

BUSINESS AND NONINSTRUCTIONAL OPERATIONS

Public-Private Education Facilities and Infrastructure R 4-22A. Generally

The Public-Private Education Facilities and Infrastructure Act of 2002 (hereafter referred to as the PPEA) grants responsible public entities, such as school boards, the authority to create public-private partnerships for the development of a wide range of projects, including education facilities, for public use if the Lynchburg City School Board (hereafter referred to as school board) determines there is a need for the project and private involvement may provide the project to the public in a timely or cost-effective fashion.

The PPEA allows private entities to include innovative financing methods, including the imposition of user fees or service payments, in a proposal. Such financing arrangements may include the issuance of debt instruments, equity or other securities or obligations, including, if applicable, the portion of the tax-exempt private activity bond limitation amount to be allocated annually to the Commonwealth of Virginia pursuant to the Economic Growth and Tax Relief Reconciliation Act of 2002 for the development of education facilities using public-private partnerships, and to provide for carryovers of any unused limitation amount.

Section 56-575.16 of the Act mandates that the school board is not permitted to enter into a public private partnership (a comprehensive agreement) without the approval of the city council of the City of Lynchburg.

The school board must first adopt implementing procedures and must follow those procedures and the PPEA to pursue a project under the PPEA. Individually-negotiated comprehensive agreements between a firm and the public entity ultimately define the respective rights and obligations of the school board and the firm relating to the project. Because of the importance of the PPEA and its definitions to the implementing procedures, those using these implementing procedures should also refer closely to the PPEA and its definitions.

The school board has adopted these implementing procedures pursuant to the PPEA to enable it to implement and comply with the Act. These procedures contain what is allowed and required by Va. Code §56-575.16. These procedures apply to all procurements under the PPEA where the school board is the “responsible entity” within the meaning of Va. Code §56-575.1, and the Superintendent and all public school officers and employees shall follow these procedures in any procurement under the PPEA. These procedures may only be amended by the school board.

1. Proposal Submission

For PPEA projects where the school board is the “responsible public entity” under the Act, a proposal may be either solicited by the school board or delivered by a private entity on an unsolicited basis. Proposers will follow a

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two-part proposal submission process consisting of an initial conceptual phase and, if invited to do so by the school board, a detailed phase. The initial phase of the proposal should contain specific information required by the PPEA and these procedures on proposer qualifications and experience, project characteristics, project financing, anticipated public support or opposition, or both, and project benefit and compatibility. The detailed proposal should contain specified deliverables as required by the PPEA, these procedures and the request for detailed proposals.

Proposals should be prepared simply and economically, providing a concise description of the proposer's capabilities to complete the proposed qualifying project and the benefits to be derived from the project by the school board. Project benefits to be considered are those occurring during the construction, renovation, expansion or improvement phase and during the life cycle of the project. Proposals also should include a comprehensive scope of work and a financial plan for the project, containing enough detail to allow an analysis by the school board of the financial feasibility of the proposed project. The school board may require the private entity to clarify or supplement any proposal through, and not limited to, additional documentation, responses to specific questions, and/or interview of proposal participants.

2. Affected Local Jurisdictions

Any private entity requesting approval from or submitting a conceptual or detailed proposal to the school board must provide the City of Lynchburg with a copy of the private entity's request or proposal by certified mail, express delivery or hand delivery. The City of Lynchburg shall have 60 days from the receipt of the request or proposal to submit written comments to the school board and to indicate whether the proposed qualifying project is compatible with the city's comprehensive plan, local infrastructure development plans, or capital improvements budget or other government spending plan. The school board will consider comments received within the 60-day period prior to entering into a comprehensive agreement pursuant to the Act regarding the proposal. However, the school board may begin or continue its evaluation of any such proposal during the 60-day period.

3. Proposal Review Fee

The school board may require the proposer to pay fees to offset the cost of processing and reviewing unsolicited proposals and solicited or unsolicited competing proposals. Proposals solicited by the school board that are not in response to an unsolicited proposal will not be subject to proposal review fees unless so indicated in the solicitation. The school board may determine whether to require proposers to pay review fees for solicited proposals, and if

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so, the amount of such fees. Fees shall be submitted with the proposals for each corresponding phase in the form of a cashier's check made payable to the school board.

Unless otherwise indicated in the solicitation, fees shall be paid in accordance with the following table, with percentages being of the total cost of the proposed project:

Review Stage	Fee	Minimum	Maximum
Conceptual	2.5%	\$2,000.00	\$25,000.00
Detail	2.5%	\$5,000.00	\$50,000.00

Conceptual Stage: the time from which a proposal is first received until when conceptual proposals have been evaluated and either the school board has decided not to proceed further under the PPEA or the school board has requested a proposer or proposers to submit detailed proposals.

Detail Stage: the time from when the school board requests submission of detailed proposals until the school board either decides not to proceed further under the PPEA or has executed a comprehensive agreement with a proposer or proposers for the project.

The school board may impose additional fees to be paid by the applicant throughout the processing, review, and evaluation of an unsolicited proposal and as the school board reasonably anticipates incurring costs in excess of the initial fee. The school board shall notify the applicant of the amount of such additional fees. The private entity shall promptly pay these fees before the school board continues to process, review, and evaluate the proposal.

For rejected proposals, the school board shall refund any portion of fees paid in excess of the costs associated with evaluating the proposal. If the cost of reviewing the proposal is less than the initially established proposal fee, the school board shall refund to the proposer the excess fee. As noted in section C. 1. a. below, the school board shall refund entirely all fees if the the school board decides not to proceed to publication and conceptual-phase review of an unsolicited proposal.

4. Freedom of Information Act

Proposals submitted to the school board are subject to the Virginia Freedom of Information Act ("FOIA"). In accordance with § 2.2-3705 A 56 of FOIA, such documents are releasable if requested, except to the extent that they relate to (i) confidential proprietary information submitted to the school board under a promise of confidentiality or (ii) memoranda, working papers or other records

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related to proposals if making public such records would adversely affect the financial interest of the public or proposer or the bargaining position of either party. When requesting that the school board not disclose information, the proposer must (i) invoke an exclusion from disclosure when the data or materials are submitted to the school board or before such submission, (ii) identify the data and materials for which protection from disclosure is sought, and (iii) state why the exclusion from disclosure is necessary. To obtain exclusion from disclosure, the proposer shall mark each page containing information from which exclusion from disclosure is sought with the legend "Confidential Proprietary Information -- Exempt from FOIA Release." The school board will only protect confidential proprietary information from disclosure if it is properly designated as such in accordance with these procedures, and it will not protect any portion of a proposal from disclosure if the entire proposal has been designated confidential by the proposer without reasonably differentiating between the confidential proprietary information and non-proprietary information contained herein. Nothing in these procedures shall be interpreted as prohibiting release of procurement records as required by Va. Code § 56-575.16. However, procurement records shall not be interpreted to include proprietary, confidential or commercial or financial information, balance sheets, financial statements, or trade secrets that may be provided by the private entity as evidence of its qualifications.}

Upon receipt of a request that designated portions of a proposal be protected from disclosure as confidential and proprietary, the school board shall determine whether such protection is appropriate under applicable law and, if appropriate, the scope of such appropriate protection, and shall communicate its determination to the proposer. If the determination regarding protection or the scope thereof differs from the proposer's request, then the school board should accord the proposer a reasonable opportunity to clarify and justify its request. Upon a final determination by the school board to accord less protection than requested by the proposer, the proposer should be accorded an opportunity to withdraw its proposal. The school board shall treat a withdrawn proposal in the same manner as a proposal not accepted for publication and conceptual-phase consideration as provided in section C. 1. a. below.

5. Use of Public Funds

Virginia constitutional and statutory requirements as they apply to appropriation and expenditure of public funds apply to any comprehensive agreement entered into under the PPEA. Accordingly, the processes and procedural requirements associated with the expenditure or obligation of public funds shall be incorporated into planning for any PPEA project or projects. Virginia constitutional and statutory restrictions that apply to the school board regarding expenditures of public funds shall be deemed to be incorporated into any

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comprehensive agreement into which the school board enters pursuant to the PPEA and to condition the school board's obligations thereunder.

6. Applicability of Other Laws

Nothing in the PPEA shall affect the school board's duty to comply with all other applicable law not in conflict with the PPEA. The applicability of the Virginia Public Procurement Act (the "VPPA") is as set forth in the PPEA.

{Although the Virginia Public Procurement Act does not apply to PPEA procurements, the school board may only enter into a comprehensive agreement under the PPEA pursuant to procedures adopted by it that are "consistent with" procurements through "competitive sealed bidding" as defined in Va. Code §§2.2-4301 and 2.2-4310B or that are "consistent with" procurements of other than professional services through competitive negotiation as defined in Va. Code §2.2-4301 and Va. Code §2.2-4310B. Further, in order to use the procedures consistent with competitive negotiation, the school board first must make the determinations indicated in Va. Code §56-576.16.2. Accordingly,

- a. The school board adopts as its procedures "consistent with" competitive sealed bidding the definition of "competitive sealed bidding" at Va. Code §2.2-4301, and it adopts no other portion of the Virginia Public Procurement Act except as indicated in subparagraphs B and C of this Section.
- b. The school board adopts as its procedures "consistent with" procurement of other than professional services through competitive negotiation the definition of competitive negotiation and competitive negotiation for other than professional services at Va. Code §2.2-4301, and it adopts no other portion of the Virginia Public Procurement Act except as indicated in subparagraphs A and C of this Section.
- c. The provisions of Va. Code §2.2-4310B shall apply to all procurements by the school board pursuant to the PPEA, whether under paragraphs A or B above.
- d. The school board may only use the "competitive negotiation" procedures adopted in paragraph B above if it determines that proceeding in accordance with these procedures is likely to be 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, an increase in funding or economic benefit from the project that would not otherwise be available, and only if the school board states this determination in writing. Despite this requirement of

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a written determination, the school board expects that, given the anticipated nature of PPEA projects, proceeding in accordance with the procedures for competitive negotiation is likely to be advantageous to the school board and the public under the PPEA's criteria in many instances.

B. Solicited Proposals

Before soliciting any PPEA proposal, the school board will first determine whether to use procedures consistent with competitive sealed bidding pursuant to Va. Code § 56-575.16.1 or procedures consistent with competitive negotiation of other than professional services pursuant to Va. Code § 56-575.16.2. If procedures consistent with competitive negotiation are to be used, the school board shall first determine, in writing, that so proceeding is more advantageous to the school board and the public based upon the criteria in Section C6 of these procedures and in Va. Code § 56-575.16.2. Depending upon the school board's determination, proposals may then be solicited by the school board using the competitive sealed bid or competitive negotiation procedures adopted by Section C6 of these procedures, as applicable.

The school board may solicit proposals from private entities to acquire, construct, improve, renovate, expand, maintain or operate qualifying projects or to design or equip projects so constructed, improved renovated, expanded, maintained or operated. The school board may use a two-part proposal process consisting of an initial conceptual phase and a detailed phase.

The solicitation should specify, but not necessarily be limited to, information and documents that must accompany each proposal and the factors that will be used in evaluating the submitted proposals. The solicitation should be posted in such public areas as are normally used for posting of the school board's notices, including the school division web site. Notices should also be published in a newspaper or other publications of general circulation and advertised in *Virginia Business Opportunities*. The solicitation should also contain or incorporate by reference other applicable terms and conditions, including any unique capabilities or qualifications that will be required of the private entities submitting proposals. Pre-proposal conferences may be held as deemed appropriate by the school board.

C. Unsolicited Proposals

The PPEA permits the school board to receive, evaluate and select for negotiations unsolicited proposals from private entities to acquire, construct, improve, renovate, expand, maintain, or operate a qualifying project or to design or equip projects so constructed, improved, renovated, expanded, maintained or operated.

The school board may publicize its needs and may encourage interested parties to submit proposals subject to the terms and conditions of the PPEA and these

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procedures. When such proposals are received without issuance of a solicitation, the school board shall treat the proposal as an unsolicited proposal. Anyone submitting an unsolicited proposal to the school board shall deliver five (5) copies, as formatted below, to the Lynchburg City School Board, Post Office Box 1599, Lynchburg, Virginia, 24505-1599, and sealed in mailing envelopes or packages bearing the proposer's name, address, and title of proposal clearly written on the outside. The cover page must include the person authorized to act on behalf of the offeror along with telephone and facsimile numbers and email address if available. the school board, or a group designated by the school board, may review and evaluate any such proposal.

Offerors shall include with their unsolicited proposals the information to be presented in C1b, i.e., a description of the project, in a form that does not contain any information that the offeror considers to be confidential proprietary information, but with a sufficiently-detailed description of the proposed project so that the school board may take this information and post and publish public notice of it to obtain competing proposals as contemplated by Va. Code §56-575.16.4. The offeror's description of the project in a form containing no confidential proprietary information should provide enough detail so that, when it is posted, it reasonably would allow meaningful competition. The offeror's failure to provide such information in such form may be a cause for rejection of the unsolicited proposal.

1. Decision to Accept and Consider Unsolicited Proposal; Notice

- a. Upon receipt of any unsolicited proposal or group of proposals and payment of any required fee by the proposer or proposers, the school board shall determine whether to accept the unsolicited proposal for publication and conceptual phase consideration. If the school board determines, in its sole discretion, not to accept the proposal for the purpose of proceeding to publication and conceptual-phase consideration, it shall return the proposal, together with all fees and accompanying documentation, to the proposer.
- b. If the school board decides to accept an unsolicited proposal for conceptual phase consideration, it shall post a notice in a public area regularly used by the school division for posting of public notices for a period of not less than 45 days. The school board shall also publish the same notice for a period of not less than 45 days in one or more newspapers or periodicals of general circulation in the City of Lynchburg to notify any parties that may be interested in submitting competing unsolicited proposals. In addition, the notice should also be advertised in *Virginia Business Opportunities* and the school division's web site. The notice shall state that the school board (i) has received and accepted an unsolicited proposal under the PPEA, (ii) intends to evaluate the proposal, (iii) may negotiate a comprehensive agreement with the proposer based on the proposal, and (iv) will accept for

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simultaneous consideration any competing proposals that comply with the procedures adopted by the school board and the PPEA. The notice also shall summarize the proposed qualifying project or projects, and identify their proposed locations. Copies of unsolicited proposals shall be available upon request, subject to the provisions of FOIA and § 56-575.4 G of the PPEA. Copies of unsolicited proposals shall be available upon request, subject to the provisions of FOIA and § 56-575.4 G of the PPEA.

2. Initial Review by the Responsible Public Entity at the Conceptual Stage

- a. Only proposals complying with the requirements of the PPEA that contain sufficient information for a meaningful evaluation and that are provided in an appropriate format shall be considered by the school board for further review at the conceptual stage. Formatting suggestions for proposals at the conceptual stage are found at section D. 1.
- b. The school board may proceed using procurement procedures adopted in section C6 that are consistent with procurement by “competitive sealed bidding” as defined in Va. Code § 2.2-4301 or by “competitive negotiation” as defined in § 2.2-4301 of the Code of Virginia. The school board may proceed using competitive negotiation procedures only if making a written determination that doing so is likely to be advantageous to the school board and the public based upon the criteria set forth in section C6 of these procedures.
- c. After reviewing the original proposal and any competing proposals submitted during the notice period, the school board may determine:
 - i. not to proceed further with any proposal,
 - ii. to proceed to the detailed phase of review with the original proposal,
 - iii. to proceed to the detailed phase with a competing proposal, or
 - iv. to proceed to the detailed phase with multiple proposals.

In the event that more than one proposal will be considered in the detailed phase of review, the school board shall consider whether it should reimburse the unsuccessful proposer for costs incurred in the detailed phase of review, and such reasonable costs may be assessed to the successful proposer in the comprehensive agreement.

D. Proposal Preparation and Submission

1. Format for Submissions at Conceptual Stage

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The school board requires that proposals at the conceptual stage contain a scope of the project plus the following information}: (i) qualifications and experience, (ii) project characteristics, (iii) project financing, (iv) anticipated public support or opposition, or both, (v) project benefit and compatibility and (vi) any additional information as the school board may reasonably request to comply with the requirements of the PPEA. In formatting information to be included in proposals at this stage the proposer shall include: a table of contents cross-referenced to the applicable sections, with tab numbers to facilitate a timely review of the proposal.

Initial conceptual proposals shall include all information required by the solicitation, if applicable, and unless the solicitation provides otherwise, shall include the following:

a. Qualification and Experience

- i. Identify the legal structure of the firm or consortium of firms making the proposal. Identify the organizational structure for the project, the management approach and how each partner and major subcontractor in the structure fits into the overall team.
- ii. Describe the experience of the firm or consortium of firms making the proposal and the key principals involved in the proposed project including experience with projects of comparable size and complexity. Describe the length of time in business, business experience, public sector experience and other engagements of the firm or consortium of firms. Include the identity of any firms that will provide design, construction and completion guarantees and warranties and a description of such guarantees and warranties.
- iii. Provide the names, addresses, and telephone numbers of persons within the firm or consortium of firms who may be contacted for further information.
- iv. Provide a current or most recently audited financial statement of the firm or firms and each partner with an equity interest of twenty percent or greater.
- v. Identify any persons known to the proposer who would be obligated to disqualify themselves from participation in any transaction arising from or in connection to the project pursuant to The Virginia State and Local Government Conflict of Interest Act, Chapter 31 (§ 2.2-3100 et seq.) of Title 2.2.

b. Project Characteristics

- i. Provide a description of the project, including the conceptual design.

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Describe the proposed project in sufficient detail so that type and intent of the project, the location, and the communities that may be affected are clearly identified.

- ii. Identify and fully describe any work to be performed by the school board.
 - iii. Include a list of all federal, state and local permits and approvals required for the project and a schedule for obtaining such permits and approvals.
 - iv. Identify any anticipated adverse social, economic and environmental impacts of the project. Specify the strategies or actions to mitigate known impacts of the project.
 - v. Identify the projected positive social, economic, and environmental impacts of the project.
 - vi. Identify the proposed schedule for the work on the project, including the estimated time for completion.
 - vii. Propose allocation of risk and liability for work completed beyond the agreement's completion date and assurances for timely completion of the project.
 - viii. State assumptions related to ownership, legal liability, law enforcement, and operation of the project and the existence of any restrictions on the school board's use of the project.
 - ix. Provide information relative to phased or partial openings of the proposed project prior to completion of the entire work.
- c. Project Financing
- i. Provide a preliminary estimate and estimating methodology of the cost of the work by phase, segment, or both.
 - ii. Submit a plan for the development, financing, and operation of the project showing the anticipated schedule on which funds will be required. Describe the anticipated costs of and proposed sources and uses for such funds.
 - iii. Include a list and discussion of assumptions underlying all major elements of the plan.
 - iv. Identify the proposed risk factors and methods for dealing with these factors.
 - v. Identify any local, state or federal resources that the proposer contemplates requesting for the project. Describe the total commitment, if any, expected from governmental sources and the timing of any anticipated commitment.
- d. Project Benefit and Compatibility
- i. Identify who will benefit from the project, how they will benefit and how

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- the project will benefit the overall community, region, or state.
- ii. Identify any anticipated public support or opposition, as well as any anticipated government support or opposition, for the project.
- iii. Explain the strategy and plans that will be carried out to involve and inform the general public, business community, and governmental agencies in areas affected by the project.
- iv. Describe the anticipated significant benefits to the community, region, or state including anticipated benefits to the economic condition of the school board and whether the project is critical to attracting or maintaining competitive industries and businesses to the school board or the surrounding region
- v. Compatibility with the local comprehensive plan, local infrastructure development plans, the capital improvements budget or other government spending plan.

2. Format for Submissions at Detailed Stage

If the school board decides to proceed to the detailed phase of review with one or more proposals, the private entity should provide the following information unless waived by the school board:

- a. A topographical map (1:2,000 or other appropriate scale) depicting the location of the proposed project;
- b. A list of public utility facilities, if any, that will be crossed by the qualifying project and a statement of the plans of the proposer to accommodate such crossings;
- c. A statement and strategy setting out the plans for securing all necessary property. The statement must include the names and addresses, if known, of the current owners of the subject property as well as a list of any property the proposer intends to request that the school board condemn;
- d. A detailed listing of all firms that will provide specific design, construction and completion guarantees and warranties, and a brief description of such guarantees and warranties;
- e. A total life-cycle cost specifying methodology and assumptions of the project or projects and the proposed project start date. Include anticipated commitment of all parties; equity, debt, and other financing mechanisms; and a schedule of project revenues and project costs. The life-cycle cost analysis should include, but not be limited to, a detailed analysis of the projected return, rate of return, or both, expected useful life of facility and estimated annual operating expenses.

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- f. A detailed discussion of assumptions about user fees or rates, and usage of the projects.
- g. Identification of any known government support or opposition or general public support or opposition for the project. Government or public support should be demonstrated through resolution of official bodies, minutes of meetings, letters, or other official communications.
- h. Demonstration of consistency with appropriate local comprehensive or infrastructure development plans or indication of the steps required for acceptance into such plans.
- i. Explanation of how the proposed project would impact local development plans of each affected local jurisdiction.
- j. Identification of any known conflicts of interest or other disabilities that may impact the school board's consideration of the proposal, including the identification of any persons known to the proposer who would be obligated to disqualify themselves from participation in any transaction arising from or in connection to the project pursuant to The Virginia State and Local Government Conflict of Interest Act, Chapter 31 (§ 2.2-3100 et seq.) of Title 2.2.
- k. Additional material and information as the school board may reasonably request.

E. Proposal Evaluation and Selection Criteria

For proposals submitted or considered under "competitive negotiation" procedures adopted pursuant to Section A.6. hereto, the solicitation/request for proposals ("RFP") shall specify the factors that will be used to evaluate proposals. The following items shall be considered in the evaluation and selection of unsolicited PPEA proposals and should be included among the evaluation factors for solicited proposals in the RFP unless the Superintendent determines otherwise:

1. Qualifications and Experience

Factors to be considered in either phase of the school board's review to determine whether the proposer possesses the requisite qualifications and experience should include:

- a. Experience with similar projects

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- b. Demonstration of ability to perform work
- c. Leadership structure
- d. Project manager's experience
- e. Management approach
- f. Financial condition
- g. Project ownership

2. Project Characteristics

Factors to be considered in determining the project characteristics include:

- a. Project definition
- b. Proposed project schedule
- c. Operation of the project
- d. Technology; technical feasibility
- e. Conformity to laws, regulations, and standards
- f. Environmental impacts
- g. Condemnation impacts
- h. State and local permits
- i. Maintenance of the project

3. Project Financing

Factors to be considered in determining whether the proposed project financing allows adequate access to the necessary capital to finance the project include:

- a. Cost and cost benefit to the school board
- b. Financing and the impact on the debt or debt burden of the school board and/or the City of Lynchburg

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- c. Financial plan
- d. Estimated cost
- e. Life-cycle cost analysis

4. Project Benefit and Compatibility

Factors to be considered in determining the proposed project's compatibility with the appropriate local or regional comprehensive or development plans include:

- a. Community benefits
- b. Community support or opposition or both
- c. Public involvement strategy
- d. Compatibility with existing and planned facilities
- e. Compatibility with the City of Lynchburg's comprehensive plan, the city's and the school board's Capital Improvement plans, and the City of Lynchburg and the school board's financial resources.

F. Comprehensive Agreement

Prior to acquiring, designing, constructing, improving, renovating, expanding, equipping, maintaining, or operating the qualifying project, the selected proposer shall enter into a comprehensive agreement with the school board. The school board may designate a working group to be responsible for negotiating the comprehensive agreement. Each comprehensive agreement shall define the rights and obligations of the school board and the selected proposer with regard to the project.

The terms of the comprehensive agreement shall include but not be limited to

1. The delivery of maintenance, performance and payment bonds, or letters of credit in connection with any acquisition, design, construction, improvement, renovation, expansion, equipping, maintenance, or operation of the qualifying project
2. The review of plans and specifications for the qualifying project by the school board

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3. The rights of the school board to inspect the qualifying project to ensure compliance with the comprehensive agreement
4. The maintenance of a policy or policies of liability insurance or self-insurance reasonably sufficient to insure coverage of the project and the tort liability to the public and employees and to enable the continued operation of the qualifying project
5. The monitoring of the practices of the operator by the school board to ensure proper maintenance
6. The terms under which the operator will reimburse the school board for services provided
7. The policy and procedures that will govern the rights and responsibilities of the school board and the operator in the event that the comprehensive agreement is terminated or there is a material default by the operator including the conditions governing assumption of the duties and responsibilities of the operator by the school board and the transfer or purchase of property or other interests of the operator by the school board. These policies and procedures will include rights by the school board to obtain, review, and copy any financial information pertaining to the project and the firm.
8. The terms under which the operator will file appropriate financial statements on a periodic basis
9. The mechanism by which user fees, lease payments, or service payments, if any, may be established from time to time upon agreement of the parties. Any payments or fees shall be set at a level that are the same for persons using the facility under like conditions and that will not materially discourage use for the qualifying project
 - a. A copy of any service contract shall be filed with the school board
 - b. A schedule of the current user fees or lease payments shall be made available by the operator to any member of the public upon request
 - c. Classifications according to reasonable categories for assessment of user fees may be made
 - d. The terms and conditions under which the school board may contribute financial resources, if any, for the qualifying project
 - e. Other requirements of the PPEA

Any changes in the terms of the comprehensive agreement as may be agreed upon

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by the parties from time to time shall be added to the comprehensive agreement by written amendment.

Adopted by School Board: November 18, 2003