

COUNTY COUNCIL OF PRINCE GEORGE'S COUNTY, MARYLAND
2024 Legislative Session

Resolution No. CR-063-2024

Proposed by The Chair (by request – County Executive)

Introduced by Council Members Ivey, Hawkins, Fisher and Watson

Co-Sponsors _____

Date of Introduction July 9, 2024

RESOLUTION

A RESOLUTION concerning

Contract Approvals

For the purpose of approving a multi-year Memorandum of Understanding (MOU) to clearly allocate the Board of Education of Prince George’s County’s (PGCPS), Prince George’s County’s (the County), the Interagency Commission on School’s (IAC), and the Maryland Stadium Authority’s (MSA) roles, rights and responsibilities with respect to funding and oversight for the PGCPS’s Public-Private Partnership for the Design, Construction, Financing and Maintenance of the County’s Alternative Construction Financing Package (the Phase 2 Project).

WHEREAS, pursuant to Section 819 of the Charter for Prince George's County, Maryland, the County Council must approve, by Resolution, all multi-year contracts exceeding an aggregate of five hundred thousand dollars (\$500,000.00); and

WHEREAS, pursuant to Section 819 of the Charter for Prince George’s County, Maryland, no agency of the County government shall, during any fiscal year, expend any money or incur any liability in excess of the amounts appropriated and no such payment shall be made nor any obligation or liability incurred, except for purchases in an amount to be fixed by legislative act; and

WHEREAS, the approved 20-year *Educational Facilities Master Plan* (as amended in FY 2022) establishes the Blueprint for PGCPS to ensure adequate educational facilities are provided to meet the needs of PGCPS’ approximately 133,000 students and 20,000 full- and part-time employees, adopting the use of alternative construction financing to deliver school facilities in the timeliest and most cost-effective manner possible, while guaranteeing life cycle

1 asset performance; and

2 **WHEREAS**, on November 16, 2021, the Prince George’s County Council (the Council)
3 approved Resolution No. CR-131-2021 (County Council Resolution) for the purpose of
4 supporting and encouraging the creation of a collaboration work group that will explore a second
5 Public-Private Partnership Alternative Financing School Infrastructure Program for public school
6 construction and replacement projects in the County (Phase 2 Work Group) and the
7 establishment of a task force that will be responsible for selecting the proposed schools under
8 this program and making such a recommendation to PGCPS (Phase 2 Task Force); and

9 **WHEREAS**, PGCPS is interested in procuring, negotiating, and executing a second
10 project utilizing alternative construction financing methods for the construction of additional
11 needed schools within the County (the Phase 2 Project), in collaboration with the County, the
12 IAC, and the MSA;

13 **WHEREAS**, in accordance with Md. Code Ann., Educ. §§ 4-126 and 4-126.1, certain
14 financial contributions from the state of Maryland (State) are authorized to be provided to
15 PGCPS for purposes of making payments due pursuant to a “public-private partnership
16 agreement,” which is defined as “an agreement in which a county board of education contracts
17 with a private entity for the acquisition, design, construction, improvement, renovation,
18 expansion, equipping, or financing of a public school, and may include provisions for operation
19 and maintenance of a school, cooperative use of the school or an adjacent property, and
20 generation of revenue to offset the cost of construction or use of the school”; and

21 **WHEREAS**, in accordance with Md. Code Ann., Educ. § 4-126.2, the Prince George’s
22 County Public-Private Partnership Fund (the Fund) was established to “provide funds to the
23 Prince George’s County Board for the Board to pay a public or private entity for the payment
24 due under the Prince George’s County public-private partnership agreement entered into in
25 accordance with § 4-126.1 of this subtitle”; and

26 **WHEREAS**, PGCPS, with the support of the Parties, desires to procure, negotiate,
27 execute, and implement an agreement with a private sector partner to enter into a Project
28 Agreement for the Design, Construction, Financing, and Maintenance of Prince George’s County
29 Public Schools Alternative Construction Financing Package 2 Schools (the Phase 2 Project
30 Agreement); and

31 **WHEREAS**, on October 31, 2022, PGCPS issued Request for Qualifications No.

1 DCP001-23, Public-Private Partnership for Blueprint Schools Phase II: Design, Construction,
2 Financing, and Maintenance of Six Prince George’s County Public Schools (as amended, the
3 RFQ); and

4 **WHEREAS**, on April 28, 2023, PGCPs invited the shortlisted proposers selected by
5 PGCPs as a result of its statement of qualifications submitted under the RFQ to submit a bid
6 under the terms of Request for Proposals No. 001-23-RFP, Public-Private Partnership for the
7 Design, Construction, Financing, and Maintenance of Prince George’s County Public Schools
8 Alternative Construction Financing Package 2 (as amended, the RFP); and

9 **WHEREAS**, on September 7, 2023, PGC Education Collective was recommended by
10 PGCPs as the successful proposer under the RFP; and

11 **WHEREAS**, on September 28, 2023, the Board passed a Resolution approving PGCPs’
12 entry into the Phase 2 Exclusive Negotiating Agreement and, if applicable in accordance
13 therewith, the Phase 2 Project Agreement with PGC Education Collective; and

14 **WHEREAS**, on November 29, 2023, PGCPs approved PGC Education Collective’s
15 changing its name to Progressive Education Partners LLC; and

16 **WHEREAS**, pursuant to Md. Code Ann., Educ. § 4-126.1(c)(2), before PGCPs enters
17 into the Phase 2 Project Agreement at the conclusion of the Exclusive Negotiating Period, the
18 Phase 2 Project Agreement shall be reviewed by the MSA and approved by the IAC (such
19 approval not to be unreasonably withheld or delayed as specified in the MOU); and

20 **WHEREAS**, subject to the terms of Md. Code Ann., Econ. Dev. § 10-658(b)(3) and
21 during the period specified in Md. Code Ann., Educ. § 4-126.1(d) (as the same may be amended
22 from time to time), the MSA shall deposit Twenty-Seven Million Dollars (\$27,000,000) annually
23 from the Supplemental Public School Construction Financing Fund (established under Md. Code
24 Ann., Econ. Dev. § 10-658 and administered by the MSA) into the Fund; and

25 **WHEREAS**, in accordance with an Act concerning Public School Construction –
26 Programs, Approvals, and Administration – Alterations (2023 House Bill 458), the Governor
27 was authorized and did process a budget amendment to transfer from the Supplemental Public
28 School Construction Financing Fund under Md. Code Ann., Econ. Dev. § 10-658 to the Fund
29 Twenty-Five Million Dollars (\$25,000,000) or on before June 30, 2024; and

30 **WHEREAS**, in accordance with an Act for the purpose of making the proposed
31 appropriations contained in the State Budget for fiscal year ending June 30, 2025, in accordance

1 with Article III, Section 52 of the Maryland Constitution; and generally relating to appropriations
2 and budgetary provisions made pursuant to that section (2024 Senate Bill 360), Two Million
3 Dollars (\$2,000,000) in general funds is added to the appropriation for program D25E03.02
4 Interagency Commission on School Construction – Capital Appropriation for the purpose of a
5 deposit into the Fund on or before June 30, 2025; and

6 **WHEREAS**, in accordance with Md. Code Ann., Educ. § 4-126(e)(ii)(3), PGCPs, the
7 County, the IAC, and the MSA wish to enter into a MOU to, amongst other items, set forth the
8 roles and responsibilities of each of the Parties with respect to the Phase 2 Project and deposits
9 into and from the Fund; and

10 **WHEREAS**, the County and PGCPs have confirmed the essentiality of the Phase 2
11 Project to meet their collective public mission of educating children and have estimated that the
12 Phase 2 Project will create in excess of 8,000 classroom seats for children in the County; and

13 **WHEREAS**, the County, PGCPs, IAC, and MSA desire to enter into the MOU to
14 allocate the roles, rights, and responsibilities with respect to the funding and oversight for the P3
15 Program.

16 **NOW, THEREFORE, BE IT RESOLVED** by the County Council of Prince George's
17 County, Maryland, that the MOU substantially in the form attached hereto as “Attachment A” is
18 hereby approved, pursuant to Section 819 of the Charter.

19 **BE IT FURTHER RESOLVED** that any payments to be made by or on behalf of the
20 County pursuant to the MOU approved herein shall be subject to annual appropriation in each
21 year by the County and the County shall be under no obligation to make such payments beyond
22 the last date for which an appropriation is available. Amounts payable by or on behalf of the
23 County pursuant to the contracts approved herein shall not be general obligations of the County
24 and shall never constitute an indebtedness of the County within the meaning of any constitutional
25 or charter provision or statutory limitation or a charge against the general credit or taxing powers
26 of the County.

27 **BE IT FURTHER RESOLVED** that the County Executive is hereby authorized to make
28 any modifications, adjustments, corrections, or any other changes as may be necessary to finalize
29 the MOU in any manner the County Executive may deem necessary or proper but not altering
30 their substance.

31 **BE IT FURTHER RESOLVED** that the notice provisions required in Section 7.9 of

1 Attachment A shall include the following:

2 County Council: Prince George’s County Council
3 Council Administrator
4 1301 McCormick Drive, 2nd floor
5 Largo, MD 20774
6 Email: jajenkins@co.pg.md.us

7 **BE IT FURTHER RESOLVED** that in the event that the MOU (Attachment A)between
8 the IAC, MSA, PGCPs and the County is not executed by August 25, 2024, this Resolution shall
9 be null and void.

10 **BE IT FURTHER RESOLVED** that this Resolution shall become effective as of the
11 date of its adoption.

Adopted this 16th day of July, 2024.

COUNTY COUNCIL OF PRINCE
GEORGE’S COUNTY, MARYLAND

BY: _____
Jolene Ivey
Chair

ATTEST:

Donna J. Brown
Clerk of the Council

APPROVED:

Date: _____

BY: _____
Angela D. Alsobrooks
County Executive

ATTACHMENT A
(PGCPS P3 MOU and List of Phase 2 Schools)