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# A Guide To Progressive Design Build Bonding & Insurance

2023 Surety Bonding and Construction Risk Management Conference

**#AGCRisk2023**

[risk.agc.org](https://risk.agc.org)



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# Disclaimer

This material is for general informational purposes only and is not legal advice. It is not designed to be comprehensive, and it may not apply to your particular facts and circumstances. Consult as needed with your own attorney or other professional adviser.

## Progressive Design Build

# Why are we seeing so much of it and what exactly is it?

ST. LOUIS  
BUSINESS JOURNAL

Oct 9, 2019  
By John Buescher

St. Louis building boom paves way for progressive design and build solutions

By CASEY MOORE  
Lease Crutcher Lewis

September 30, 2021



**Progressive design-build is changing the future of K-12 construction**  
*Firms are seeing more public school districts adopt PDB in Washington state*

**ENR**  
Engineering News-Record

April 11, 2022 By Aileen Cho

Transportation World Eyes Benefits of Progressive Design-Build

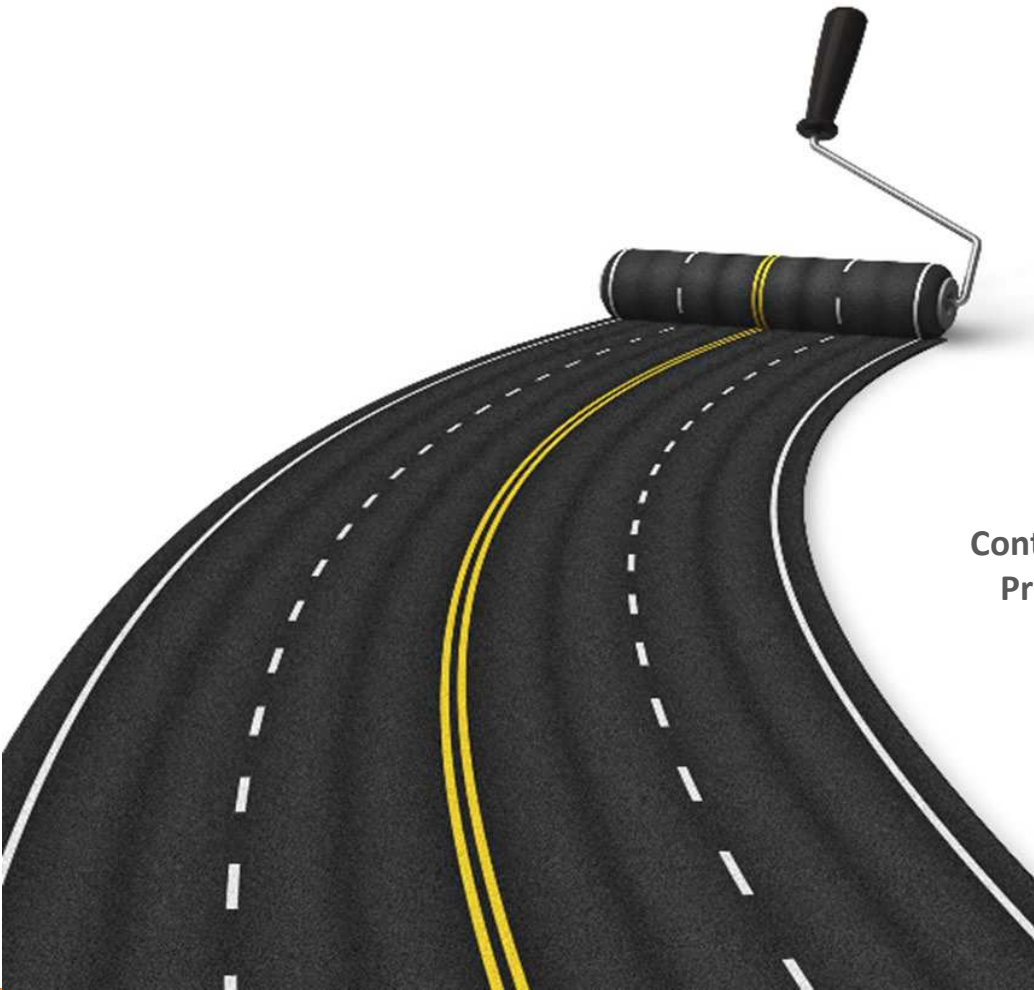
**Nebraska Examiner**

BY: PAUL HAMEL MARCH 29, 2022 4:52PM

**Bill advanced to allow 'progressive design-build of highways, bridges...'**

## Progressive Design Build

# How is Progressive Design Build Different?



Contract  
Price

		Design Risk		Risk Level
		No	Yes	
Contract Price	Early	Design Bid Build	Design Build & P3	High
	Late	CM/GC	Progressive Design Build	Moderate
				Low
				TBD

# What is so different about Progressive Design Build?



## Selection

- Owner has ability to select most qualified proposer
- Pricing not critical element
- Overhead and fee considered

## Preconstruction

(Phase 1 / Early Works)

- Advance design
- Early works
- Establish and negotiate construction price
- Finalize contract terms
- Offramp for Contractor and Owner if price and terms cannot be agreed upon

## Construction

(Phase 2)

- Complete construction
- Any required warranty/maintenance/O&M
- Traditionally this is one contract/bond







## Questions/Considerations

- Surety letter
- Bid bond value
- Validity period
- Contract terms
- RFIs
- Owner behavior
- Draft contract / Term sheet





## Questions/Considerations

- Bonded
- Bond scope
- Bond amount
- Forms
- % of Design before construction price
- Contract terms
- Phasing
- Warranty
- Duration
- Insurance
  - Professional Liability
  - Project Specific
  - Builders' Risk



## Questions/Considerations

- Who's option
- Tail liability
- Who owns design
- Insurance
  - Professional Liability
  - Project Specific
  - Builders' Risk



## Questions/Considerations

- Bond Amount
- Insurance



## Limits of Bond (subject to proper release language)

		Performance bond (no warranty bond)	Bond Liability with Warranty Bond	
		Performance Bond	Performance Bond	Warranty Bond
Construction	2020	\$1B	\$1B	N/A
	2021			
	2022			
	2023			
	2024			
Warranty Period	2025	\$1B	N/A	\$100 Million
	2026			
	2027			
	2028			
	2029			

## Questions/Considerations

- Duration
- Warranty Bond
- Insurance

# Questions?