

CITY OF CHARLOTTESVILLE, VIRGINIA
CITY COUNCIL AGENDA



Agenda Date: October 17, 2022

Action Required: Adoption of Resolution to Approve PPEA Guidelines

Presenter: Lisa Robertson, City Attorney

Staff Contacts:

Title: Approving Public-Private Education Facilities and Infrastructure Act of 2002 (PPEA) Guidelines (1 reading)

Background

In 2002 the Virginia General Assembly enacted "The Public-Private Education Facilities and Infrastructure Act of 2002" ("PPEA"). Over the past twenty years, Virginia local governments have utilized the PPEA's procedures to deliver public facilities in a more timely or less costly fashion than could be achieved through use of traditional public procurement procedures. The City of Harrisonburg has constructed school buildings and at least one public park, using the PPEA process. The City of Fredericksburg is currently using the PPEA process for the design and construction of improvements to upgrade and expand a wastewater treatment plant. The Town of Christiansburg used PPEA procedures for a stream restoration and culvert replacement project. Spotsylvania used PPEA procedures for construction of a new circuit court building. Public buildings (such as city halls), pedestrian trails, broadband infrastructure, public safety complexes--many different types of public buildings and facilities can be accomplished more quickly, and more cost-effectively, through PPEA procedures.

Generally--and regardless of whether any monetary consideration is involved--agreements between a public body and a non-governmental source, for construction of buildings or improvements to land, including recreation facilities, can be entered into only after compliance with public procurement requirements ("RFP" or "IFB", or "design build procedures"). However, the PPEA process--if conducted in accordance with the legislatively prescribed procedures--is exempted from traditional requirements of the Public Procurement Act, and the PPEA allows the City the flexibility to either **(i)** identify a project it would like to undertake, and invite proposals from individuals as to how the project might be designed or constructed in partnership with a private entity to achieve cost or times savings, or **(ii)** to consider *unsolicited* proposals from private entities (including nonprofit entities) that may provide a path toward accomplishing projects that might not otherwise come forward from within a public entity.

Discussion

The attached PPEA guidelines have been developed by staff, to implement the procedures required by the state's PPEA. The PPEA is prescriptive as to several elements: (1) the requirement for a thorough "vetting" of a proposal, either by in-house staff, or by contracted consultants; (2) items to be

included within PPEA guidelines implemented by a local government; (3) materials that must accompany a private entity's request; (4) how to determine whether a project serves the public purposes of the PPEA; (5) procedures for public comment regarding proposals received; and (6) the form of the written contracts that will implement a qualifying project ("interim agreement" and "comprehensive agreement").

Alignment with City Council's Vision and Strategic Plan

The proposed PPEA Guidelines are consistent with City Council's vision to be flexible and progressive in anticipating and responding to the needs of our citizens.

Community Engagement

N/A

Budgetary Impact

None

Recommendation

It is recommended that City Council approve the proposed PPEA Guidelines.

Suggested motion: "I move the RESOLUTION approving guidelines for the consideration and approval of public private partnerships, proposed to Council October 3, 2022"

Alternatives

City Council may decline to approve the guidelines. However, if City Council does not have procedures compliant with the state's PPEA authorization, "partnerships" with non-government entities should be undertaken after procurement procedures compliant with the Virginia Procurement Act.

Attachments

1. Resolution Approve Guidelines
2. PPEA Oct 3 2022