

**RESOLUTION
OF THE STAUNTON SCHOOL BOARD
REQUESTING CITY COUNCIL'S CONSENT FOR THE SCHOOL BOARD TO
ENTER INTO A CONSTRUCTION CONTRACT
WITH NIELSEN BUILDERS, INC. AND ENTER INTO AND PERFORM SUCH OTHER
CONTRACTS RELATED TO THE HIGH SCHOOL CONSTRUCTION PROJECT**

Recitals

A. The Staunton School Board is a public body corporate charged under Article VIII, Section 7 of the Virginia Constitution and various provisions of the Virginia Code with the governance of the City of Staunton Public Schools Division (Division).

B. As an ongoing Division project, which has involved considerable public input and discussion and consideration by both the School Board and by the Staunton City Council over several years, the School Board hired an architectural firm to develop the concept, design, and eventual construction drawings and specifications for substantial new and renovation construction of the Division's high school (the Project).

C. The Staunton City Council, upon request of the School Board, took initial action on February 14, 2019 to authorize borrowing through the Virginia Public School Authority (VPSA) for the funding of the Project.

D. The School Board has pursued a procurement process for the Project's construction, issuing an invitation for bids, and on March 28, 2019, Nielsen Builders, Inc., was the apparent low bidder although its bid exceeded the expected available funds for the Project's construction as well as for other Project costs.

E. Extensive negotiations have ensued with Nielsen Builders, Inc. to conform the Project more closely to the Project's budget.

F. The School Board held a special called meeting on April 4, 2019, to review and discuss the status of negotiations with Nielsen Builders, Inc.

G. City Council, on April 4, 2019, took final action to authorize VPSA borrowing not to exceed \$46,000,000.00, after it was briefed on the status of the School Board's procurement process, the bidding, and negotiations related to the Project's construction and other Project costs.

H. Nielsen has offered, after Project construction-related modifications and after extensive negotiations, a total contract price of \$43,137,135.00, although both the School Board and Nielsen recognize that at some point(s) the total contract price is subject to modification if there are authorized change orders or directives under the terms of the contract so long as there are sufficient appropriated funds for the purpose of the contract.

I. The School Board, now after further review and discussion, has concluded that it is in the best interests of the Division to accept Nielsen Builders' negotiated offer of a total contract price conditioned on City Council's consent for the School Board to enter into the contract with Nielsen Builders, Inc. and such other Project contracts within contemplation of the Project. The School Board recognizes that Virginia law, specifically Va. Code § 22.1-91, prohibits the School Board from expending or contracting to expend, in any fiscal year, any sum of money in excess of the funds available for school purposes for that fiscal year absent an appropriation unless the governing body has given it consent, and there has not yet been an appropriation by City Council as to the contract with Nielsen Builders Inc. and some other Project contracts.

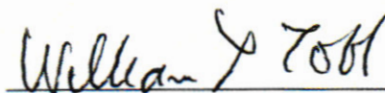
NOW, THEREFORE, BE IT RESOLVED by the School Board of the City of Staunton, Virginia, that it:

1. Conditionally awards the Project construction contract to Nielsen Builders, Inc. subject to and contingent upon the consent of the Staunton City Council and authorized execution of the contract on behalf of the School Board; and

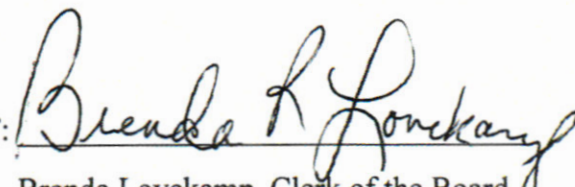
2. Respectfully requests the Staunton City Council give its express consent by formal action, even in the absence of and until there is appropriation of sufficient funds, to the School Board for it to authorize and enter into a contract with Nielsen Builders, Inc. and enter into and perform such other Project contracts in a total Project amount not to exceed appropriated funds for such purposes.

3. Upon City Council's consent, as requested, the School Board Chair is authorized and directed to execute a contract with Nielsen Builders, Inc., subject to approval of the form of contract by the School Board's legal counsel.

Adopted this 19th day of April, 2019.



William Lobb, Chair of the Board

ATTEST: 
Brenda Lovekamp, Clerk of the Board