

**RESOLUTION OF THE CITY COUNCIL OF HARRISONBURG, VIRGINIA  
REGARDING COMPREHENSIVE AGREEMENT  
FOR NEW SECOND HIGH SCHOOL**

WHEREAS, the School Board of the City of Harrisonburg, Virginia (the “School Board”) has determined that there is a need for a second high school in the City of Harrisonburg, Virginia based on projected future enrollment; and

WHEREAS, Nielsen Builders, Inc. (“Nielsen”) submitted to the School Board an unsolicited PPEA Proposal to design and build a new high school on land owned by the City of Harrisonburg, Virginia (the “Nielsen PPEA Proposal”); and

WHEREAS, the Nielsen PPEA Proposal was submitted pursuant to and in accordance with the Virginia Public-Private Education Facilities and Infrastructure Act of 2002, Virginia Code § 56-575.1, *et seq.*, such Act commonly referred to as the “PPEA;” and

WHEREAS, pursuant to Virginia Code § 56-575.3, the School Board, which is a “responsible public entity” under the PPEA, accepted for consideration the Nielsen PPEA Proposal, Nielsen being a “private entity” under the PPEA; and

WHEREAS, pursuant to Virginia Code § 56-575.16 and the School Board’s Guidelines for Implementation of the Public-Private Education Facilities and Infrastructure Act of 2002 (the “PPEA Guidelines”), the School Board issued a Request for Proposals to solicit proposals from other design-builders for the new high school project for the purpose of entering into competitive negotiations with a design-builder for a comprehensive agreement to construct a new high school; and

WHEREAS, in addition to the unsolicited Nielsen PPEA Proposal, two other solicited proposals were received in response to the Request for Proposals; and

WHEREAS, after evaluating the proposals that were received and giving due consideration to the evaluation criteria in the Guidelines, the School Board elected to proceed with competitive negotiations with Nielsen; and

WHEREAS, pursuant to and in accordance with Virginia Code § 56-575.9.1, the Guidelines, and a Resolution passed by the School Board on May 7, 2019, the School Board entered into an interim agreement with Nielsen prior to negotiating a comprehensive agreement; and

WHEREAS, pursuant to and in accordance with Virginia Code § 56-575.9, the School Board and Nielsen negotiated a Comprehensive Agreement, a copy of which, marked **Exhibit 1**, is attached hereto and incorporated herein by reference; and

WHEREAS, the School Board desires to enter into the attached Comprehensive Agreement; and

WHEREAS, Nielsen has expressed its desire to enter into the attached Comprehensive Agreement; and

WHEREAS, pursuant to Virginia Code § 56-575.16, “[a] responsible public entity that is a school board or a county, city or town may enter into an interim or comprehensive agreement under this chapter only with the approval of the local governing body;” and

WHEREAS, the School Board has submitted the attached Comprehensive Agreement to the City Council of the City of Harrisonburg, Virginia (“City Council”) for its consideration and approval, as it is currently written or with such revisions as City Council may deem advisable; and

WHEREAS, upon approval by City Council of the Comprehensive Agreement, and should the School Board thereafter enter into the Comprehensive Agreement, the School Board will be contracting to expend funds in excess of the funds available for school purposes for the current fiscal year, and, accordingly, the consent of City Council is required pursuant to Virginia Code § 22.1-91;

WHEREAS, the School Board has requested that City Council grant the consent required under Virginia Code § 22.1-91 should it approve the Comprehensive Agreement, as written or as it may be revised by City Council;

WHEREAS, the total Contract Price of the Comprehensive Agreement is \$ \_\_\_\_\_ (“Contract Price”) with an optional Road Improvements Addendum of \$4,932,293.00;

WHEREAS, to pay the Contract Price in full, the School Board will make several payments to Nielsen during the fiscal year ending June 30, 2020 (“FY 2020”), consistent with the terms of the Comprehensive Agreement; and

WHEREAS, City Council acknowledges that supplemental appropriations to the School Board for FY 2020 will be needed in order to fulfill the School Board’s obligations under the Comprehensive Agreement.

NOW, THEREFORE, be it resolved by the Harrisonburg City Council, that:

1. Incorporation of Recitals. The recitals set forth above are incorporated into this Resolution as an integral part thereof, as if fully set forth herein.
2. Approval of the Comprehensive Agreement by City Council. After due consideration, City Council approves the School Board entering into the attached Comprehensive Agreement and Road Improvements Addendum and hereby authorizes the Mayor or City Manager to execute the Comprehensive Agreement and Road Improvements Addendum signifying that it is approved by City Council.
3. Consent of City Council to Expend Funds. The City Council also provide its consent, pursuant to Virginia Code § 22.1-91, for the School Board to contract to expend funds in excess of the funds available for school purposes for the current fiscal year in order to fulfill the School Board’s obligations under the Comprehensive Agreement and Road Improvements Addendum.

4. Supplemental Appropriation. In the event that the School Board enter into the Comprehensive Agreement, City Council agrees to grant such supplemental appropriations to the School Board's FY2020 Capital Fund as necessary for the School Board to pay the portion of the Contract Price anticipated to be due in FY2020, as set forth in the Comprehensive Agreement. The City Council shall also appropriate the balance of the funds that will be needed to pay the balance of the Contract Price as it is anticipated to come due, as set forth in the Comprehensive Agreement and Road Improvements Addendum.

5. Effective Date. This Resolution shall take effective immediately upon approval.

APPROVED BY THE HARRISONBURG CITY COUNCIL on December 10, 2019.

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MAYOR

ATTEST:

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CITY CLERK