



# COMMONWEALTH of VIRGINIA

## *Commonwealth Transportation Board*

Pierce R. Homer  
Chairman

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*Agenda item #Waiver – Bid Item*

### **RESOLUTION OF THE COMMONWEALTH TRANSPORTATION BOARD**

**June 19, 2008**

#### **MOTION**

**Made By: Mr. Keen Seconded By: Mr. White Action : Motion Carried**

#### **WAIVER OF INFORMALITY/TECHNICALITY IN BID PROJECT (FO) 0337-122-F14, C502**

**WHEREAS**, in connection with construction of the Route 337 Navy Recreational Facility (“Facility”) in Norfolk, the Commonwealth Transportation Commissioner, acting through the Virginia Department of Transportation (“VDOT”), issued an Invitation for Bids (IFB for Project (FO) 0337-122-F14, C502, hereinafter “IFB”);

**WHEREAS**, VDOT issued one revision to the IFB on May 7, 2008, correcting a typographical error in language set forth in Part 4 of the of the IFB addressing Measurement and Payment, clarifying that certain items in the Electrical Distribution System for the Facility, rather than being included in the payment items for building structures, should be included in the bid as a unit and would be paid for under the contract as a lump sum payment (“the Revision”).

**WHEREAS**, the IFB was closed on May 21, 2008 and bids submitted in response to the IFB were opened and publicly read on or about May 21, 2008;

**WHEREAS**, the low bidder, Henderson, Incorporated, failed to acknowledge the Revision Letter date for the sole revision issued for the IFB and contract,

**WHEREAS**, the low bidder, Henderson, Incorporated, electronically submitted its bid and in doing so, submitted an acknowledgement that all requirements included in the hardcopy proposal, amendments, plans, standard specifications and supplemental specifications are a part of its bid and contract; and

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**WHEREAS**, the IFB incorporated the Road and Bridge Specifications (2002) which provides, in section 103.01, that the Board reserves the right to reject any or all bids, waive technicalities, advertise for new bids, or proceed to do the work otherwise if it deems that the best interest of the State would be promoted thereby, and

**WHEREAS**, section 2.2-4319 (B) of the *Code of Virginia* provides that a public body may waive informalities in bids and section 2.2-4301 defines an informality as a “minor defect or variation of a bid or proposal from the exact requirements of the Invitation to Bid, or the Request for Proposal, which does not affect the price, quality, quantity or delivery schedule for the goods, services or construction being procured”.

**NOW, THEREFORE BE IT RESOLVED** that, based on (i) the substance of the Revision to the IFB and (ii) the fact that the low bidder submitted an acknowledgement with its bid that among other things, acknowledged that all amendments to the bid are a part of the bid and contract, the Board finds that the low bidder’s failure to submit the Revision letter date with its bid is a minor defect of the bid from the exact requirements of the Invitation to bid which does not affect the price, quality, quantity or delivery schedule for the services or construction being procured and accordingly, the Board does hereby waive this technicality or informality and awards the contract for Project (FO) 0337-122-F14, C502, to the low bidder, Henderson, Incorporated, finding that best interest of the Commonwealth would be promoted thereby as the bid submitted by Henderson was approximately \$1,000,000 lower than that submitted by the next lowest bidder.

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