

1 A bill to be entitled
 2 An act relating to continuing contracts; amending s.
 3 255.103, F.S.; revising the maximum estimated
 4 construction cost of construction projects for which a
 5 governmental entity may enter into a continuing
 6 contract; amending s. 287.055, F.S.; revising the
 7 definition of the term "continuing contract";
 8 requiring the Department of Transportation to select a
 9 certain number of qualified firms and authorize work
 10 in a specified manner for certain continuing
 11 contracts; providing an effective date.

12
 13 Be It Enacted by the Legislature of the State of Florida:
 14

15 Section 1. Subsection (4) of section 255.103, Florida
 16 Statutes, is amended, and subsections (2) and (3) of that
 17 section are republished, to read:

18 255.103 Construction management or program management
 19 entities.—

20 (2) A governmental entity may select a construction
 21 management entity, pursuant to the process provided by s.
 22 287.055, which is to be responsible for construction project
 23 scheduling and coordination in both preconstruction and
 24 construction phases and generally responsible for the
 25 successful, timely, and economical completion of the

26 construction project. The construction management entity must
27 consist of or contract with licensed or registered professionals
28 for the specific fields or areas of construction to be
29 performed, as required by law. The construction management
30 entity may retain necessary design professionals selected under
31 the process provided in s. 287.055. At the option of the
32 governmental entity, the construction management entity, after
33 having been selected and after competitive negotiations, may be
34 required to offer a guaranteed maximum price and a guaranteed
35 completion date or a lump-sum price and a guaranteed completion
36 date, in which case, the construction management entity must
37 secure an appropriate surety bond pursuant to s. 255.05 and must
38 hold construction subcontracts. If a project, as defined in s.
39 287.055(2)(f), solicited by a governmental entity under the
40 process provided in s. 287.055 includes a grouping of
41 substantially similar construction, rehabilitation, or
42 renovation activities as permitted under s. 287.055(2)(f), the
43 governmental entity, after competitive negotiations, may require
44 the construction management entity to provide for a separate
45 guaranteed maximum price or a separate lump-sum price and a
46 separate guaranteed completion date for each grouping of
47 substantially similar construction, rehabilitation, or
48 renovation activities included within the project.

49 (3) A governmental entity may select a program management
50 entity, pursuant to the process provided by s. 287.055, which is

51 to be responsible for schedule control, cost control, and
52 coordination in providing or procuring planning, design, and
53 construction services. The program management entity must
54 consist of or contract with licensed or registered professionals
55 for the specific areas of design or construction to be performed
56 as required by law. The program management entity may retain
57 necessary design professionals selected under the process
58 provided in s. 287.055. At the option of the governmental
59 entity, the program management entity, after having been
60 selected and after competitive negotiations, may be required to
61 offer a guaranteed maximum price and a guaranteed completion
62 date or a lump-sum price and guaranteed completion date, in
63 which case the program management entity must secure an
64 appropriate surety bond pursuant to s. 255.05 and must hold
65 design and construction subcontracts. If a project, as defined
66 in s. 287.055(2)(f), solicited by a governmental entity under
67 the process provided in s. 287.055 includes a grouping of
68 substantially similar construction, rehabilitation, or
69 renovation activities as permitted under s. 287.055(2)(f), the
70 governmental entity, after competitive negotiations, may require
71 the program management entity to provide for a separate
72 guaranteed maximum price or a lump-sum price and a separate
73 guaranteed completion date for each grouping of substantially
74 similar construction, rehabilitation, or renovation activities
75 included within the project.

76 (4) A governmental entity's authority under subsections
77 (2) and (3) includes entering into a continuing contract for
78 construction projects, pursuant to the process provided in s.
79 287.055, in which the estimated construction cost of each
80 individual project under the contract does not exceed \$10 ~~\$4~~
81 million. For purposes of this subsection, the term "continuing
82 contract" means a contract with a construction management or
83 program management entity for work during a defined period on
84 construction projects described by type which may or may not be
85 identified at the time of entering into the contract.

86 Section 2. Subsections (10) and (11) of section 287.055,
87 Florida Statutes, are renumbered as subsections (11) and (12),
88 respectively, paragraph (g) of subsection (2) is amended, and a
89 new subsection (10) is added to that section, to read:

90 287.055 Acquisition of professional architectural,
91 engineering, landscape architectural, or surveying and mapping
92 services; definitions; procedures; contingent fees prohibited;
93 penalties.—

94 (2) DEFINITIONS.—For purposes of this section:

95 (g) A "continuing contract" is a contract for professional
96 services entered into in accordance with all the procedures of
97 this act between an agency and a firm whereby the firm provides
98 professional services to the agency for projects in which the
99 estimated construction cost of each individual project under the
100 contract does not exceed \$10 ~~\$4~~ million, for study activity if

101 the fee for professional services for each individual study
102 under the contract does not exceed \$500,000, or for work of a
103 specified nature as outlined in the contract required by the
104 agency, with the contract being for a fixed term or with no time
105 limitation except that the contract must provide a termination
106 clause. Firms providing professional services under continuing
107 contracts shall not be required to bid against one another.

108 (10) APPLICABILITY TO DEPARTMENT OF TRANSPORTATION.—
109 Notwithstanding any other provision of this section to the
110 contrary, for a geotechnical and materials testing continuing
111 contract, the Department of Transportation must select at least
112 three but no more than five qualified firms and authorize work
113 to the selected firms on a rotational and equitable basis.

114 Section 3. This act shall take effect July 1, 2024.