

City of Alexandria, Virginia

MEMORANDUM

REVISED

DATE: MAY ~~19~~25, 2004

TO: THE HONORABLE MAYOR AND MEMBERS OF CITY COUNCIL

FROM: PHILIP SUNDERLAND, CITY MANAGER

SUBJECT: RESOLUTION APPROVING ENTRY BY THE SCHOOL BOARD INTO A COMPREHENSIVE AGREEMENT FOR THE T. C. WILLIAMS HIGH SCHOOL REPLACEMENT PROJECT

**ISSUE:** City Council authorization for the School Board to enter into agreement for the construction of a new T. C. Williams High School as required under the Public-Private Education Facilities and Infrastructure Act of 2002.

**RECOMMENDATION:** That City Council adapt the attached resolution which authorizes the School Board to enter into a comprehensive agreement for the T. C. Williams High School Replacement Project, pursuant to School Board solicitation No. 03-04-105 and the Public-Private Education Facilities and Infrastructure Act of 2002

**BACKGROUND:** In 2002, the Virginia General Assembly enacted innovative legislation which allowed public entities in Virginia, including local school boards, to undertake alternative methods to solicit and award construction contracts for facilities. This Public-Private Education Facilities and Infrastructure Act (PPEA) significantly widened the authority of public entities in Virginia, in comparison to the Virginia Public Procurement Act, which tightly restricts public entities to a traditional competitive “low and responsive and responsible bidder” construction contract awards process.

The PPEA allows a public entity to remold the traditional bidding process in a number of ways. First, the PPEA creates more flexibility both in the contractor pre-qualification stage (i.e., allows receipt of expressions of interest and then short-listing to limit bidding to the best qualified contractors) and in the procurement process (i.e., allows interaction between contractors and the public entity in establishing the final bid specifications for the project, as well as allows for competitive negotiation after bids have been received between the public entity and one or more bidders).

All of these innovations (which are not allowed under the Virginia Public Procurement Act) are aimed at procuring a better and more cost efficient project by allowing changes and adjustments before, during and after bids have been received, as well as creating more of a partnership

relationship between the selected contractor and the public entity. The process also is aimed at reducing the number and scope of project change orders by allowing contractors to suggest improvements to bid specifications before those specifications and construction contracts are finalized. These innovations do not guarantee that the typical problems, which often arise during public construction projects, will not occur, but they may reduce the probability of these problems occurring, or reduce the frequency, severity or fiscal impact of these types of problems.

The School Board embarked on this new procurement process in early 2004, with the issuance in February of requests for proposals, in order to receive expressions of interest from construction firms. From those submissions and subsequent interviews, a list of qualified contractors was determined. Non-selected contractors could have appealed that decision, but no appeal was filed. The short-listed contractors then worked with the School staff in finalizing the bid specifications,

On May 19, bids are scheduled to be received. After May 19, bids will be evaluated and contract negotiations will begin. A School senior staff group (which included the City's Director of General Services) are overseeing the selection and bidding process, and will be making the final contractor and contract recommendation to the School Board.

The PPEA requires the local governing body to authorize a local school board to use the PPEA process by passing an authorizing resolution prior to the signing of any construction contract development pursuant the PPEA process. The attached resolution provides the authorization for the School Board to use the PPEA process for the T.C. Williams (TCW) High School Replacement Project, and is subject to certain conditions being met (see paragraphs 2 and 3).

A key condition of this resolution, which is not a requirement of the PPEA but important for Council and the City, is the requirement that before the School Board can execute a construction contract for the replacement of TCW, Council must adopt a funding plan and approve a capital allocation for this project (which we believe can occur at Council's June 24, 2004 legislative meeting). This condition is recommended to ensure that before any TCW construction contract is executed, Council is fully aware of the replacement project's total cost and has committed to funding the project at that cost.

Currently, the Capital Improvement Program (CIP) approved by City Council reflects a \$80.5 million TCW replacement project cost, as requested by the School Board. However, since those costs may not be sufficient to fund the project (for reasons such as the substantially increased market price of steel), a revised multi-year funding plan may be necessary. At this time, it appears that the schedule for negotiating the contract will allow for Council to approve a funding plan and a project capital allocation at Council's June ~~24~~ **22 or subsequent** meeting. **At a meeting yesterday, Schools staff indicated that having a contract amount fixed by June 22 may not be feasible. The attached resolution has been amended accordingly.**

A multi-year funding plan for the TCW project will be proposed to Council after all necessary value engineering adjustments, and possible project elements deducts are made, so as to reduce

the project cost to that which is necessary to deliver the project. Optional sources of additional funds for the multi-year funding program, in the event that additional funds will be needed above the funds already planned for TCW in the CIP, include use of the FY 2005 education contingent reserve in the Approved 2005 City Operating Budget, use of any additional State aid above and beyond that assumed in the Approved FY 2005 school operating budget, rescheduling some School projects in the CIP to later years, and the reallocation of funds from the School operating budget. It is too early to tell if and how many of these options may need to be exercised.

**ATTACHMENT:** Proposed Resolution Authorizing the use of the PPEA

**STAFF:**

Mark Jinks, Assistant City Manager

Bruce Johnson, Director, Office of Management and Budget

Alfred Coleman, Capital Program Coordinator, OMB

**RESOLUTION APPROVING ENTRY BY THE SCHOOL BOARD OF THE CITY OF ALEXANDRIA, VIRGINIA, INTO A COMPREHENSIVE AGREEMENT FOR THE T.C. WILLIAMS HIGH SCHOOL REPLACEMENT PROJECT PURSUANT TO SCHOOL BOARD SOLICITATION NO. 03-04-105 AND THE PUBLIC-PRIVATE EDUCATION FACILITIES AND INFRASTRUCTURE ACT OF 2002**

WHEREAS, The City of Alexandria, Virginia, (the “City”) has an urgent need to replace its existing T.C. Williams High School with a new high school due to the age of the existing facility and projected increases in numbers of students, and the School Board of The City of Alexandria, Virginia, (the “School Board”) has planned for such a project in its Capital Improvement Program;

WHEREAS, the General Assembly enacted the Public-Private Education Facilities and Infrastructure Act of 2002 (“PPEA”), which provides an alternative to traditional methods for procurement of new schools;

WHEREAS, the School Board adopted its implementing procedures for the PPEA in January 2004;

WHEREAS, the School Board determined that it would be advantageous to the public to proceed with the project under the PPEA and the School Board’s implementing procedures;

WHEREAS, the School Board first coordinated with the City staff regarding this project and regarding the conduct of this PPEA procurement, then determined that proceeding under “competitive negotiation” procedures under the PPEA for the project was likely to be more advantageous to the School Board and the public based upon (1) the probable scope, complexity, or urgency of the project, or (2) risk sharing, added value, economic benefit from the project that would not otherwise be available, and authorized issuance of a Request for Proposals for the procurement for the project;

WHEREAS, Solicitation No. 03-04-105, the Request for Proposals for the project, was issued on February 18, 2004;

WHEREAS, the School Board has received proposals from various offerors in response to Solicitation No. 03-04-105, with copies also being provided to the City;

WHEREAS, the School Board has, through its staff, developed a plan to conduct the procurement and negotiate a comprehensive agreement with the proposer whose proposal represents the best value to the School Board and the City under the circumstances;

WHEREAS, the PPEA and the School Board’s PPEA implementing procedures only allow the School Board to enter into a comprehensive agreement under the PPEA after obtaining the approval of the City Council;

NOW THEREFORE, BE IT RESOLVED AS FOLLOWS:

- (1) The City Council hereby approves entry by the School Board into a comprehensive agreement for the qualifying project that is the subject of the procurement done under School Board Solicitation No. 03-04-105 which is for the replacement of T.C. Williams High School;
- (2) The School Board and its staff shall determine the details of the comprehensive agreement into which the School Board chooses to enter;
- (3) The School Board is authorized to enter the comprehensive agreement subject to (a) such agreement being within the scope of the procurement initiated by School Board Solicitation No. 03-04-15 and its terms and conditions; (b) such agreement being, in their judgement, in the public interest; (c) compliance with Sec. 56-575.4.C. of the Code of Virginia; and (d) approval by City Council of a funding plan and a capital allocation for the T.C. Williams High School project at Council's June ~~24~~ **22**, 2004, **or subsequent** meeting.

WITNESS the following signatures, effective as of the date set forth underneath each signature.

\_\_\_\_\_  
Chair, Alexandria City Council

\_\_\_\_\_  
Clerk of the Council

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

City of Alexandria, Virginia

MEMORANDUM

DATE: MAY 19, 2004

TO: THE HONORABLE MAYOR AND MEMBERS OF CITY COUNCIL

FROM: PHILIP SUNDERLAND, CITY MANAGER *PS*

SUBJECT: RESOLUTION APPROVING ENTRY BY THE SCHOOL BOARD INTO A COMPREHENSIVE AGREEMENT FOR THE T. C. WILLIAMS HIGH SCHOOL REPLACEMENT PROJECT

---

**ISSUE:** City Council authorization for the School Board to enter into agreement for the construction of a new T. C. Williams High School as required under the Public-Private Education Facilities and Infrastructure Act of 2002.

**RECOMMENDATION:** That City Council adapt the attached resolution which authorizes the School Board to enter into a comprehensive agreement for the T. C. Williams High School Replacement Project, pursuant to School Board solicitation No. 03-04-105 and the Public-Private Education Facilities and Infrastructure Act of 2002

**BACKGROUND:** In 2002, the Virginia General Assembly enacted innovative legislation which allowed public entities in Virginia, including local school boards, to undertake alternative methods to solicit and award construction contracts for facilities. This Public-Private Education Facilities and Infrastructure Act (PPEA) significantly widened the authority of public entities in Virginia, in comparison to the Virginia Public Procurement Act, which tightly restricts public entities to a traditional competitive “low and responsive and responsible bidder” construction contract awards process.

The PPEA allows a public entity to remold the traditional bidding process in a number of ways. First, the PPEA creates more flexibility both in the contractor pre-qualification stage (i.e., allows receipt of expressions of interest and then short-listing to limit bidding to the best qualified contractors) and in the procurement process (i.e., allows interaction between contractors and the public entity in establishing the final bid specifications for the project, as well as allows for competitive negotiation after bids have been received between the public entity and one or more bidders).

All of these innovations (which are not allowed under the Virginia Public Procurement Act) are aimed at procuring a better and more cost efficient project by allowing changes and adjustments before, during and after bids have been received, as well as creating more of a partnership

relationship between the selected contractor and the public entity. The process also is aimed at reducing the number and scope of project change orders by allowing contractors to suggest improvements to bid specifications before those specifications and construction contracts are finalized. These innovations do not guarantee that the typical problems, which often arise during public construction projects, will not occur, but they may reduce the probability of these problems occurring, or reduce the frequency, severity or fiscal impact of these types of problems.

The School Board embarked on this new procurement process in early 2004, with the issuance in February of requests for proposals, in order to receive expressions of interest from construction firms. From those submissions and subsequent interviews, a list of qualified contractors was determined. Non-selected contractors could have appealed that decision, but no appeal was filed. The short-listed contractors then worked with the School staff in finalizing the bid specifications,

On May 19, bids are scheduled to be received. After May 19, bids will be evaluated and contract negotiations will begin. A School senior staff group (which included the City's Director of General Services) are overseeing the selection and bidding process, and will be making the final contractor and contract recommendation to the School Board.

The PPEA requires the local governing body to authorize a local school board to use the PPEA process by passing an authorizing resolution prior to the signing of any construction contract development pursuant the PPEA process. The attached resolution provides the authorization for the School Board to use the PPEA process for the T.C. Williams (TCW) High School Replacement Project, and is subject to certain conditions being met (see paragraphs 2 and 3).

A key condition of this resolution, which is not a requirement of the PPEA but important for Council and the City, is the requirement that before the School Board can execute a construction contract for the replacement of TCW, Council must adopt a funding plan and approve a capital allocation for this project (which we believe can occur at Council's June 24, 2004 legislative meeting). This condition is recommended to ensure that before any TCW construction contract is executed, Council is fully aware of the replacement project's total cost and has committed to funding the project at that cost.

Currently, the Capital Improvement Program (CIP) approved by City Council reflects a \$80.5 million TCW replacement project cost, as requested by the School Board. However, since those costs may not be sufficient to fund the project (for reasons such as the substantially increased market price of steel), a revised multi-year funding plan may be necessary. At this time, it appears that the schedule for negotiating the contract will allow for Council to approve a funding plan and a project capital allocation at Council's June 24 meeting.

A multi-year funding plan for the TCW project will be proposed to Council after all necessary value engineering adjustments, and possible project elements deducts are made, so as to reduce the project cost to that which is necessary to deliver the project. Optional sources of additional funds for the multi-year funding program, in the event that additional funds will be needed above

the funds already planned for TCW in the CIP, include use of the FY 2005 education contingent reserve in the Approved 2005 City Operating Budget, use of any additional State aid above and beyond that assumed in the Approved FY 2005 school operating budget, rescheduling some School projects in the CIP to later years, and the reallocation of funds from the School operating budget. It is too early to tell if and how many of these options may need to be exercised.

**ATTACHMENT:** Proposed Resolution Authorizing the use of the PPEA

**STAFF:**

Mark Jinks, Assistant City Manager

Bruce Johnson, Director, Office of Management and Budget

Alfred Coleman, Capital Program Coordinator, OMB

**RESOLUTION APPROVING ENTRY BY THE SCHOOL BOARD OF THE CITY OF ALEXANDRIA, VIRGINIA, INTO A COMPREHENSIVE AGREEMENT FOR THE T.C. WILLIAMS HIGH SCHOOL REPLACEMENT PROJECT PURSUANT TO SCHOOL BOARD SOLICITATION NO. 03-04-105 AND THE PUBLIC-PRIVATE EDUCATION FACILITIES AND INFRASTRUCTURE ACT OF 2002**

WHEREAS, The City of Alexandria, Virginia, (the “City”) has an urgent need to replace its existing T.C. Williams High School with a new high school due to the age of the existing facility and projected increases in numbers of students, and the School Board of The City of Alexandria, Virginia, (the “School Board”) has planned for such a project in its Capital Improvement Program;

WHEREAS, the General Assembly enacted the Public-Private Education Facilities and Infrastructure Act of 2002 (“PPEA”), which provides an alternative to traditional methods for procurement of new schools;

WHEREAS, the School Board adopted its implementing procedures for the PPEA in January 2004;

WHEREAS, the School Board determined that it would be advantageous to the public to proceed with the project under the PPEA and the School Board’s implementing procedures;

WHEREAS, the School Board first coordinated with the City staff regarding this project and regarding the conduct of this PPEA procurement, then determined that proceeding under “competitive negotiation” procedures under the PPEA for the project was likely to be more advantageous to the School Board and the public based upon (1) the probable scope, complexity, or urgency of the project, or (2) risk sharing, added value, economic benefit from the project that would not otherwise be available, and authorized issuance of a Request for Proposals for the procurement for the project;

WHEREAS, Solicitation No. 03-04-105, the Request for Proposals for the project, was issued on February 18, 2004;

WHEREAS, the School Board has received proposals from various offerors in response to Solicitation No. 03-04-105, with copies also being provided to the City;

WHEREAS, the School Board has, through its staff, developed a plan to conduct the procurement and negotiate a comprehensive agreement with the proposer whose proposal represents the best value to the School Board and the City under the circumstances;

WHEREAS, the PPEA and the School Board’s PPEA implementing procedures only allow the School Board to enter into a comprehensive agreement under the PPEA after obtaining the approval of the City Council;

NOW THEREFORE, BE IT RESOLVED AS FOLLOWS:

- (1) The City Council hereby approves entry by the School Board into a comprehensive agreement for the qualifying project that is the subject of the procurement done under School Board Solicitation No. 03-04-105 which is for the replacement of T.C. Williams High School;
- (2) The School Board and its staff shall determine the details of the comprehensive agreement into which the School Board chooses to enter;
- (3) The School Board is authorized to enter the comprehensive agreement subject to (a) such agreement being within the scope of the procurement initiated by School Board Solicitation No. 03-04-15 and its terms and conditions; (b) such agreement being, in their judgement, in the public interest; (c) compliance with Sec. 56-575.4.C. of the Code of Virginia; and (d) approval by City Council of a funding plan and a capital allocation for the T.C. Williams High School project at Council's June 24, 2004 meeting.

WITNESS the following signatures, effective as of the date set forth underneath each signature.

\_\_\_\_\_  
Chair, Alexandria City Council

\_\_\_\_\_  
Clerk of the Council

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

**RESOLUTION NO. 2107**

**WHEREAS**, The City of Alexandria, Virginia, (the "City") has an urgent need to replace its existing T.C. Williams High School with a new high school due to the age of the existing facility and projected increases in numbers of students, and the School Board of The City of Alexandria, Virginia, (the "School Board") has planned for such a project in its Capital Improvement Program;

**WHEREAS**, the General Assembly enacted the Public-Private Education Facilities and Infrastructure Act of 2002 ("PPEA"), which provides an alternative to traditional methods for procurement of new schools;

**WHEREAS**, the School Board adopted its implementing procedures for the PPEA in January 2004;

**WHEREAS**, the School Board determined that it would be advantageous to the public to proceed with the project under the PPEA and the School Board's implementing procedures;

**WHEREAS**, the School Board first coordinated with the City staff regarding this project and regarding the conduct of this PPEA procurement, then determined that proceeding under "competitive negotiation" procedures under the PPEA for the project was likely to be more advantageous to the School Board and the public based upon (1) the probable scope, complexity, or urgency of the project, or (2) risk sharing, added value, economic benefit from the project that would not otherwise be available, and authorized issuance of a Request for Proposals for the procurement for the project;

**WHEREAS**, Solicitation No. 03-04-105, the Request for Proposals for the project, was issued on February 18, 2004;

**WHEREAS**, the School Board has received proposals from various offerors in response to Solicitation No. 03-04-105, with copies also being provided to the City;

**WHEREAS**, the School Board has, through its staff, developed a plan to conduct the procurement and negotiate a comprehensive agreement with the proposer whose proposal represents the best value to the School Board and the City under the circumstances;

**WHEREAS**, the PPEA and the School Board's PPEA implementing procedures only allow the School Board to enter into a comprehensive agreement under the PPEA after obtaining the approval of the City Council;

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Alexandria:

- (1) The City Council hereby approves entry by the School Board into a comprehensive agreement for the qualifying project that is the subject of the procurement done under School Board Solicitation No. 03-04-105 which is for the replacement of T.C. Williams High School;
- (2) The School Board and its staff shall determine the details of the comprehensive agreement into which the School Board chooses to enter;
- (3) The School Board is authorized to enter the comprehensive agreement subject to (a) such agreement being within the scope of the procurement initiated by School Board Solicitation No. 03-04-15 and its terms and conditions;

(b) such agreement being, in their judgement, in the public interest; (c) compliance with Sec. 56-575.4.C. of the Code of Virginia; and (d) approval by City Council of a funding plan and a capital allocation for the T.C. Williams High School project at Council's June 22, 2004, or subsequent meeting.

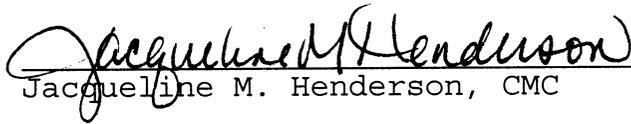
ADOPTED: May 25, 2004



WILLIAM D. EULLE

MAYOR

ATTEST:



Jacqueline M. Henderson, CMC City Clerk