBas, P.E.  
Secretary



State of Utah

GARY R. HERBERT  
*Governor*

GREG BELL  
*Lieutenant Governor*

DEPARTMENT OF TRANSPORTATION

JOHN R. NJORD, P.E.  
*Executive Director*

CARLOS M. BRACERAS, P.E.  
*Deputy Director*

October 24, 2011

DBIA RMR Design-Build Awards Jury  
1114 West 7<sup>th</sup> Avenue  
Suite 250  
Denver, CO 80204

Subject: 11400 South; State Street to Bangerter; New I-15 Interchange  
Project No. SP-15-7(156)293  
2011 Annual DBIA Rocky Mountain Region Design-Build Project Award

To whom it may concern:

I am pleased to write this letter on behalf of A&W Highway Contractors, a Joint Venture between Ames Construction, Inc. and Wadsworth Brothers Construction Co., Inc.

The 11400 South Design-Build Project has been a very challenging and high profile project for the Utah Department of Transportation. It was essential to the Department's success and public image that the project be completed in a manner consistent with the goals set forth for the project. The Department is pleased with the results. Despite challenges that unfolded along the way, the Design-Build team always strived to meet the key goals.

The first goal for the project was for A&W to minimize the impact to traffic on the I-15 corridor. Early in the project during the proposal phase A&W understood this goal and committed to only reducing lanes for 21 days instead of the maximum of ten months allowed. During the execution of the work the team did better than promised in the proposal. As a result the design-build team has earned a significant incentive.

The second goal of the project was to efficiently obtain the ROW while maintaining good public relations. It was originally anticipated that 221 properties would be affected by the Project. The project ended up affecting over 300 properties. In addition, the Design-Build team and the Department were faced with new requirements from the local cities and utility companies that were unknown at the beginning of the project. Despite these

challenges the Department and the Design-Build team limited the delay and were successful in maintaining good public relations. As a result of the efforts made in this area of the Project the Design-Build team has earned over 90% of the Public Information Incentive. This incentive could only be earned by receiving positive scores on a survey given to members of the community who live along the project corridor.

The third goal of the project was to coordinate and or construct third-party features included in the project. This was a very challenging part of the project, with the work requiring relocation of major water lines, electrical lines, sewer, gas, communications, and other utilities. The work also required coordination with three different local cities, the county and the UPRR railroad. The utility conflicts were significant and many of the utilities' infrastructures within the project were required to be completely rebuilt. Despite the challenges and hurdles that had to be overcome, the Design-Builder worked closely with the Department and, together we achieved successful completion of these very important elements of the project.

The fourth goal of the project was related to schedule. Despite some lengthy delays that were outside the control of the Design-Builder, the group found ways to re-sequence the work and still open critical portions of the project early. Once the delays were resolved, the remaining portions of the work were quickly constructed and the Design-Build team always strived to maintain good public access along this critical east west corridor. Third-parties having knowledge of the schedule and the lengthy delays have been complimentary to both the Department and the Design-Builder's ability to complete the project in 2011.

The fifth goal of the project was to provide a safe work environment. The Design-Build team exceeded industry standards in this area. Many of the monthly safety audits performed by the Department were scored at or near 100%. The Design-Builder always emphasized safety of the workers and traveling public, and proactively identified safety issues and resolved them. To the best of our knowledge there were no lost time accidents on the project. The sixth goal of the project was to provide a quality project. The Design-Build team and its subcontractor partners are local to Utah and have worked closely with the Department for many years. The Design-Builder met the Department's quality expectations and requirements. They performed the work cost effectively while still providing a quality product. When quality issues were identified by the Design-Builders or the Department they were quickly resolved to the Department's complete satisfaction.

The completed project met the prescribed goals outlined in the request for proposal. The Department is fortunate that this project was completed in this manner and recognizes the success of the project was a result from both the Design-Build team and the Department following through on commitments made and working diligently to overcome the many challenges that faced the Project.

Sincerely,



Lee Nichman P.E.  
UDOT Region 2, District Engineer



# COMMONWEALTH of VIRGINIA

## DEPARTMENT OF TRANSPORTATION

14685 Avion Parkway  
Chantilly, VA 20151  
(703) 383-VDOT (8368)

**GREGORY A. WHIRLEY**  
ACTING COMMISSIONER

April 29, 2010

Letter of Recommendation  
Lane Construction/VHB Engineering  
Gilberts Corner Roundabouts Project

National Design-Build Awards Jury  
Design-Build Institute of America  
Attn: 2010 Awards Competition  
1100 H Street NW, Suite 500  
Washington, D.C. 20005

RE: Gilberts Corner Roundabouts Project

I would like to share with the reviewers for the Design-Build award the wonderful job that Lane Construction/VHB Engineering performed on the recently completed Gilberts Corner Roundabout project.

This project had very important goals and was a much scrutinized project for the Virginia Department of Transportation for several reasons:

- The project was Design-Build and VDOT is increasing our movement in this direction for future projects – success on the Gilberts Corner project was a necessity.
- The project had four roundabouts within close proximity and was using a triad design to divert traffic away from a previously signaled intersection.
- The project was Federally Funded with federal demonstration funds intended for finding creative methods to perform traffic calming.
- The rural setting of the roundabouts near several historical properties including Oak Hill Plantation, home of the nation's fifth president James Monroe.
- Safety and context sensitivity both had to be achieved.

As project manager for VDOT, I was tasked with coordinating design and construction activities with the contractor (Lane Construction), the design firm (VHB), VDOT

internal staff and the Route 50 Task Force. The task force is made up on local citizens and elected officials including past and present Commonwealth Transportation Board members. VHB was very pro-active in engaging the local citizens and elected officials with their design innovations.

I must state that the professionalism and patience that Lane/VHB exhibited was critical for the project's success. Design elements of the project were reviewed by both VDOT staff, lay people, roundabout experts both internal and external to VDOT. Every step of the process produced hurdles and roadblocks that had to be studied, accommodated and resolved. Lane/VHB was very adept at handling not only the technical aspects but the often more difficult problems associated with personalities, egos and opinions.

The Lane/VHB off-center design and creative detours used for constructing the roundabouts were critical to managing the morning and evening rush hour traffic headed towards the Chantilly and Dulles Airport area. Most of the construction was performed out of traffic providing for the safety of both the workers and the motorists.

The Gilberts Corner project was completed on time, on budget and has received much acclaim from local and national media, citizens and elected officials. VDOT's goals and objectives were all met or exceeded by Lane/VHB.

Lane Construction/VHB Engineering is very deserving of the credit that has been forthcoming and I would welcome the opportunity to work with their firms on any future projects.

Sincerely,

A handwritten signature in black ink that reads "Kenny Lee Robinson". The signature is written in a cursive, flowing style.

Kenny Lee Robinson  
VDOT Project Manager  
Route 50 Traffic Calming Projects

## Owner Letter



### **PUBLIC HIGHWAY AUTHORITY**

Adams County, Arapahoe County, Douglas County, Cities of Aurora, Brighton, Commerce City, Thornton, and the Town of Parker, Colorado

May 29, 2008

Design Build Institute of America  
National Design-Build Awards  
1100 H Street, NW  
Suite 500  
Washington, DC 20005-5476

**Reference: 2008 National Design-Build Awards Competition**

**Subject: E-470/I-70 Interchange  
Successful Design-Build Delivery**

Dear Ladies and Gentlemen:

In accordance with your request in the 2008 Design-Build Awards Call for Entries, I wish to state unequivocally that the completed E-470/I-70 Interchange Complex, First Phase, Design Build project successfully met all the owner's goals including:

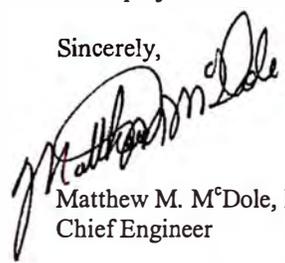
- Complete on or ahead of schedule (Complete by "Guaranteed" completion dates)
- Complete within budget
- Design and build with no claims or litigation
- Implement an effective partnering process at all levels and issue resolution process to expedite solution to issues which might arise
- Single point of contact for design, construction, railroad crossings, permits, and governmental approvals with an effective team approach for shared risks such as utility relocation
- Achieve high quality and recognition as an outstanding project by peer groups and road users
- Meet the requirements of all shareholders including the jurisdictions along the alignment

Page Two  
DBIA National D/B Awards Competition  
E-470 Public Highway Authority

The Authority may not have been able to build this project within the requirements of Bond Counsel and the Plan of Finance without using a design-build form of contract. Design-build allowed: (1) up-front guaranteed lump sum cost and completion dates; (2) the risks to be allocated in such a manner to satisfy all bond disclosure requirements; (3) provision of a single point of delivery for design, construction, permits, utility relocations, railroads and other project elements, giving the design-build entity the control needed to meet the stringent cost and schedule requirements of the Plan of Finance; (4) providing the Authority Director of Finance, Executive Director and legal counsel required assurances; (5) giving the design-build entity the control and flexibility to innovate for the benefit of the Project as described in this submittal.

In summary, this Design-Build project met or exceeded all the owner's goals, demonstrating exemplary interdisciplinary teamwork, partnering, innovation and problem solving to the benefit of the project.

Sincerely,



Matthew M. M'Dole, P.E.  
Chief Engineer

Enclosure(s)  
MMM/ctk  
cc: DBIA File



Martin O'Malley, Governor  
Anthony G. Brown, Lt. Governor

Beverly K. Swaim-Staley, Secretary  
Neil J. Pedersen, Administrator

Maryland Department of Transportation

March 31, 2010

TO: National Design-Build Awards Jury

RE: DBIA-MAR Award Nomination for  
MD 30 Hampstead Bypass

The Maryland State Highway Administration (MDSHA) respectfully supports the nomination of the MD 30 Hampstead Bypass by the Design-Build Team of Corman Construction/WBCM for the DBIA-MAR Award Category (Transportation – Under 50M). The following is background information on the project and our support for the nomination.

The Hampstead Bypass (MD 30 Relocated) was a demonstration of how an environmentally sensitive project can be successfully constructed using the Design-Build method. Existing MD 30 is an Urban Minor Arterial roadway that was experiencing severe congestion in the AM and PM peaks through the Town of Hampstead. It is a major commuter route between central Pennsylvania and Baltimore. The Hampstead Bypass project was a relocation of MD 30 from south of Wolf Hill Drive to north of the Town of Hampstead a distance of 4.4 miles. Construction of two grade separations at Houcksville Road and Shiloh Road and three at-grade roundabout intersections were included in the contract. There are six structures on the project, four bridges and two noise walls. With the construction of the Hampstead Bypass, it was estimated that approximately two-thirds of the traffic on existing MD 30 in Hampstead would divert to the bypass enabling the Town of Hampstead to redevelop the downtown area in accordance with its "Main Street Revitalization Plan".

The Bypass was located in an extremely environmentally sensitive area crossing bog turtle habitat, a state and federally listed threatened species. The project required extreme caution and monitoring to avoid impact to the bog turtle habitat. Due to the environmental sensitivity surrounding this project, the MDSHA made a decision to procure the project using a Best Value procurement method, a first at MDSHA. This procurement would afford SHA the opportunity during the Request for Qualifications (RFQ) stage to evaluate all proposers' qualifications and past performance, including evaluating environmental past performance. The Request For Proposals was structured with heavy emphasis on the Environmental Approach to the project. Using an adjectival rating criterion, proposers needed to receive an overall "Good" rating to be considered for award of this project. The team of Corman Construction and WBCM excelled in this area and received an Exceptional +, the highest rating received among all proposers.

The MDSHA objectives and goals for the project were environmental stewardship, protecting the bog turtle habitat, setting geometrics so as not to preclude future roadway improvements, and safety.

Corman employed an Environmental Compliance Manager who was responsible for project oversight to ensure permit conditions were adhered to for the duration of the project. As a result, there were no permit violations. The Corman Team also took extraordinary efforts to reduce impacts associated with erosion and sediment control. Corman and WBCM met weekly to review the erosion and sediment control plan

My telephone number/toll-free number is \_\_\_\_\_  
Maryland Relay Service for Impaired Hearing or Speech: 1.800.735.2258 Statewide Toll Free

Street Address: 707 North Calvert Street • Baltimore, Maryland 21202 • Phone: 410-545-0300 • www.marylandroads.com

DBIA-MAR Award  
MD 30 Hampstead Bypass  
Page 2

to determine the best way for implementation and reduce impacts. This resulted in numerous re-designs to ensure constructability and safeguard against erosion. Designers would regularly visit the site to determine methods of installation and ways to "tweak" their plans to ensure better protection. This effort paid off as the project averaged the highest independent erosion and sediment control grade to date for an MDSHA project (97%). Furthermore, an onsite hydro-seeder was purchased and utilized to achieve same-day stabilization in sensitive areas.

In addition, the Design-Build Team and the Administration's Independent Environmental Monitor met on a regular basis to review design plans and look for ways to reduce temporary and permanent impacts to resources. As a result, the team succeeded in reducing wetland impacts by an additional 0.5 acres, forest impacts by 3 acres, and waterway impacts by 1,000 LF of what was originally permitted. This resulted in reductions of 10% for wetlands, 37% for streams, and 18% for forest when compared to the permitted impacts. As part of the project, a barrier was designed and constructed to prevent the bog turtles from accessing the roadway. In addition, within the hydrologic influence area of the bog turtle habitat, stormwater management facilities were designed to contain a 10,000 gallon accidental spill during a 2-year storm event. There are total of 13 stormwater management facilities on the project and ten stream crossings.

Corman's designer, WBCM, modeled the future improvements to ensure that the ultimate typical section for the future dualization would be able to be constructed within the purchased right-of-way.

The project had zero lost time accidents and received an overall 'A' rating for safety.

The project was divided into four main phases and those areas were further subdivided into smaller manageable areas for design and construction. In all, there were 22 design submittals submitted for our review and approval that facilitated construction while balancing earthwork and adhering to the time of year restrictions for stream closures.

This project has the Administration's full support as a candidate for the upcoming DBIA-MAR award. This is evident by the recent awards this project has already received. They are:

2010 Maryland Quality Initiative (MdQI) Award of Excellence - Environmental  
2010 Maryland Quality Initiative (MdQI) Award of Excellence - Green  
2010 Maryland Quality Initiative (MdQI) Award of Excellence - Consultant Design  
2010 American Council of Engineering Companies (ACEC) Maryland - Honor Award

Please feel free to contact Ms. Lisa Choplin, Chief, Innovative Contracting Division, at 410-545-8824, or email at [lchoplin@sha.state.md.us](mailto:lchoplin@sha.state.md.us) regarding this project or MDSHA's Design-Build Program.

Sincerely,



Kirk G. McClelland, Director  
Office of Highway Development

January 31, 2012

Mr. Tom Troutman  
New South Construction  
1132 West Peachtree Street  
Atlanta, GA 30309

RE: Dobbins Air Traffic Control Tower Build- Letter of Commendation

To: Build Georgia Awards

This past summer we completed construction on the new Dobbins Air Traffic Control Tower project with New South Construction as the General Contractor. The project delivery method was Design-Build and New South worked closely with the Architect and Engineer, Merrick & Company, to build a state-of-the-art tower for the Air Force, which they delivered ahead of schedule. From the first preconstruction meeting, through the build and now well into the warranty period, New South has been a pleasure to work with. Their professionalism and commitment to the satisfaction of their customers has been evident throughout.

Completing a Design-Build control tower presented unique challenges that required several modifications to the original plans. The New South team went above and beyond many times to ensure we received exactly what we needed. On more than one occasion, that came at the expense of changing plans we the user had previously approved. Our satisfaction has continued to be their priority, and fixes to any problems have been a phone call away.

I could not be prouder of the facility they built, or more appreciative of the effort they have put into our care. I would jump at the opportunity to work with New South on future projects.

Sincerely,



David Seal  
Air Traffic Manager  
Dobbins ARB, GA



**DEPARTMENT OF THE ARMY**  
SAVANNAH DISTRICT, CORPS OF ENGINEERS  
ROBINS AFB AREA OFFICE  
625 SEVENTH STREET, BLDG. 702  
ROBINS AFB, GA 31098

April 25, 2012

REPLY TO  
ATTENTION OF: Robins AFB Area Office

SUBJECT: Contract No. W912HN-09-C-0012, Cargo Aircraft Hangar, Robins AFB, Georgia, DBIA's National Design-Build Awards Jury - Submission for "Transportation" Award

Brian J. Kelly  
Senior Project Manager  
SAIC Constructors, LLC  
15800 John J. Delaney Drive, Suite 175  
Charlotte, North Carolina 28277

Dear Mr. Kelly:

I am aware that SAIC Constructors, LLC is intending to submit our Cargo Aircraft Hangar Project ("Project") for the DBIA "Transportation" category award and I support your efforts.

The Project was certainly a success from our viewpoint. It benefited from the basic principles and advantages of Design/Build delivery and shows what value there is in a collaborative effort.

Here are a few of our observations and comments with respect to SAIC's execution.

1. Prior to contract award, SAIC's proposal scored high technical marks from the U.S. Army Corps of Engineers (COE) review board for teaming with a proven Pre-Engineered Metal Bldg. manufacturer and naming other key specialty subcontractors. We also took note of SAIC's aggressive project schedule, which shortened the calendar days allowed in the RFP, thus exceeding our goal by a full 83 days.
2. SAIC had the construction management team actively involved in the Project during the design phase. This integrated approach to design-build (D/B) benefited the Project by allowing constructability review meetings at an early phase of design. These design development meetings enhanced the quality of SAIC's interim design packages and subsequent submissions to the Government. This cooperative effort between SAIC's design team, construction personnel, and the COE engineering staff minimized ProjNet's DrChecks review comments and maximized everyone's time during the design resolution conferences.
3. Another benefit of having your construction team directly involved during the design development phase was the ability to establish critical Milestones as the design concepts were unfolding, and then incorporating these dates into your project schedule. As the design was perfected and approached "Released For Construction" documents, you were able to develop a more detailed project schedule that the entire Project team could use to track progress and measure percent complete for monthly billing purposes.

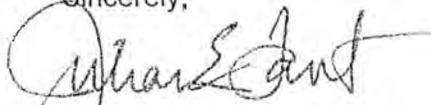
4. After observing SAIC's integrated design build approach to project delivery, we've come to appreciate the advantages of a "one-stop-shop" D/B Contractor, especially when ambiguities or conflicting information is found in the contract documents. SAIC's single point of responsibility facilitated timely responses to various design problems and expedited resolution of constructability issues.
5. After contract completion, the end User has been especially appreciative of their new hangar as it greatly benefits them in their mission to get the required maintenance of the aircraft expedited. Also, as the one-year warranty period nears its conclusion, SAIC is to be commended for the fact that there have been no major warranty issues related to the design or construction of this facility.

In summary, SAIC exceeded our goals for the Project by finishing on time while providing a high quality product. The COE was able to issue Certificate of Occupancy on schedule and report that the Project was completed within the allotted contract period.

It was a pleasure to work with you and your colleagues at SAIC and I hope we have another opportunity to join forces in the near future. Congratulations on a job well done.

Good luck with your submittal to DBIA. We are looking forward to going with you to receive the award!

Sincerely,



Julian E. Fant  
Senior Project Engineer



ICC Project Management Office  
11710 Beltsville Drive  
Suite 200  
Beltsville, MD 20705



May 14, 2012

Design-Build Institute of America  
ATTN: 2012 Awards Competition  
1331 Pennsylvania Avenue, NW  
Fourth Floor  
Washington, DC 20004

Dear Awards Competition Committee,

It is with considerable pleasure that the Maryland State Highway Administration (SHA) submits our nomination package for the 2012 National Design-Build Awards. SHA nominates the **Intercounty Connector (ICC)** project, an 18-mile fully electronically-tolled highway that connects the high-tech I-270 corridor in Montgomery County with the I-95/US 1 business corridor in Prince George's County. This state-of-the-art highway was more than a half century in the making before construction commenced on the first segment of the project in late 2007. That initial seven-mile segment opened to traffic in February 2011. The next 11-mile segment opened to traffic in November 2011.

The SHA utilized an innovative approach for constructing the ICC, dividing the 18-mile highway into four separate contracts. Individual joint venture design-build teams, comprised of national design and construction firms partnered with local companies, were responsible for each of the four contracts. By utilizing the design-build method of construction, the joint venture teams were able to minimize community and environmental impacts, while simultaneously staying on schedule and budget.

The ICC (known as MD 200) will be owned and operated by the Maryland Transportation Authority (MDTA), which is Maryland's toll agency. When fully opened to traffic, the ICC will deliver reliable travel times, help to relieve congestion, and improve safety on the local roadway system in Montgomery and Prince George's counties – one of the most heavily congested regions in the United States. In addition to being the first cashless, fully electronically-tolled highway on the east coast, the ICC also was built with the highest attention to environmental sensitivity.

In the most sensitive watersheds, full-scale underground stormwater management is being implemented to greatly reduce environmental impacts to wetlands, forest, floodplains, and parkland by building stormwater treatment infrastructure under the roadway footprint and eliminating large ponds alongside the highway. And, in many cases, the path of the ICC roadway was lowered into the ground near existing communities to reduce potential noise and visual impacts.

DBIA  
2012 Awards Competition  
May 14, 2012  
Page Two

Maryland's SHA went to great lengths to create a comprehensive set of avoidance, minimization, and mitigation measures to protect the environment. In total, more than \$370 million -- representing 15% of the total \$2.45 billion ICC project budget -- is being invested in environmental protection, mitigation, and stewardship measures. With equal doses of both pride and humility, we like to boast that the ICC is truly one of "America's Greenest Highways."

On behalf of SHA, it is my great honor and pleasure to nominate this ICC project and its project delivery team for their outstanding work ethic, commitment to excellence, and dedication to quality. If you have any questions about this application or overall project, please contact me personally at 301-586-9267 or via e-mail at: [mcoblentz@iccproject.com](mailto:mcoblentz@iccproject.com). I will be happy to assist you and answer any questions you may have.

Sincerely,



Mark Coblentz  
Project Director  
Office of the Intercounty Connector



Washington State  
Department of Transportation  
Paula J. Hammond, P.E.  
Secretary of Transportation

Alaskan Way Viaduct Replacement Program  
999 Third Avenue, Suite 2424, MS NB82-230  
Seattle, WA 98104-4019  
206-805-2800/ fax 206-805-2899  
TTY: 1-800-833-6388  
www.wsdot.wa.gov

May 10, 2011

Design-Build Institute of America  
Attn: 2011 Awards Competition  
1100 H Street NW, Suite 500  
Washington, DC 20005

RE: 2011 DBIA Award  
SR 519 Intermodal Access Project, Phase 2

Dear National Design-Build Awards Jury:

On behalf of the Washington State Department of Transportation, I am pleased to announce the successful completion of the SR 519 Intermodal Access Project, Phase 2 and recommend its consideration for the Design-Build Project of the Year. WSDOT and our many stakeholders consider the SR 519 Project an outstanding achievement for the State, the City of Seattle, and all involved. The successful completion of this project demonstrates to the public and our stakeholders WSDOT's ability to deliver heavy civil construction projects in urban areas. AECOM, the engineer-of-record on this project, and Kiewit Infrastructure West, ensured WSDOT's goals were met within the original budget, well ahead of schedule, and with minimal impacts to the public and the environment.

The Design-Build team developed strategies and engineering solutions for addressing the inherent physical constraints working around two stadiums, railroad, and surrounding roadways, and was successful in delivering complex bridge and roadway design concept goals. WSDOT was impressed with Kiewit's and AECOM's ability to handle a very aggressive schedule by their problem solving approaches, collaborative spirit, and intense work ethic, which eventually lead to opening the project more than one year ahead of WSDOT's original schedule. In addition to a design approach that met the public's needs and the City's urban design goals, AECOM and Kiewit worked closely together during construction, addressed field changes, and met all environmental permitting requirements.

Design-Build projects are always schedule driven, and require the ability to "think outside the box." AECOM and Kiewit navigated both of these admirably, with poise and patience, sensitive to the needs of the multiple Owners (WSDOT & City), neighboring stakeholders (stadiums), and traveling public.

This project continues WSDOT's excellent working relationship with both AECOM and Kiewit, and we look forward to the opportunity to work with both of them again in the future.

Sincerely,

A handwritten signature in cursive script that reads "David Sowers".

David Sowers, P. E.  
SR 519 Project Manager  
Washington State Department of Transportation



# Oregon

John A. Kitzhaber, MD, Governor

## Department of Transportation

ODOT Region 5  
3012 Island Ave  
La Grande, OR 97850-9497  
541-963-3177  
FAX 541-963-9079

April 19, 2012

Mr. Red Gilliland  
P.O. Box 7428  
Eugene, OR 97401 – 0428

Subject: 2012 National Design-Build Award

Reference: US 395: McKay Creek to Silvies Slough Design Build Project Bundle 414

Dear Mr. Gilliland,

The following is a letter of support for the 2012 National Design-Build Award.

This design-build project was instrumental in addressing several structural deficient bridges on established freight routes. This was a very complex and geographical challenging DB project with bridge sites from Pendleton to Burns along US395, US26, and OR205 stretching over 200 miles. Wildish Standard Paving Co. was the successful Design-Bid proposer for the US 395: McKay Creek-Silvies Slough (Bundle 414) section with a Base Bid of \$37,428,316.00. The project involved repair of one bridge and replacement of 7 bridges. The project was awarded on April 25, 2008. The project was completed on November 17, 2011 prior to the specified completion date of November 21, 2011. This project successfully helped stimulate the economy. The design team employed eight Oregon subconsultant firms. The construction team hired fourteen Oregon firms, including nine DMWESB firms.

The overall development, design, and construction of this DB project was completed in conformance with the Agency's expectations and standards. There was a tremendous amount of effort put into project coordination which established a successful process to work through the project issues. The DB project team is to be complemented on incorporating specific bridge design elements as each bridge site, especially along the designated scenic corridor with the Dale and Camas Cr. Bridges. This also included good environmental stewardship and enhancements that resulted in additional environmental excellence award.

The project mobility and traffic staging was well coordinated at all the bridge sites. An outstanding example of the DB commitment to minimize impact to the travelling public was with the Trout Cr. Bridge. A single lane detour was implemented. The bridge was closed and removed on August 23, 2010 the new bridge was constructed, and traffic was restored to the new bridge on August 27, 2010. ✓

Another area that the DB team excelled in was public outreach. This was showcased with the involvement with the Confederated Tribe of the Umatilla Indians and outreach to the local schools for the McKay Cr. Bridge. This included several opportunities for project visits by students and incorporation of a time capsule and ceremony at the McKay Cr. Bridge. ✓

This Design-Build project successfully replaced 7 structures maintaining strong design standards, good workmanship, incorporating aesthetic components in a scenic corridor, minimizing mobility impacts, and focusing on environmental enhancements that will provide ODOT with bridges that will serve the travelling public for many years.

Sincerely,

Craig Sipp  
ODOT Area Manager

Cc: Ron Reisdorf, MPB Senior Construction Engineer





Oregon

John A. Kitzhaber, M.D., Governor

Department of Transportation

Major Projects Branch  
680 Cottage Street NE  
Salem, OR 97301-3871  
Phone: (503) 986-4445  
Fax: (503) 986-4469

May 8, 2012

Design-Build Institute of America  
Attn: 2012 Awards Competition  
1331 Pennsylvania Avenue, NW, 4<sup>th</sup> Floor  
Washington, D.C. 20004

**Re: 2012 DBIA National Design-Build Awards – OR38: Elk Creek to Hardscrabble Creek**

Dear Award Committee:

It is my pleasure to support the nomination of the OR38: Elk Creek to Hardscrabble Creek Design-Build project by T.Y. Lin International. The firm's exceptional work was vital to the successful completion of the project.

This \$46 million Oregon highway design-build project involved the replacement of five bridges in the southern Central Oregon Coast Range, over environmentally sensitive waterways and in multiple work zones along Oregon 38 between the towns of Drain and Elkton.

This project is distinctive because two of the bridges were on either side of a tunnel, resulting in severe access and complex construction staging challenges to consider during their replacement.

The crafted solutions involved using a unique rapid replacement technique to replace the two bridges, in which the new structures were built adjacent to the existing structures, then "slid" into place after removal of the existing structures.

T.Y. Lin led a full-service team as the engineering design manager and prime design firm, performing bridge and traffic control design, utility relocation coordination, construction inspection, and roadway geometrics engineering, including an intersection expansion, new alignments and bridge approach roadway designs.

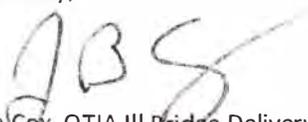
T.Y. Lin staff began working with ODOT on this project in 2007, and the project was complete in June 2009. The firm's proficiency in bridge design, especially under the parameters of a rigorous design-build contract, was a huge factor in meeting the difficult design constraints for the project, especially with the rapid replacement approach. We were impressed by their innovation, technical capability, attention to detail, and the manner in which they communicated with our staff, the contractor, stakeholders and the affected communities.

We are extremely appreciative of the manner in which T.Y. Lin staff worked with the contractor to keep the project on schedule.

One of the primary goals was to keep traffic moving as much as possible during construction. T.Y. Lin exceeded our expectations in this regard, in addition to structural design, environmental compliance and a well-received public outreach program.

Please contact if I can be of any further assistance.

Sincerely,

  
Jim Cox, OTIA III Bridge Delivery Unit Manager  
Oregon Department of Transportation  
(503) 986-6612  
[Jim.B.Cox@odot.state.or.us](mailto:Jim.B.Cox@odot.state.or.us)



STATE OF NORTH CAROLINA  
DEPARTMENT OF TRANSPORTATION

BEVERLY EAVES PERDUE  
GOVERNOR

EUGENE A. CONTI, JR.  
SECRETARY

May 6, 2010

STATE PROJECT: 34440.3.7  
CONTRACT: C201560  
FEDERAL-AIDE NO. NHF-17(54)  
TIP NO.: R-2510B  
COUNTY: Beaufort  
DESCRIPTION: US 17 From South of SR 1149 (Price Road) To US 17 North of SR 1509 (Springs Road)

SUBJECT: Washington Bypass Design Build Project

National Design Build Awards Jury  
Design-Build Institute of America  
Attn: 2010 Awards Competition  
1100 H Street NW, Suite 500  
Washington, DC 20005

This letter is to provide insight from the owner's perspective on the performance of the Flatiron-United JV Design-Build Team on the U.S. 17 Washington Bypass in Beaufort County, NC. The Bypass was constructed to relieve traffic congestion on existing U.S. 17 and to improve access to areas in eastern North Carolina, as the key north-south highway along coastal North Carolina. The Contract was let January 26, 2006 with a date of availability February 27, 2006. The contract completion date was November 1, 2010. The Tar River bridge was accepted by the Department February 25, 2010, and the rest of the project was complete and open to traffic March 22, 2010. By completing the project 7 months early, the Flatiron led Design Build Team was very successful in not only construction progress, but in providing North Carolina with a final product that is performing extremely well meeting project conceptual objectives.

Flatiron's collaboration with NCDOT engineering staff was established early in the project by having repetitive design project progress meetings. The Design Build Team transitioned effectively to structure design meetings as the design for the main bridge over the Tar River was pushing along, and maintained open communication with Department throughout the entire process.

Utilization of the top-down method of launching gantries enabled a steady elevated rate of progress on the 2.9 mile long Tar River Bridge. The Design Build Team was able to maintain production without large cranes and or work trestles, minimizing environmental impacts in sensitive fragile wetlands on either side of the river, in addition to reducing temporary easement or right of way acquisition. Flatiron showed significant innovation by integrating pile driving in the gantry operation. The patented process consists of two self-contained gantries capable of performing all the tasks associated with the bridge construction, including precast pile driving, girder erection, and

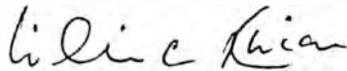
bent cap construction. It is the world's first application of the pile driving operation from an erection gantry.

The \$192 million project was complete within budget. The 3.83% overrun is due to fuel price adjustments and change orders agreed to by the Department. There are currently open claims and claim intents totaling approximately \$2.4 million. These can be broken down into material, design, bridge construction, and grading subcontractor related issues. The current total claim percentage is 1.28% of contract costs. The Design Build Team has held extensive meetings with Department engineering staff to discuss and seek to resolve this claim issues prior to mediation.

This project has won several awards to include an Environmental Excellence Award from the US Federal Highway Administration, and a 2009 Nova Award for Gantry Launched Bridge Pile Driving. Gene Conti, NCDOT Secretary of Transportation recently stated, "...this is a project we can take great pride in. Incredibly innovative techniques were used throughout the process of designing and constructing this structure, not only did these efforts save time and money they also set a standard of excellence for future projects in our state."

If further information is required regarding this, please advise.

Respectfully,



William C. Kincannon, PE  
Resident Engineer

Cc: Ed Eatmon, PE  
Warren Walker, PE  
Flatiron - Ted Kirk

Rodger Rochelle, PE  
Jackie Armstrong, PE



STATE OF NORTH CAROLINA  
DEPARTMENT OF TRANSPORTATION  
TURNPIKE AUTHORITY

BEVERLY EAVES PERDUE  
GOVERNOR

EUGENE A. CONTI, JR.  
SECRETARY

Running through Durham and Wake counties, the Triangle Parkway is one of the first toll roads to be built in the United States without cash collection booths. All tolls are collected electronically by open road tolling. In addition to promoting local and regional growth and development, the Parkway reduces congestion and improves travel times for thousands of daily commuters. The Team's public involvement efforts played a vital role in the positive public perception of this project.

In closing, I believe without a doubt, that the Triangle Parkway is worthy of an award based upon the exceptional efforts of your Team and the ultimate success of this project. This unique project faced many complex challenges and your Team's total "team approach" and responsiveness to the NCTA contributed to one of North Carolina's finest transportation achievements. In addition to being innovative and extremely efficient, your Team was under considerable pressure to adhere to an aggressive schedule. With your Team's depth of services, technical know-how, responsiveness, and willingness to be flexible, NCTA was always able to count on the S.T. Wooten/RK&K Team and your reliable staff.

Sincerely,

A handwritten signature in black ink, appearing to read "Shannon Sweitzer".

Shannon Sweitzer, P.E.  
Director of Construction

# Design-Build: Revolutionizing Project Delivery



**"Integration is Our Foundation"**

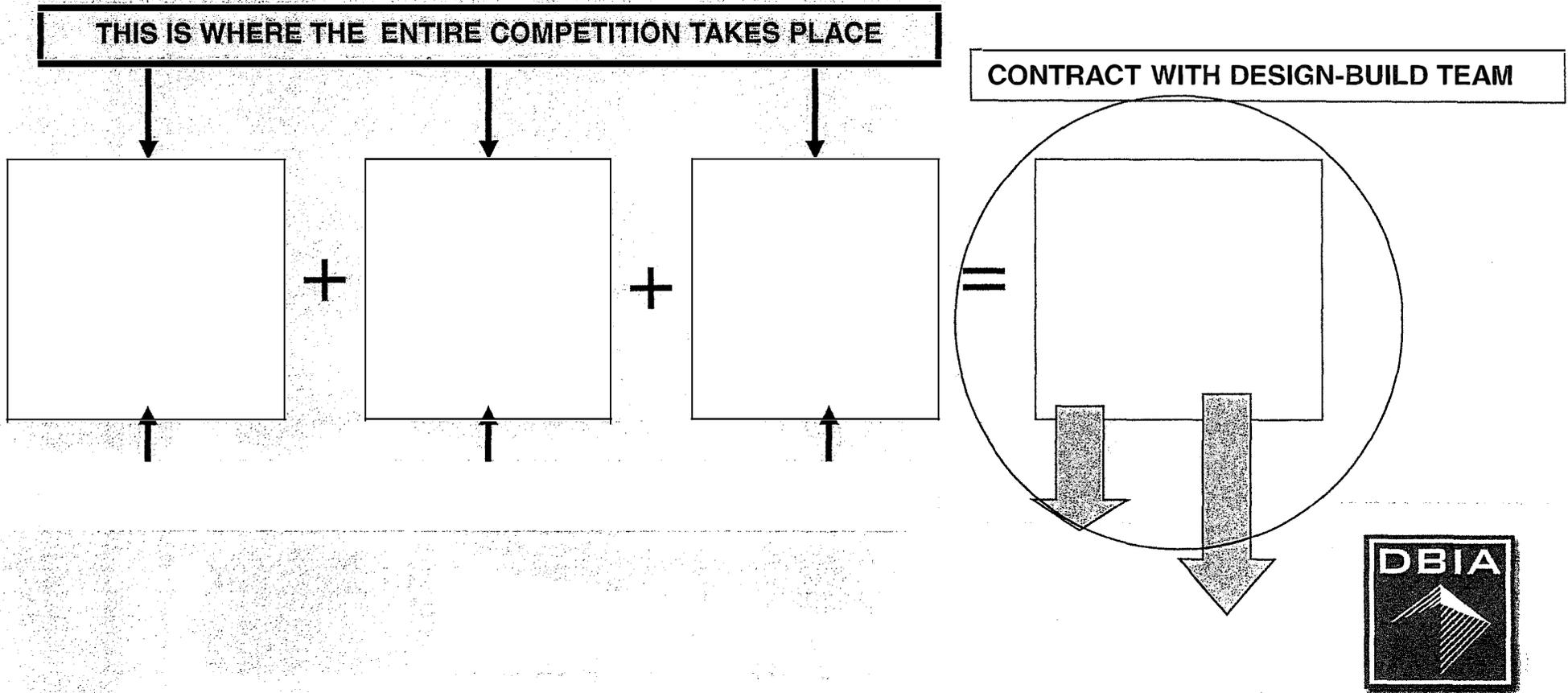
*Copyright © 2013*



# The "Better" Way – Design-Build

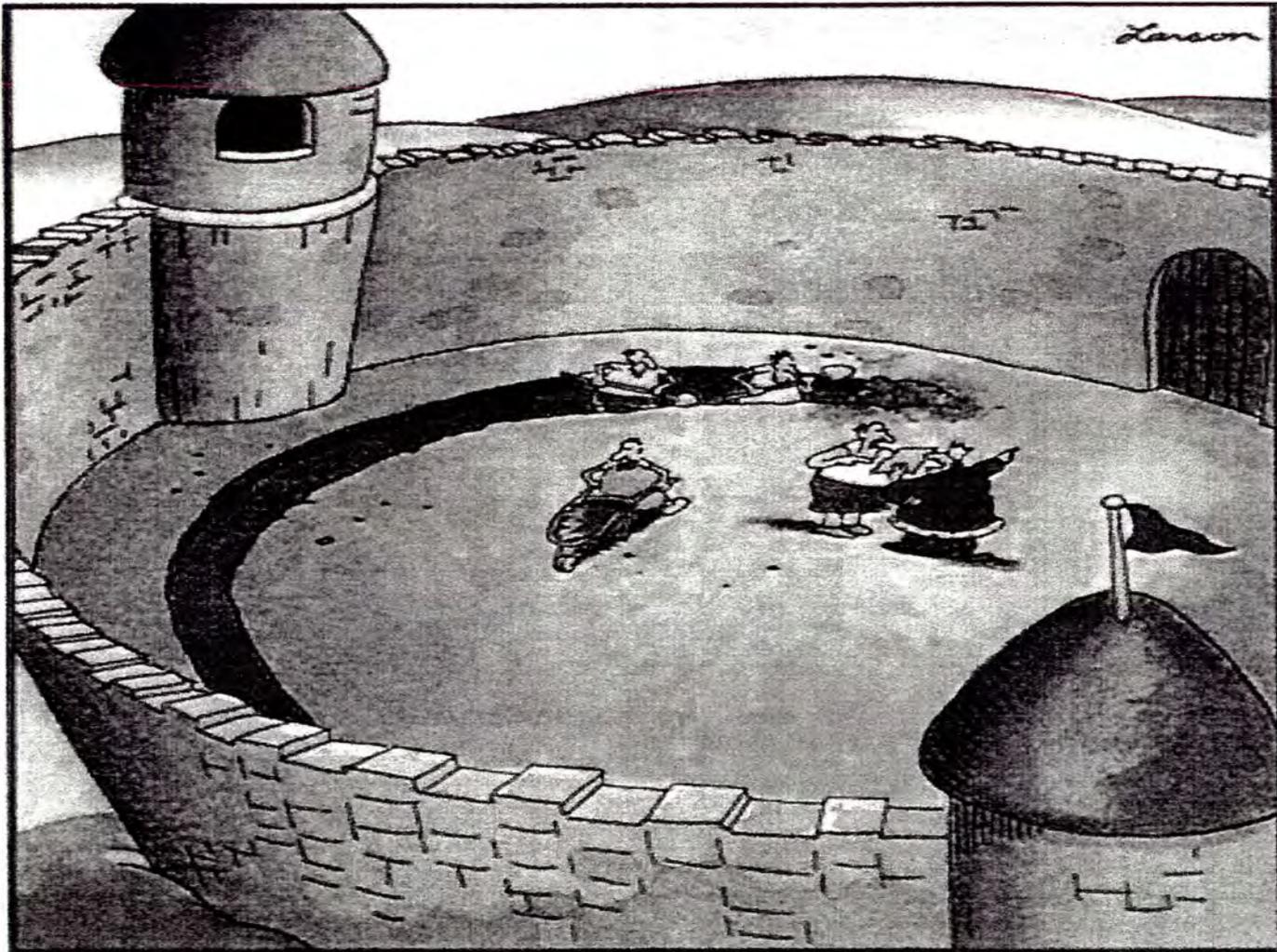
## Design-Build...

a single contract is used to accomplish design and construction.



Testimony 9 pages

Emphasis on Behavior: **You are buying a Service**



**SUDDENLY -A HEATED EXCHANGE TOOK PLACE  
BETWEEN THE KING AND THE MOAT CONTRACTOR”**

If you design it, they will build it



# Part 2...





# The Advantages of Design-Build

- **Significantly Faster Completion Time**
- **Lower Cost**
- **Higher Quality**
- **Greater Owner Satisfaction**
- **Reduces litigation, change orders and cost growth**
- **Meets budget constraints**
- **Put people to work faster, finishes work faster, costs less**



# Design-Build Performance

(Comparison of Design-Build vs. CM-at-Risk vs. Design-Bid-Build)

**6%** Lower Cost

**12%** Faster Construction Time

**33%** Faster Project Completion

**Higher quality** in all areas

*SOURCE: Construction Industry Institute (CII)/Penn State Research comparing 351 projects ranging from 5K to 2.5M square feet. Projects were of various types and from various industries.*



ESTIMATING PAGES

# Comparison of Project Delivery Methods (CII/Penn State Study)

Metric	DB vs. DBB	CM@R vs. DBB	DB vs. CM@R
Unit Cost	6.1% lower	1.6% lower	4.5% lower
Construction Speed	12% faster	5.8% faster	7% faster
Delivery Speed	33.5% faster	13.3% faster	23.5% faster
Cost Growth	5.2% less	7.8% more	12.6% less
Schedule Growth	11.4% less	9.2% less	2.2% less

Re: "Comparison of U.S. Project Delivery Systems," Mark Konchar & Victor Sanvido, *Journal of Construction Engineering and Management*, Vol. 124, No. 6 (1998), pp. 435-444.

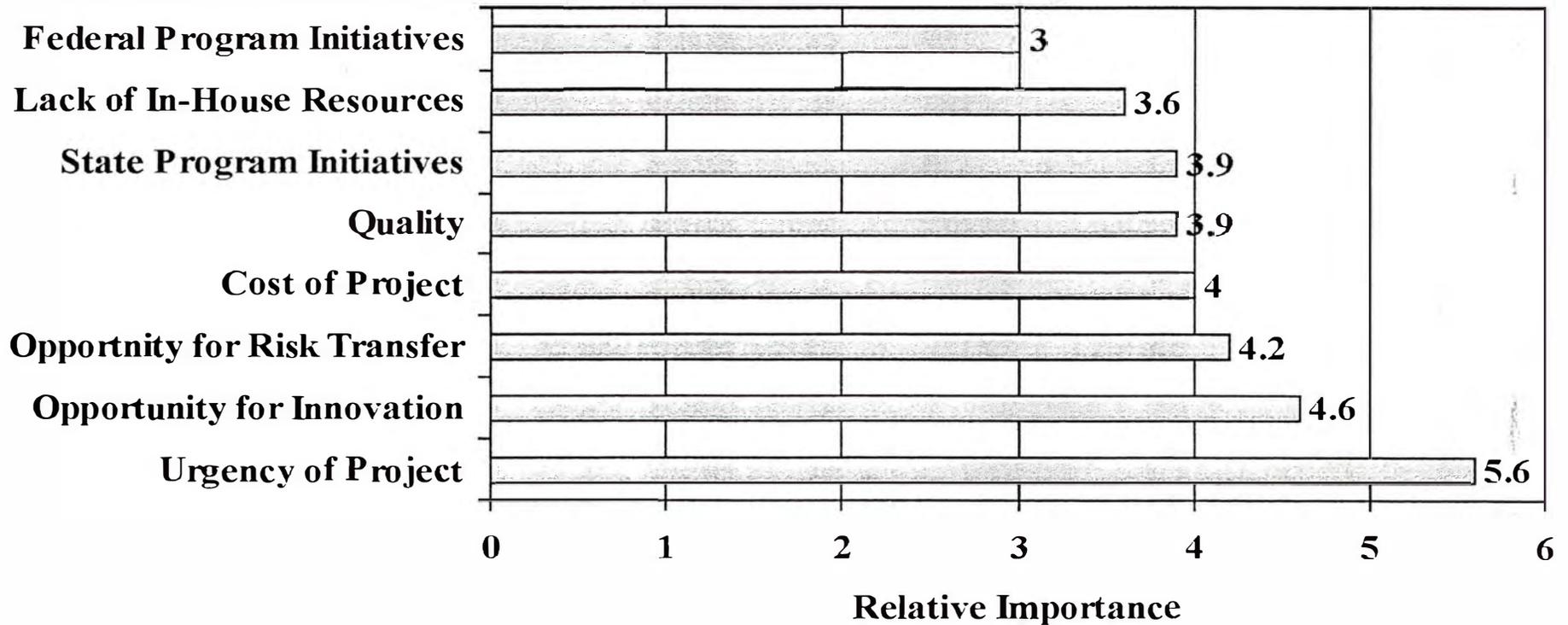


re: 12/1/2008

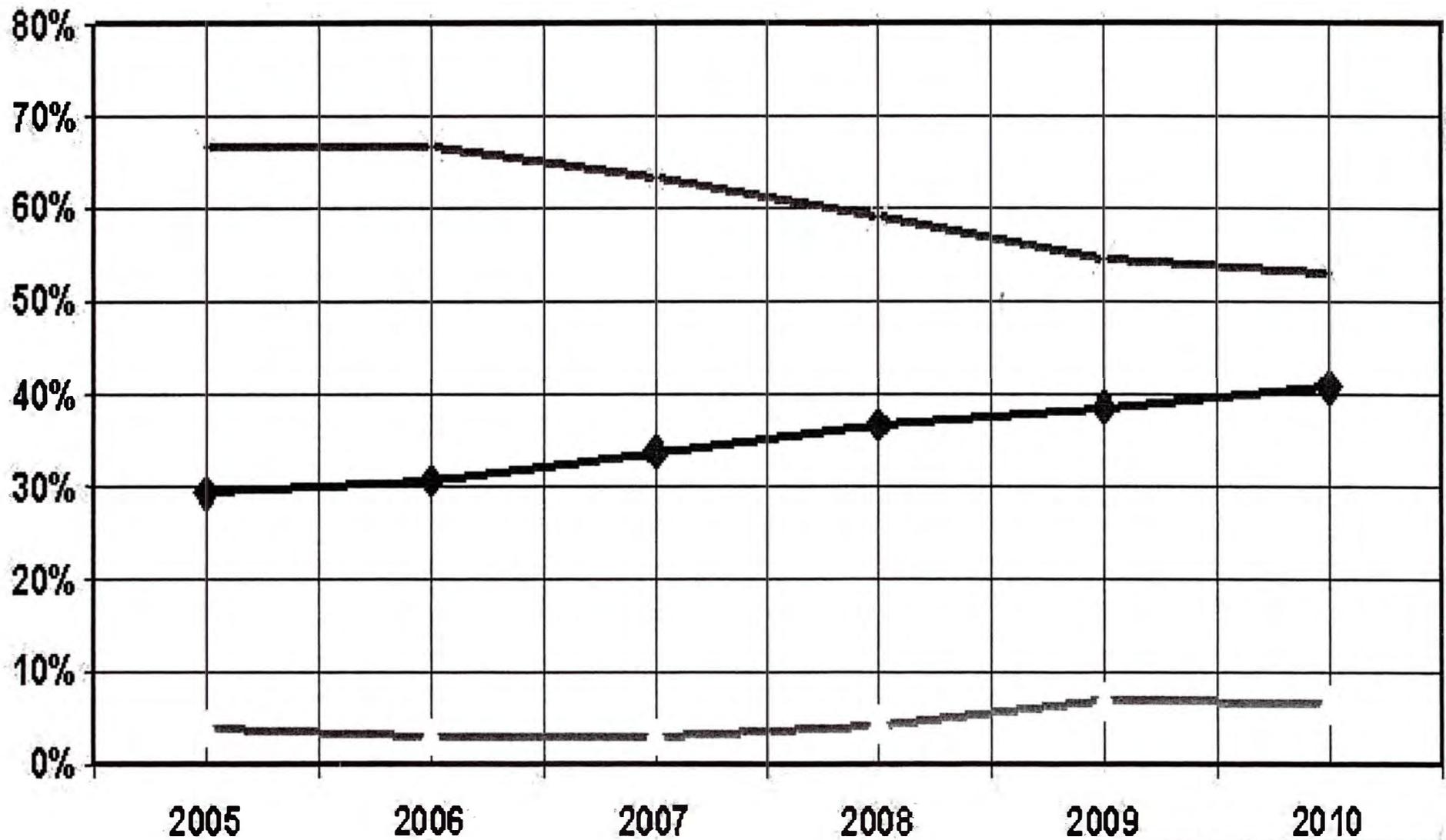


# Making the Design-Build Decision

Relative Importance of Factors  
Considered in Deciding  
Whether to Use Design-Build



# Project Delivery Method Market Share for Non-Residential Construction



Analysis by RSMeans Business Solutions a div of Reed Construction Data

- ◆ Design - Build
- CM-at-Risk
- Design-Bid-Build

12/28/2010 10:42 AM

# North Dakota's Unique Conditions Require Innovative Solutions



The Energy Boom In North Dakota presents both opportunities and challenges.



*10/20/2008 page 10*

# The Energy Boom Has Presented Opportunities and Challenges

## Opportunities

**Increased Oil Production (500% since 2006)**

**Nation's 2<sup>nd</sup> largest Energy Producer**

**Increased Tax revenues**

**Increased Wages**

**Low Unemployment**

## Challenges - Increased Pressure On Infrastructure

**Roads**

**Bridges**

**Schools**

**Water**

**Waste Water**

**Housing**

**Jails**



# Positive Impacts

- **Positive impact on state and local economy.**
- **Increase in per capita income- increased 79% since 2000.**
- **Budget surplus at the state level.**
- **Lowest unemployment in the nation (~3%).**
- **State's population is growing.**



in-hand to...

# Transportation Infrastructure Challenges



**Traffic has increased by 300%  
in some counties**

**50% of the traffic in these area  
are heavy trucks**

**Roads and bridges are  
deteriorating faster**

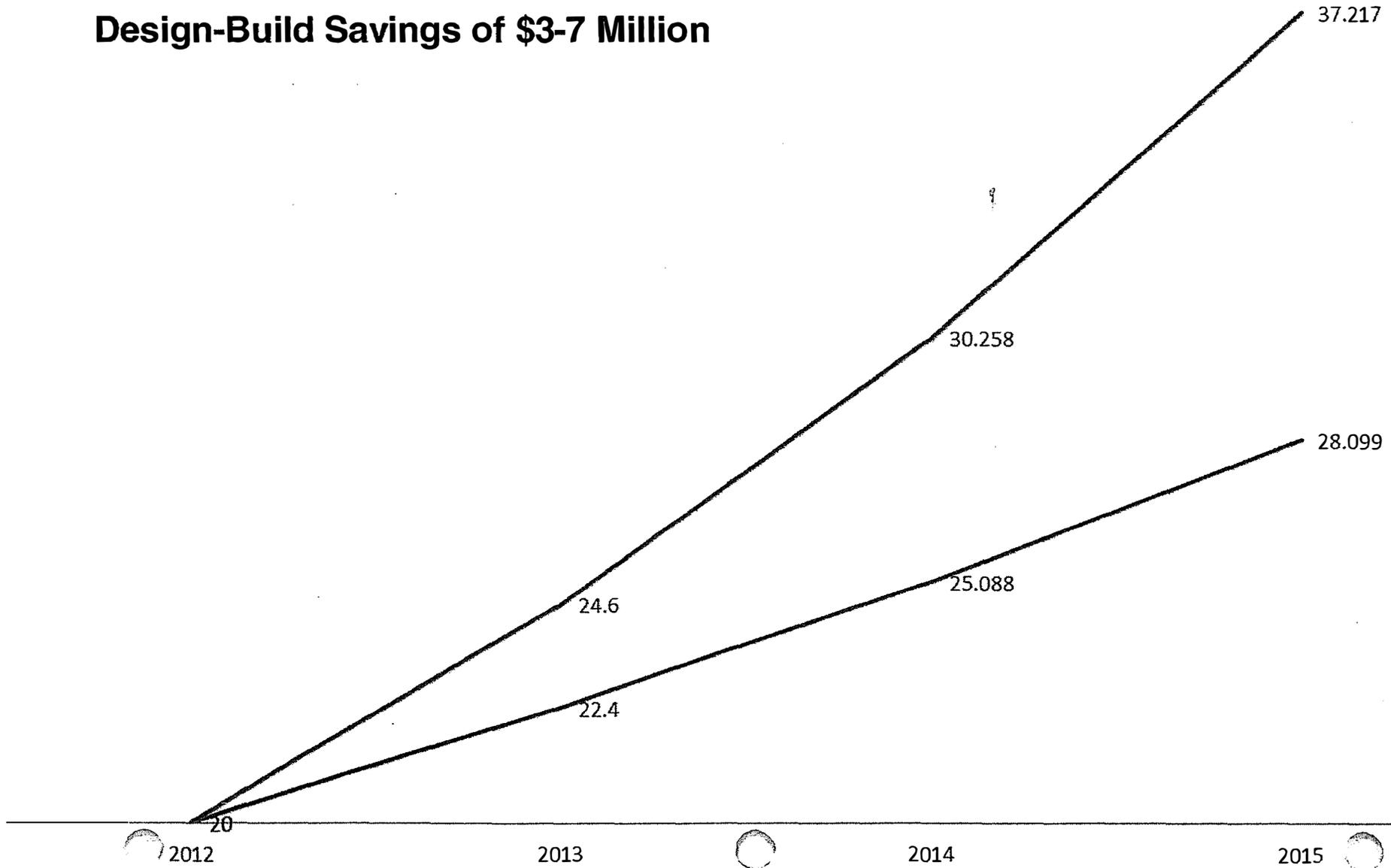
**Some counties face severe  
capacity challenges**



# North Dakota Construction Costs

— Construction Costs at 12% growth    — Construction Costs at 23% growth

**Design-Build Savings of \$3-7 Million**



*Testimony Report*



Thank you, Mr Chairman.

Good morning. I am Cal Klewin, Executive Director of the **Theodore Roosevelt Expressway Association**.

The **Theodore Roosevelt Expressway** (Highway 85) is a Federally-Designated High Priority Corridor. It runs from Rapid City, SD, to Canada through the Port of Raymond in Montana. On the southern end, it connects to the Heartland Expressway, which connects Rapid City, SD, to Denver, CO. The Heartland Expressway then links to the Ports-to-Plains Trade Corridor, which connects Denver, CO, to Laredo, TX. These three corridors are collectively known as the Ports-to-Plains Alliance.

The **Theodore Roosevelt Expressway**--separately and as part of the Ports-to-Plains Alliance--is critical to the economy and quality of life of North Dakota, of the Great Plains region, and of the Nation.

Congressman Bill Shuster, the new chairman of the Committee on Transportation and Infrastructure of the U.S. House of Representatives, in a recent article in *Roll Call* discussing his transportation agenda, described well why corridors like the **TR Expressway** are critical, and I quote:

*Transportation is important. It's about people and how they live their lives. How they get to work, get their children to school, go to stores to buy food, clothing and other necessities, and how they visit family and friends.*

*It's also about business. Transportation is a critical part of how the supply chain functions, how raw materials get to factories, how finished products get to markets, how food gets from farms to our kitchens, and how energy products move from production areas to consuming areas. An efficient national transportation network allows businesses to lower transportation costs, which lowers production costs and enhances productivity and profits. It allows American businesses to be competitive in the global marketplace and for our economy to prosper and grow. One need only to look at our Interstate Highway System to see how investment in our national transportation network has benefited our nation and spawned tremendous economic growth.*

*And it is about America. Our national transportation system binds us together as a nation. As President Eisenhower observed, without the unifying force of transportation, "we would be a mere alliance of many separate parts."*

The **Theodore Roosevelt Expressway** and the Ports-to-Plains Alliance are great examples of what Chairman Shuster is describing. They are an essential part of America's national transportation network. Strengthening that network to make North Dakota and America more efficient, more competitive, and more prosperous must be a priority for all levels of government and the private sector.

I know this Committee is fully aware of the immediate infrastructure needs in our state. Today, you have Senate Bill 2173 before you. SB 2173 can offer agencies a tool to expedite projects to completion, resulting in possible cost savings. It also offers new ideas and innovative approaches to help modernize North Dakota's surface transportation system. SB 2173 can contribute to the current and future prosperity of North Dakota and our Nation.

**Therefore, the Theodore Roosevelt Expressway Association supports Senate Bill SB 2173.**

That concludes my testimony, I will try to answer any questions you may have.

Thank You,

Cal Klewin

**Theodore Roosevelt Expressway Association**

Executive Director

(701) 577-8110 Work

(701) 523-6171 Mobile

(701) 523-3189 Home

14610 86th St. SW

Bowman, ND 58623

[cal@trexpressway.com](mailto:cal@trexpressway.com)

[www.trexpressway.com](http://www.trexpressway.com)



**BAKKEN**  
HOUSING PARTNERS

Testimony of Doug Heil in support  
of Senate Bill 2173 – Design/Build

January 31, 2013

For more information: 701-580-6684

My name is Doug Heil. I am a partner in Bakken Housing Partners and the development manager of Fox Hills Village in Watford City, North Dakota. Fox Hills is a master-planned, mixed use community of 1,200 homes, townhomes and apartments along with office buildings, retail and a hotel. I have been in the construction business for more than thirty years, and I have owned general contracting companies. I am very experienced in all facets of construction, including roadbuilding in many states including California and Utah.

As an experienced general contractor, I am testifying in favor of SB 2173 for several very good reasons. First, design/build has become the norm for the nation. It is practiced virtually everywhere because it saves money for the client; it speeds the procurement and construction process; and it ensures a superior product while guarding against failure, embarrassment and losses.

First, design/build transfers risk from the owner to the builder at an early stage in the contracting process. The contractor agrees to take responsibility for the project, and therefore pays very close attention to the issues of constructability, cost and timing. Time savings alone can

result in significant reductions in cost. And design/build contracts are fixed price contracts. Change orders are eliminated or minimized and there are no surprises. The contractor has enormous incentives to make sure a project is completed on time and on budget.

Secondly, design/build actually provides many more opportunities for local contractors to participate in projects they might not qualify for. In the case of major roadbuilding projects, bonding requirements alone might exclude local contractors who might otherwise qualify.

Roadbuilding budgets are frequently very large with total numbers requiring major companies to be the lead. Most of the large companies want to include local subcontractors who know the area, the reliable suppliers and the good workers. Instead of being big competitors, they will become big brothers to those companies wanting to participate in large projects.

Finally, placing more responsibility on the shoulders of major contractors creates a single point of accountability. And it also frees the owner, in this case the state, to use its own resources on many more projects. In every jurisdiction I have seen, design/build has proven itself to be a far superior method of achieving great results and great savings in cost and time.

From the current issue of the Public Finance Newsletter, I offer an extensive Scorecard of successful design/build transportation projects in the U.S. and Canada for your reference. Thank you.

Chairman Oehlke, Members of the Senate Transportation Committee

From 2011-2013, Watford City has been in the process of building \$16 million of water line, sewer line, and lagoon upgrade projects. We have 5 different contractors working on these projects. Some of the projects are going well. Some are going very badly. In each case, as soon as the low bid was opened, the poor results were predictable.

We saw a large proportion of unknown out of state contractors bidding these jobs. We had concerns about their understanding of the weather, the terrain, the material procurement challenges, the crew housing challenges and the reality that their laborers will be heavily recruited as soon as they arrive. Let alone concerns about references and verification of past work from afar. But we were consulted by our engineers that we had to take the low bid even with these concerns.

In two contracts that have gone poorly for the City, the winning bids were over \$1,000,000 less than the competing bids. Once in 2011, Once in 2012. We were concerned from the beginning with each contractor but had to take the low bids as the basic requirements were met.

The contractor with the winning bid by over \$1 million in 2011 supposedly could not come up with bonding in North Dakota. They had bonding in Idaho, but subsequently claimed they could not obtain bonding in North Dakota. By the time this was realized, the 2<sup>nd</sup> low bidder was already too far into other projects. So this project was ultimately started 3 months late in September and completed the next June, rather than beginning in June and completed by that fall. We lost 9 months of time in this instance. Maybe they couldn't come up with bonding; maybe they realized they missed some major cost items in the bid?

The contractor with the winning bid by over \$1 million in 2012 didn't do adequate soil borings despite knowing the project was in a floodplain next to a creek, had complete turnover of their laborers and project management, had substandard equipment and numerous safety violations along the way to being 42% complete at the substantial completion date. At which point we heard all about the inadequate engineering and the terrible working conditions in our town. After giving the contractor another 6 weeks to complete the project we were no closer to completion, so we had to call their bond. Now we need to re-bid the job. We are months behind schedule for the developers relying on this infrastructure. And it will now cost the City \$1 million over the original realistic bids to finish the job. Again, this was foreseeable.

We feel it puts the government entities at a disadvantage having to accept the low bid. It does not always mean the most efficient bid is the lowest. Often times it is the most incompetent bid.

We would definitely support design-build legislation.

Brent Sanford  
Mayor of Watford City

Chairman Oehlke, members of the Senate Transportation committee,

In an era when thoughts are delivered faster than you can think them, instantly mass produced facebooked twittered and blogged and as relevant as what I had for breakfast ND is still conducting business with horses and buggies.

Oil wells are drilled in 21 days, roads are destroyed overnight, subdivisions appear in weeks and we are wasting months trying to get projects moving. With all of the engineering required, the public notices, the call for bids, the delay for the bid opening, studying the proposal, awarding the bid, and then waiting for the contractor to eventually finish his job in the other part of the state and hopefully start your job the day after freeze up, is it any wonder that only the oil industry can get anything done up here.

Our experiences

Williams County LEC (112 bed jail \$15.6M)

Started 9 months late, went 7 months long, low bidder never had the manpower on the job to get the job done. Did unacceptable work, Bond company awol. In litigation.

Williams County Multi-use Building (18 unit apartment complex some office space ground floor \$6M)

Started 7 months late 3 months behind, every change order proposed by the architect adds 17 percent to his fee. ( How difficult is it to build an apartment building?)

County Highway 21 patching project \$690,000.

Bid July 1 2012 to be completed by 9/30/12 awarded to Knife River. Knife River did not start the project, projected overrun now estimated as an additional 200,000, and traffic is dodging the holes in the road for at least nine extra months.

This system no longer works. Why are we one of the few States not allowing design build?

Williams County needed that apartment building for Law Enforcement Officers two years ago. How difficult is it to find someone who is building apartments to put one together for us. When we started on this one, apartments were being built for 90-100,000 per unit. By the time we got through the process we are looking at \$250,000 per unit for modular units stacked above the first floor office space.

How complex is road patching?

Thank you for your time and service to our State the State that I still love.

Dan Kalil

Williams County

**Testimony SB 2173**  
**Senate Transportation Committee**  
**January 31, 2013**

Mr. Chairman and members of the Senate Transportation committee, my name is Russ Hanson and I represent the Associated General Contractors of North Dakota. The AGC of ND is an association of commercial contractors, subcontractors, specialty contractors, and material/equipment suppliers.

We are in opposition of SB 2173 which would allow the use of Design Build for highway construction. The reasons for the opposition are two-fold - philosophy and timing.

Philosophically, our highway contractors have consistently opposed Design Build for highway construction in North Dakota. It is not that we view Design Build as bad thing – just not applicable in our transportation environment. Our members see the value in high dollar, complex projects for Design Build and those types of projects aren't typical here. Our contractors experience with smaller types of Design Build projects hasn't been favorable – you will hear examples of that in industry testimony.

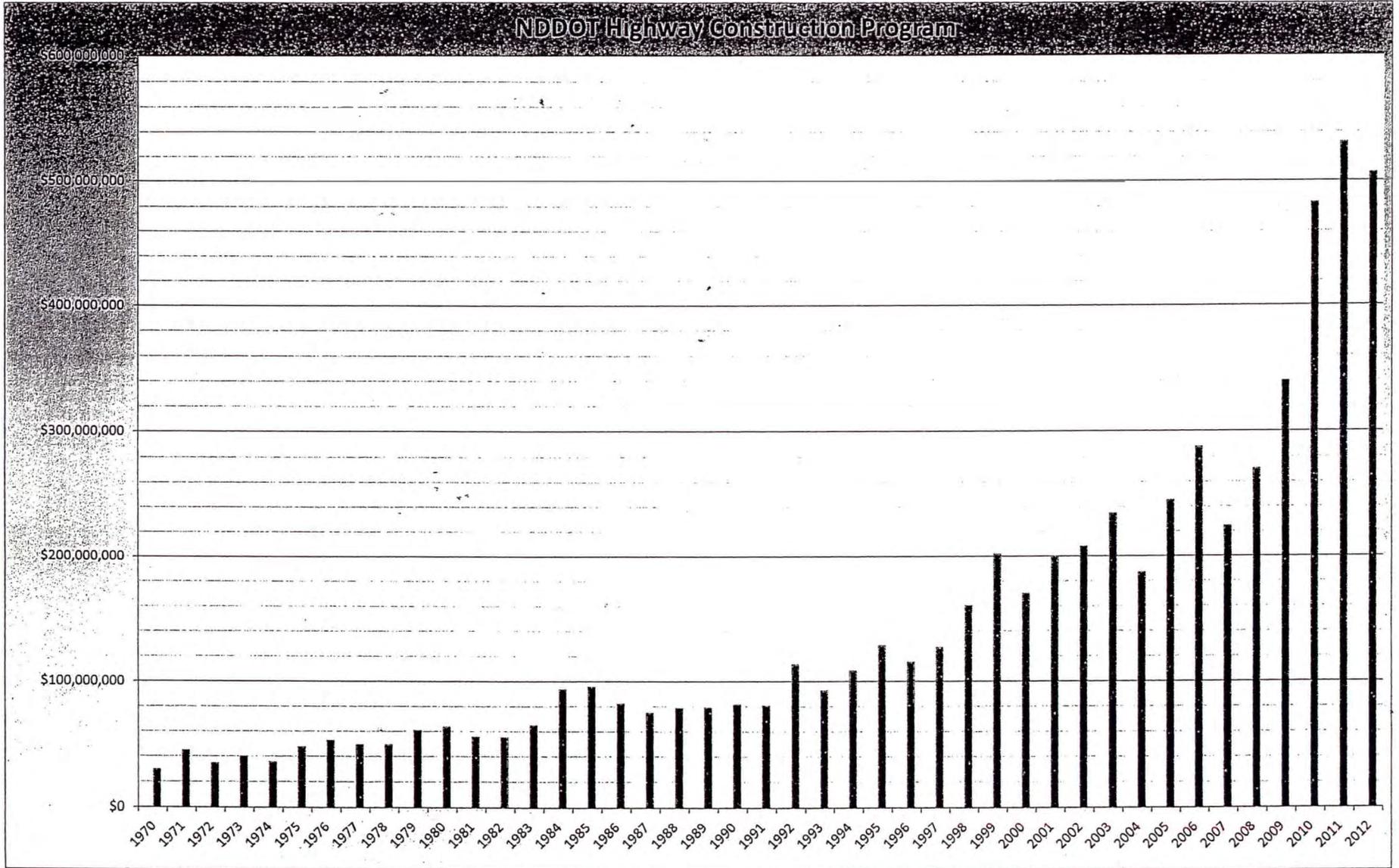
Proponents tout time and cost savings when utilizing Design Build. The main issue I hear (from contractors/agencies) involving time of highway construction is the time it takes to receive environmental clearance. It is a process we hear cannot be expedited regardless of delivery system.

Regarding construction costs/savings, North Dakota is in a unique situation where our bidding environment is incredibly competitive - even though the amount of projects bid have increased dramatically the past several years. See the attached chart showing the investment versus the average number of bidders per project. In 2001, the DOT had about \$200 million bid – in 2012 amount was almost \$600 million. Since 2001, there has been an average of about 5 bidders per project despite the huge investment increase. This illustrates a very competitive environment. When Design Build is utilized – typically a limited number of bidders qualify and are allowed to bid on a project.

The general rule is the more bidders involved, the more competitive the price. An example of such would be the November 2012 DOT bid letting. Engineers estimates for those 43 projects was \$110 million. The low bids totaled \$97 million – 12% less than anticipated. The taxpayer is getting good value with the current delivery system.

In conclusion, currently there isn't the "buy in" to the concept from the industry groups involved. In particular, the contractor/design groups haven't endorsed it and we believe having the positive support of the affected industries is an important factor before implementing such a policy.

Mr. Chairman and members of the committee, thank you for the opportunity to testify today and request a Do Not Pass recommendation for SB 2173.



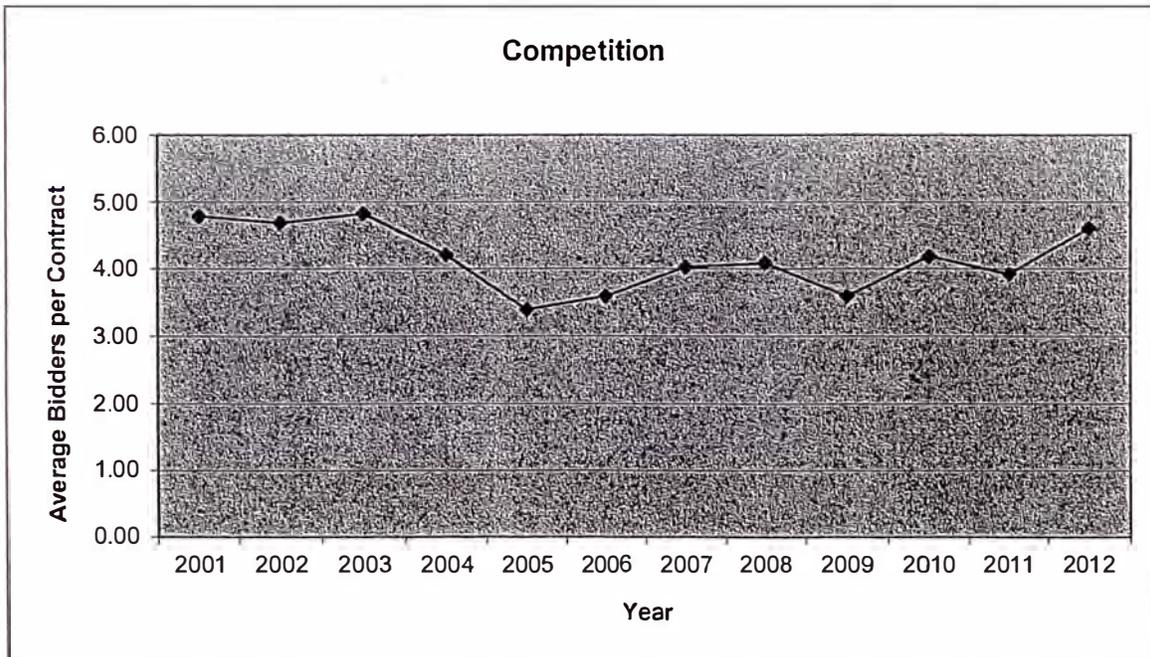
## NDDOT Bidder Competition Data

Year	Total # Contracts	Average # of Bidders per Contract	Contracts with No Bids	Contracts with a Single Bid	Contracts with Two Bids
2001	170	4.78		2	9
2002	156	4.69		0	14
2003	151	4.82		3	15
2004	143	4.20		2	16
2005	195	3.39	1	15	42
2006	170	3.59		4	34
2007	161	4.02		4	36
2008	154	4.08		4	28
2009	253	3.59		7	50
2010	244	4.18	4	11	37
2011	222	3.91		13	42
2012	222	4.60	1	9	44

2012 Data is through the November 16, 2012 bid opening

Data includes State, City and County projects.

Data includes projects and bidders that were rejected after the bid opening.



**Testimony SB 2173**  
**Senate Transportation Committee**  
**January 31, 2013 (Harley E. Neshem)**

Mr. Chairman and members of the committee.

My name is Harley Neshem and I am president of Gratech Company, Ltd. of Berthold. We are a grading and aggregate contractor. Our company was founded in 1949 and I have personally been involved with highway construction in North Dakota since 1970. We presently employ about 200 workers seasonally and have construction volume approaching \$50 million. I have also served as president of the Associated General Contractors of North Dakota.

I appreciate the opportunity to testify against this proposed legislation today. I speak as a life-long resident of North Dakota, a taxpayer and not just as a contractor. Please know that I am not opposed to “design-build” contracting in all instances. For example, if one of our cities had a population the size of Phoenix, 1.5 million, and needed a \$300 million 4 level concrete interchange to handle 4 lane traffic from multiple directions, design-build may be the better choice over “design-bid-build.” But this state so far has as its largest highway project ever, the design-bid-build Four Bears bridge over the Missouri river near New Town at about \$60 million which I believe all participants feel was a construction success.

The call for design-build comes from out of state interests. There is no support for it from the Associated General Contractors of North Dakota, the Consulting Engineers group, and the sub-contractors. Frankly, this is an attempt by those that cannot compete under the existing “rules of the game” to establish “rules of the game” under which they can compete. They are asking you, as legislators, to set aside a large portion of the highway budget for their exclusive use.

A few days ago, interim DOT Commissioner Grant Levi said North Dakota has been in a “preservation mode” because of insufficient funding. The practical effect, for those us who build

**Testimony SB 2173 – Page 2  
Senate Transportation Committee  
January 31, 2013 (Harley E. Neshem)**

the roads, has meant the money that was available has gone to surfacing, not to grading. For about the last 20 years, we who do grading work have been in a “survival mode”. North Dakota has lost about 80 % of its grading contractors. That segment of the construction industry, except for a very few of us, is not here to participate in what is now a “building mode”. This proposed legislation simply raises the bar by making it all the more difficult for crippled grading contractors to participate .

The current delivery system has served North Dakota well. The bidding process is open, public and transparent. The DOT is even-handed in its relationship with contractors and especially conscious of its responsibility to those they call their customers, the driving public. The AGC and NDDOT have active committees and liaison groups that work together to streamline that delivery system to save construction costs and get projects completed quickly.

The design-build system is not transparent, especially in the selection phase. It is a subjective, behind closed doors process that favors those already established. This is contrary to the long established open, competitive bidding process we North Dakotans believe in.

Interim DOT Commissioner Levi has reported it takes 4 to 5 years to get a project ready for construction. The DOT generally sizes projects for completion in one year. There is no indication that design-build gets highways constructed faster.

The recent experience with a design-build box culvert project, authorized by the last Legislature, while not necessarily representative of a trend, did not produce a savings. Nevertheless, there is no indication design-build is more cost effective than design-bid-build.

I also have a problem with some of the language and terminology in Senate Bill 2173. The language and terminology used is not that normally used in highway construction.

**Testimony SB 2173 – Page 3**  
**Senate Transportation Committee**  
**January 31, 2013 (Harley E. Neshem)**

For example, lines 16 and 17 on page 1 read .....”general construction, mechanical construction, and electrical construction”..... Highway construction consists of grading, aggregate base, asphalt or concrete surfacing, bridges, culverts, signing and striping.

Line 1 of Page 2, to paraphrase, indicates the department may utilize design-build for projects \$20 million or more. In my time as a highway contractor, there have been very few North Dakota projects exceeding \$20 million. It is easy to imagine the pressure brought to bear to manufacture large projects.

Lines 7 through 13 of page 2 speak to my point of subjectivity as do lines 14 through 26. Line 2 of page 3 indicates the department will consult with representatives of the construction, building trades and surety industries. Not only is this subjective but specifically invites labor unions to the table. “Building trades” is a term used to reference those groups of workers that construct buildings and industrial facilities, not highways. Does this mean plumbers, pipefitters and electricians should be consulted?

Lines 17 through 20 of page 3 require “A description of any instance in which the entity or its principals submitted a bid for a public improvement project which was found to be nonresponsive or any instance in which the entity or principals were found not to be a responsible bidder”. A nonresponsive bid is one that the bidder may simply have forgotten to sign or forgot to include a certificate of insurance. That bid should properly be rejected but, at the same time, should not be counted in the selection criteria. Here again, subjectivity plays a role. The selection committee, at its sole discretion behind the closed door, can disqualify an otherwise capable bidder for something very minor.

**Testimony SB 2173 – Page 4  
Senate Transportation Committee  
January 31, 2013 (Harley E. Neshem)**

Lines 26 through 28 of page 3 also represent subjectivity. A bidder is to describe any adverse claim settlements in excess of \$50,000. The fact is the NDDOT Standard Specifications require that disputes be settled through the claims process. This potentially penalizes anyone who follows the disputes resolution rules.

As Legislators, you should study the differences between design-build and design-bid-build construction. You should understand it, you should consider it, and you should dismiss it. Senate Bill 2173 seeks to impose a closed door system of contracting that favors a few that is in direct contrast to the open, competitive and equally fair to all system that has served us well. This bill should be defeated and I urge your no vote.

Thanks very much for the opportunity to present these comments today. I will try to answer any questions.

**Testimony SB 2173**

**Senate Transportation Committee**

**January 31, 2013 (Daniel L Swingen)**

Good Morning Mr. Chairman and committee members.

My name is Dan Swingen and I am the President of Swingen Construction Company. Our company builds bridges across this great state. Swingen Construction Company has been a highway contractor in North Dakota for the past 101 years. We have been involved with the AGCND since its inception and I have served as its president and various other positions over the years. Thank you for the opportunity to appear in front of these deliberations today.

I am here to testify in opposition to the proposed legislation for the use of expanded Design Build as a method of contract delivery for the North Dakota Department of Transportation.

I am going to speak from the viewpoint as a contractor who has been involved in two occasions where the NDDOT used this method of contracting. In April of 2011 the DOT advertised a project using this method on a reinforced box culvert in Richland County on Hwy 13. We submitted the information they requested to qualify for consideration and was successful and chosen as a contractor they would approve to submit design and prices. The next step required us to partner with an engineering company to develop a design and a cost proposal for consideration and hopefully award of the project. Ultimately only 2 contractors reached this stage for consideration and we were successful in being chosen as the

best value contractor. However the contract was never awarded and the project wasn't built at that time because the costs far exceed their estimate. A lot of time, effort and expense was spent by us and our partner engineering firm in developing this project, supplying information and offering an extensive proposal package only to be told the project was not to be awarded. This last November the very same project was put out to bid using the traditional Design Bid Build system. This proven method has been used since the inception of the Dept. of Transportation. Once the bids were open it was clearly apparent that the cost of the project as compared to our Design Build proposal was significantly less. The project was awarded.

I believe that this series of events demonstrates that the proven method of Design Bid Build is appropriate for the use of the construction funds and also the most economical. I am highly skeptical that the pursuit of the Design Build method is not supported by proven data that it is an economical delivery method or a good use of our citizens hard earned tax dollars.

The traditional method of Design Bid Build is totally transparent and ensures the tax payer of the most competitive price and therefore the best use of the public funds.

The next instance I would like to address is the second use by the NDDOT to use Design Build. In March of 2012 they chose another reinforced box culvert located on Hwy 1806 east of Williston. We again went through the extensive process and expense to be considered and again at the end of the process we were chosen as the best value. This time the project was awarded and now the project is in the use of the traveling public. However I do not believe the citizens received the best value. Had the project

been traditionally bid using full and open competition, I believe that the project would have cost less. I also don't believe that the actual execution of the project achieved any savings from its design, time, inspection or actual construction. Senate bill #2173 states the conditions where Design Build may be used: To reduce the cost of the project, to expedite the completion of the project, or to provide design features not achievable through the Design Bid Build method. None of these conditions were achieved throughout this project.

The Design Build method uses subjective criteria in arriving at the successful bidder. The process involves the contractor submitting its statement of qualifications. The statement is reviewed subjectively and the qualified bidders are then chosen for submitting the design and cost proposal. Once this package is submitted it is again reviewed and scored using subjective criteria and a successful bidder is chosen.

With the time proven Design Bid Build method, it is the principal of full and open competition that ensures the tax payers that they are receiving the best value. The low and responsive bidder is chosen using totally objective criteria, the bid price.

Having gone through the Design Build process twice and actually building a project once, I observed capable contractors choose not to pursue the Design Build projects simply because the process of developing the information for consideration is overwhelming and expensive. I also observed the exclusion of capable contractors being able to offer their proposals for consideration because the information they submitted during the qualification stage was subjectively deemed insufficient.

North Dakota has a wealth of experienced and capable contractors available to respond to the needs of NDDOT and the inventory of projects to be built. The Design Build process excludes these contractors based on subjective criteria. I do not believe that there is compelling data available that shows the Design Build process delivers a better product at a better cost, at the expense of using the traditional and time proven process of Design Bid Build.

I urge your opposition to this bill and its ultimate defeat, and I thank you for the opportunity to appear before you today. I will try my best to answer any questions you might have.

**Testimony on SB 2173**  
**Bill Kalanek**  
**National Electrical Contractors Association, Dakotas Chapter**  
**ND Association of Plumbing, Heating & Mechanical Contractors**  
**Senate Transportation Committee**  
**January 31, 2013**

Good Morning Chairman Oehlke and members of the Senate Transportation Committee, my name is Bill Kalanek, here today representing the members of the Dakotas Chapter of the National Electrical Contractors Association and the ND Association of Plumbing, Heating & Mechanical Contractors.

On behalf of our contractor members I'd like to voice our combined opposition to Senate Bill 2173 which establishes a new delivery system for publicly funded road projects. "Design build" as suggested by the bill would in our estimation create more inequities and be less transparent than the current method known as "Design bid build". The bill as drafted would create a cumbersome process of selection in which candidates who would normally be fully able to participate in the process being excluded from participation in the bid process. Either way the proposed change encourages less not more transparency when it comes to bidding taxpayer funded projects.

Additionally, Senate Bill 2173 raises a number of questions about control. Under the current model the state procures the services of an engineer or architect to design the project. The specifications are then offered to the public for bid. The state with the assistance of the design professional then determines the winning bidders for the different portions of the project and the project proceeds with the design professional as an agent of the state looking out for the state's interests as the project progresses. Under the Design Build model the designer and contractors are part of the same design build team. The state loses the expertise of that "agent" in the proposed process and is left with no one advocating for the state aside from department administrators.

These are just a couple of the issues that I have with regard to design build in the public arena, I would ask the committee in its wisdom to give SB 2173 a "Do Not Pass" recommendation and leave the current fair and open process unchanged as we look to prudently spend taxpayer dollars.

Thank you.

Testimony for Public Hearing  
Senate Transportation Committee  
January 31, 2013

Mark Anderson, PE  
Managing Partner at KLJ

S.B. No. 2173 (Committee)-Relating to design-build procurement for state highways

Good morning Mr. Chairman and members of the Senate Transportation Committee. For the record my name is Mark Anderson and I am a Managing Partner and a Senior Transportation Engineer at Kadrmas, Lee & Jackson. I'm here today to testify in opposition of Senate Bill 2173. As an engineering firm we are not opposed to Design-Build, however, we cannot support the parameters and constraints of implementing Design-Build as outlined in Senate Bill 2173.

Design-Build is a procurement method intended to offer value through one or more improvements to quality, cost, innovative techniques, and schedule—not simply cost or schedule. The Design-Build Institute of America, the expert in the area of Design-Build, stresses that it is the collaborative effort between the Owner, Designer and Contractor that will result in gains from the Design-Build process. They also acknowledged during a presentation in July of 2012 that the planning, environmental clearance, and right-of-way tasks associated with a project must be completed and separated from the Design-Build process in order for potential projects to be properly evaluated for Design-Build and the necessary collaboration to occur.

We know from talking to other states, and firms involved in Design-Build, that the process of procurement for projects needs to change if the Design-Build process is to be effective in meeting its intended purpose. The upfront work needs to be completed separate from the Design-Build project, and someone needs to represent the interests of a quality project for the owner. From our perspective that means the Owner needs more resources to drive these projects in advance of making decisions on procurement methods. Design-Build is a sound means of delivering a construction project, but not necessarily a means to complete all phases of the project cycle.

In order for Design-Build to be an effective tool in the tool box for North Dakota:

- Design-Build needs to be accepted as a universal form of procurement; not simply applicable to North Dakota Department of Transportation or Vertical-Build projects.
- The process must insure that projects, and project objectives, be defined in advance of procurement; the consulting work needs to precede project delivery, whether design-build or some other more appropriate form.
- Procurement methods need to be selected based on an unbiased assessment of project objectives and the potential gains available from each method of procurement.
- Legislation needs to enable the method, and address fulfillment of objective results; not define process.

The current language in Senate Bill 2173 does not support, or accomplish, these four items, which are critical to the successful implementation of Design-Build.

Thank you for your time. This concludes KLJ's testimony and I will stand for any questions.

Section 2

VC Armstrong

Sub-section 1. Line 1

- Change project to projects  
This change will make it clear that the bill is not intended for a sole or specific project.

Sub-section 1. Line 1. & 2.

- Delete "on the state highway system which has an estimated cost of twenty million dollars or more"  
This change ensures that small local contractors will have an equal opportunity to participate in design-build projects.

Sub-section 1. Line 3.

- Delete ":" after will and add "either:"  
All the conditions for using design-build in the section are important in their own right and this would give the department greater flexibility.

Sub-section 2. Line 27

- Add a new line J which will state: "In the event that the department utilizes the design-build method it may train key personnel and develop procedures in accordance with accepted design-build best practices. The design-build training of key department personnel shall be through an accredited university or a nationally recognized design-build certification program"

This addresses the concerns that the department does not have adequate expertise or training to utilize the design-build project delivery method.

Page 2  
line 32 K. The number of projects in which the department utilizes the design-build method may not exceed 2% of the departments total annual projects.

---

**m:** Goodyear, Char  
**Sent:** Thursday, January 31, 2013 10:20 AM  
**To:** Mahalingam, Ganapathy; Urness, Cindy; Enderson, Teresa  
**Subject:** urgent request for information

Need info for a legislator and it's urgent:

Program – Design Build  
How many students?  
Is this a course or courses?  
Is it a major or minor?  
Is it about Roads only?  
What is it about?

---

Char Goodyear  
Assistant to the Vice President / University Relations  
**NORTH DAKOTA STATE UNIVERSITY**

Old Main 204  
Dept 6000, PO Box 6050  
Fargo ND 58108-6050  
phone: 701.231.1068  
    .. 701.231.1989  
    .. mobile phone: 701.799.8925  
[char.goodyear@ndsu.edu](mailto:char.goodyear@ndsu.edu)  
[www.ndsu.edu](http://www.ndsu.edu)



**NDLA, Intern 06 - Hagel, Justin**

---

**n:** Flakoll, Timothy <Tim.Flakoll@ndsu.edu>  
**ent:** Thursday, January 31, 2013 11:10 AM  
**To:** NDLA, Intern 06 - Hagel, Justin  
**Subject:** Fwd: FW: urgent request for information

*Sent from my Verizon Wireless 4G LTE DROID*

----- Original Message -----

Subject: FW: urgent request for information  
From: "Goodyear, Char" <char.goodyear@ndsu.edu>  
To: "Flakoll, Timothy" <Tim.Flakoll@ndsu.edu>  
CC:

1 class  
18-36 students, 1 or 2 studio sections in architecture.  
It is not a major or minor.  
About buildings, not roads.

Many other states have Design Build projects.

You can reach Gary on email right now if you need more info.

Char

---

**From:** Goodyear, Char  
**Sent:** Thursday, January 31, 2013 10:20 AM  
**To:** Mahalingam, Ganapathy; Urness, Cindy; Enderson, Teresa  
**Subject:** urgent request for information  
**Importance:** High

Need info for a legislator and it's urgent:

Program – Design Build  
How many students?  
Is this a course or courses?  
Is it a major or minor?  
Is it about Roads only?  
What is it about?

---

Char Goodyear  
Assistant to the Vice President / University Relations  
**ND SOUTH DAKOTA STATE UNIVERSITY**

Old Main 204  
Dept 6000, PO Box 6050  
Fargo ND 58108-6050

**NDLA, Intern 06 - Hagel, Justin**

---

**From:** Flakoll, Timothy <Tim.Flakoll@ndsu.edu>  
**Sent:** Thursday, January 31, 2013 11:10 AM  
**To:** NDLA, Intern 06 - Hagel, Justin  
**Subject:** Fwd: more info

*Sent from my Verizon Wireless 4G LTE DROID*

----- Original Message -----

Subject: more info  
From: "Goodyear, Char" <char.goodyear@ndsu.edu>  
To: "Flakoll, Timothy" <Tim.Flakoll@ndsu.edu>  
CC:

---

**From:** Mahalingam, Ganapathy  
**Sent:** Thursday, January 31, 2013 10:59 AM  
**To:** Goodyear, Char  
**Cc:** Urness, Cindy  
**Subject:** RE: urgent request for information  
**Importance:** High

Dear Char,

The Design Build program is a curricular offering in the Department of Architecture and Landscape Architecture at NDSU of a coordinated set of studio and lecture/seminar courses, where students and faculty work on a real world project, where they design and construct a small structure or building. Typically we offer a combination of a studio and a lecture/seminar course for 3 consecutive terms for a total of 6 courses in the program. The Design Build program does not pertain to road construction.

Typically a studio section of about 18 students enroll in the program. It is feasible and cost effective for us to run the program with a minimum of 18 students enrolled.

Hope this helps.

Sincerely,

Ganapathy

Ganapathy Mahalingam, Ph.D.  
Associate Professor and Architecture Program Director/Department of Architecture and Landscape Architecture  
**NORTH DAKOTA STATE UNIVERSITY**

426, Renaissance Hall  
Box 6050, Department 2465  
Grand Forks, ND 58108-6050  
Phone: 701-231-8615  
Fax: 701-231-5773  
[www.ndsu.edu/faculty/mahaling/](http://www.ndsu.edu/faculty/mahaling/)

**NDSU**

NORTH DAKOTA STATE UNIVERSITY

January 30, 2013

Senator Oehlke, Chairman  
Transportation Committee

RE: SB 2173

Dear Chairman Oehlke,

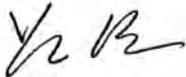
North Dakota State University will take no position on design build and will remain neutral on these or any other issues.

However, North Dakota State University, Construction Management & Engineering Department is willing to assist with:

- o Training on the operational aspects of design build,
- o Research of existing literature on design build, and
- o Conducting original independent research on design build in North Dakota and the region

If these are areas we can assist with, please feel free to contact me at 701-231-6521, or via e-mail at [Yong.Bai@ndsu.edu](mailto:Yong.Bai@ndsu.edu).

Sincerely,



Yong Bai, Ph.D., PE  
Chair and Professor  
Construction Management & Engineering Department

Prepared by Legislative Intern Justin Hagel  
Senator Armstrong  
February 1, 2013

PROPOSED AMENDMENT TO SENATE BILL NO. 2173

Page 2, line 1, remove "on the"

Page 2, line 2, remove "state highway system which has an estimated cost of twenty million dollars or more"

Page 2, line 2, insert "either" after "will"

Page 2, line 26, insert after "Act" the following:

- j. If the department utilizes the design-build method, it may train key personnel and develop procedures in accordance with accepted design-build best practices. The design-build training of key department personnel may be through an accredited university or a nationally recognized design-build certification program
- k. Projects utilizing the design-build method may not exceed two percent of the department's total annual projects. *or \$30 million dollars.*

Renumber accordingly