

**MEMORANDUM OF UNDERSTANDING WITH RESPECT TO THE
PUBLIC-PRIVATE PARTNERSHIP FOR THE DESIGN, CONSTRUCTION,
FINANCING, AND MAINTENANCE OF PRINCE GEORGE’S COUNTY PUBLIC
SCHOOLS ALTERNATIVE CONSTRUCTION FINANCING PACKAGE 2**

This Memorandum of Understanding with Respect to the Public-Private Partnership for the Design, Construction, Financing, and Maintenance of Prince George’s County Public Schools Alternative Construction Financing Package 2 (“**MOU**”) is made and entered into as of this 23rd day of July, 2024 (the “**Effective Date**”), by and among the Board of Education of Prince George’s County (“**PGCPS**”), Prince George’s County (the “**County**”), the Interagency Commission on School Construction (“**IAC**”), and the Maryland Stadium Authority (“**MSA**”). PGCPS, the County, the IAC, and the MSA are each a “**Party**” and may be referred to collectively as the “**Parties**.”

RECITALS

WHEREAS, the mission of PGCPS is to provide a great education that empowers all students and contributes to thriving communities, and one of the key components of PGCPS’ strategic plan is maintaining teaching, learning, and working environments that are inviting, welcoming, technologically equipped, culturally sensitive, healthy, and safe; 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 asset performance; and

WHEREAS, Md. Code Ann., Educ. § 4-126 permits county boards of education to use “alternative financing methods” in order to “finance or to speed delivery of, transfer risks of, or otherwise enhance the delivery of public school construction”; and

WHEREAS, on November 9, 2021, the Prince George’s County Council (the “**Council**”) approved Resolution No. CR-131-2021 (“**County Council Resolution**”) for the purpose of supporting and encouraging the creation of a collaboration work group that will explore a second Public-Private Partnership Alternative Financing School Infrastructure Program for public school construction and replacement projects in the County (“**Phase 2 Work Group**”) and the establishment of a task force that will be responsible for selecting the proposed schools under this program and making such a recommendation to PGCPS (“**Phase 2 Task Force**”); and

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

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

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

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

WHEREAS, on October 31, 2022, PGCPs issued Request for Qualifications No. DCP001-23, Public-Private Partnership for Blueprint Schools Phase II: Design, Construction, Financing, and Maintenance of Six Prince George’s County Public Schools (as amended, the “**RFQ**”); and

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

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

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

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

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

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

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

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

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

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

NOW, THEREFORE, in consideration of the mutual promises contained in this MOU, and other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the Parties do covenant and agree as follows:

**ARTICLE 1
PURPOSE; TERM; DEFINITIONS**

1.1 Purpose. The purpose of this MOU is to specify the roles, rights, and responsibilities of the Parties with respect to the procurement, negotiation, approval, funding, operation, and oversight of the Phase 2 Project.

1.2 Term. The term of this MOU (“**Term**”) shall begin upon the Effective Date and remain in effect until June 30, 2056; provided, however, this MOU shall terminate earlier if any of the following events occur:

1.2.1 On any date prior to Commercial Close that PGCPS notifies the other Parties in writing that PGCPS has elected not to enter into a Phase 2 Project Agreement or does not wish to utilize State funds in support of the Phase 2 Project;

1.2.2 On any date after Commercial Close that PGCPS notifies the other Parties in writing that PGCPS has opted not to utilize State funds for purposes of the Phase 2 Project; or

1.2.3 On the date that the Phase 2 Project Agreement terminates.

1.3 Definitions. For purposes of this MOU, the following terms have the following meanings:

“**Additional Agreement Draft**” has the meaning set forth in Section 3.6.3 of this MOU.

“**Alternative Financing Authorities**” means, as applicable, §§ 4-126, 4-126.1, and 4-126.2 of the Education Article of the Annotated Code of Maryland.

“**Amendment No. 1**” has the meaning set forth in the Phase 2 Project Agreement.

“**Approval Event**” has the meaning set forth in Section 5.1.2 of this MOU.

“**Availability Payments**” has the meaning set forth in the Phase 2 Project Agreement.

“**Board**” means the Prince George’s County Board of Education.

“**Business Days**” means Monday through Friday, inclusive, other than days on which the administrative offices of the State are closed.

“**Change Order**” has the meaning set forth in the Phase 2 Project Agreement.

“**Commercial Close**” means the date the Phase 2 Project Agreement is executed by PGCPS and the Phase 2 Developer.

“**Council**” has the meaning set forth in the Recitals.

“**County**” has the meaning set forth in the Preamble.

“**County Council Resolution**” has the meaning set forth in the Recitals.

“**County Deposit**” has the meaning set forth in Section 4.4.1 of this MOU.

“**County-Based Minority Business Enterprise**” or “**CBMBE**” has the meaning set forth in the Phase 2 Project Agreement.

“**Design Development Documents**” has the meaning set forth in the Phase 2 Project Agreement.

“**Design-Build Period**” has the meaning set forth in the Phase 2 Project Agreement.

“**Effective Date**” has the meaning set forth in the Preamble.

“**Execution Draft of the Agreement**” has the meaning set forth in Section 3.6.4 of this MOU.

“**Exclusive Negotiating Period**” means that period of time commencing upon the execution date of the Phase 2 Exclusive Negotiating Agreement and expiring on the date of termination or expiration of the Phase 2 Exclusive Negotiating Agreement.

“**Final Agreement Draft**” means the draft of the Phase 2 Project Agreement attached to the RFP issued by PGCPs on June 30, 2023.

“**Final Construction Documents**” has the meaning set forth in the Phase 2 Project Agreement.

“**Fund**” has the meaning set forth in the Recitals.

“**Good Faith Effort**” has the meaning set forth in the Phase 2 Project Agreement.

“**IAC**” has the meaning set forth in the Preamble.

“**Independent Engineer**” has the meaning set forth in the Phase 2 Project Agreement.

“**Independent Engineer Agreement**” has the meaning set forth in the Phase 2 Project Agreement.

“**Minority Business Enterprises**” or “**MBE**” has the meaning set forth in Md. Code Ann., Educ., § 4-125(a)(5).

“**Monthly Billing Statement**” has the meaning set forth in the Phase 2 Project Agreement.

“**MOU**” has the meaning set forth in the Preamble.

“**MSA**” has the meaning set forth in the Preamble.

“**MSA Deposit**” has the meaning set forth in Section 4.4.2 of this MOU.

“**Operational Termination**” has the meaning set forth in the Phase 2 Project Agreement.

“**Party**” or “**Parties**” has the meaning set forth in the Preamble.

“**PGCPs**” has the meaning set forth in the Preamble.

“Phase 2 Developer” means the private entity selected by PGCPs pursuant to the RFP to enter into the Phase 2 Project Agreement as the developer.

“Phase 2 Exclusive Negotiating Agreement” means the Exclusive Negotiating Agreement entered into by PGCPs and the Successful Proposer.

“Phase 2 Project” means the project, utilizing the Alternative Financing Authorities, to design, construct, finance, and provide life-cycle maintenance to the Phase 2 Schools within the County, as further defined in the Phase 2 Project Agreement.

“Phase 2 Project Agreement” has the meaning set forth in the Recitals.

“Phase 2 School(s)” means, individually or collectively, as applicable, the Brandywine Area K-8 School, the Fairwood Area Elementary School, the Hyattsville Elementary School, the James E. Duckworth Elementary School, the Margaret Brent Elementary School, the Robert Frost Area K-8 School, the Springhill Lake Elementary School, and the Templeton Elementary School, all located within the County, described in Exhibit A, and further identified in the Phase 2 Project Agreement.

“Phase 2 Task Force” has the meaning set forth in the Recitals.

“Phase 2 Work Group” has the meaning set forth in the Recitals.

“Project Management Unit” means the multi-disciplinary unit established by PGCPs for the purpose of administering the Phase 2 Project Agreement and overseeing the Phase 2 Developer’s performance under the Phase 2 Project Agreement.

“Quarterly Net Adjustments Report” has the meaning set forth in the Phase 2 Project Agreement.

“Required Fund Transfer” means the balance in the Fund on the day before funds are transferred in accordance with Section 4.5.1 of this MOU.

“RFP” has the meaning set forth in the Recitals.

“RFQ” has the meaning set forth in the Recitals.

“Services Period” has the meaning set forth in the Phase 2 Project Agreement.

“Services Provider” has the meaning set forth in the Phase 2 Project Agreement.

“State” means the State of Maryland.

“Steering Committee” means the governance committee set forth in Section 5.1.1 of this MOU.

“**Successful Proposer**” means PGC Education Collective, as subsequently renamed to Progressive Education Partners LLC and as such entity may be further renamed with the approval of PGCPs, or any other entity identified by PGCPs pursuant to the RFP in the event exclusive negotiations with Progressive Education Partners LLC do not proceed for any reason.

“**Term**” has the meaning set forth in Section 1.2 of this MOU.

“**Termination Compensation**” has the meaning set forth in the Phase 2 Project Agreement.

“**Total Contract Value**” has the meaning set forth in the Phase 2 Project Agreement.

ARTICLE 2 PHASE 2 PROJECT OVERVIEW

2.1 Use of Alternative Financing Authorities. The Parties agree to cooperate to utilize the authorities and funding permitted by the Alternative Financing Authorities to accomplish the Phase 2 Project.

2.2 Phase 2 Schools. PGCPs has identified the construction and life-cycle maintenance of the eight (8) Phase 2 Schools for inclusion in the Phase 2 Project, which includes at least one (1) school for which a structural engineer has identified to the IAC needs a full replacement because of faulty steel and, the Parties agree, satisfies the requirements of Md. Code Ann., Educ. § 4-126.1(d)(3)(i).

2.3 MOU Application. This MOU is intended to satisfy the requirements of Md. Code Ann., Educ. § 4-126(e)(3)(ii).

2.4 Applicability of the Public School Construction Program. Except as provided by Md. Code Ann., Educ., § 4-126(e)(1), § 2-303(f)¹ and Title 5, Subtitle 3 of the Education Article, Annotated Code of Maryland, and regulations governing the Public School Construction Program do not apply to the Phase 2 Project.

ARTICLE 3 ROLES, RIGHTS, AND RESPONSIBILITIES OF THE PARTIES

3.1 PGCPs’ Lead Role. The Parties agree that PGCPs will hold primary responsibility for defining, structuring, contracting for, managing, implementing, and overseeing the Phase 2 Project, subject only to the rights of the other Parties explicitly set forth in this MOU.

3.2 Procurement. The Parties acknowledge that PGCPs has been solely responsible for leading a two-stage procurement process to identify and select the Phase 2 Developer. Md. Code Ann., Educ. § 4-126(e)(3)(i)(8) requires that projects using alternative financing methods

¹ The Parties acknowledge that Md. Code Ann., Educ. § 4-126(e)(1) references § 2-203(f), which the Parties believe is erroneous. The Parties have replaced this reference with § 2-303(f), which the Parties agree was the intent of the Legislature.

and receiving State funding comply with a requirement for a procurement process that includes public notice and results in the most advantageous proposal. PGCPs represents that these requirements have been satisfied.

3.3 Feasibility Studies. PGCPs has prepared or caused to be prepared any feasibility studies that PGCPs deemed necessary in connection with the Phase 2 Project.

3.4 Educational Specifications. PGCPs has prepared, and has provided a copy to the IAC for review, a complete set of site-specific educational specifications for each of the eight Phase 2 Schools. Final educational specifications, which are not subject to approval by the IAC, will be attached to the Phase 2 Project Agreement.

3.5 Design Submissions. During the Exclusive Negotiating Period, PGCPs and the Successful Proposer have been advancing certain designs, as described in the Phase 2 Exclusive Negotiating Agreement, and such designs will continue to advance in accordance with the procedures described in Article 7 of the Phase 2 Project Agreement. Upon receipt, PGCPs will promptly provide copies to the IAC of the Phase 2 Developer's submissions of the 35% Design Development Documents, 65% Design Development Documents, 95% Design Development Documents, and Final Construction Documents for each Phase 2 School. To the extent the IAC so desires, the IAC shall provide comments on any such submissions to PGCPs within ten (10) days of receipt of the submission from PGCPs. Within twenty (20) days of receipt of any written comments from the IAC, PGCPs shall provide a written response to the IAC's comments. While PGCPs agrees to consider the IAC's comments in good faith, PGCPs is not required to modify, or cause the Phase 2 Developer to modify, any of the submissions based on feedback from the IAC unless PGCPs, in its sole discretion, determines to do so. PGCPs shall keep the IAC informed as to the expected timeline for delivery of each of these submissions, and, to the extent requested by the IAC, invite the IAC to participate in any design meetings with the Phase 2 Developer relating to these submissions or other design development discussions.

3.6 Phase 2 Project Agreement.

3.6.1 As among the Parties, PGCPs will be the sole Party responsible for drafting, negotiating, and implementing the Phase 2 Project Agreement and shall be the only Party to interact with RFP respondents, the Successful Proposer, and the Phase 2 Developer with respect to the Phase 2 Project Agreement, unless otherwise approved in advance by PGCPs.

3.6.2 As part of the RFP, and prior to proposal submission, the shortlisted bidders were provided the Final Agreement Draft to utilize for purposes of developing their proposal, including certain plans and committed costs. During the Exclusive Negotiating Period, PGCPs and the Successful Proposer are responsible for finalizing the Final Agreement Draft in accordance with the terms and conditions set forth in the Phase 2 Exclusive Negotiating Agreement.

3.6.3 As the Final Agreement Draft is advanced during the Exclusive Negotiating Period through the preparation of additional drafts of the Phase 2 Project Agreement (each, an "**Additional Agreement Draft**"), PGCPs shall provide each Additional Agreement Draft in redline format to the County, the IAC, and the MSA. The Parties shall provide to PGCPs in

writing any comments on such Additional Agreement Draft within ten (10) days of receipt from PGCPs.

3.6.4 On May 13, 2024, PGCPs submitted to the IAC, with a copy to the MSA, a substantially final execution draft of the Phase 2 Project Agreement (as may be amended in accordance with this Section, the “**Execution Draft of the Agreement**”). Based on PGCPs’ submission on May 13, 2024, the IAC agrees to, on or before July 11, 2024, either approve (such approval not to be unreasonably withheld or delayed) the Execution Draft of the Agreement or provide specific reasons for the IAC’s disapproval of the Execution Draft of the Agreement. The IAC and PGCPs shall meet within three (3) Business Days of the IAC providing a disapproval notice. Following such meeting, PGCPs, together with the Successful Proposer, shall consider any amendments to the Execution Draft of the Agreement and submit an updated Execution Draft of the Agreement to the IAC for approval and the MSA for review. The procedures described in this Section 3.6.4 shall repeat until such time as the IAC, PGCPs, and the Successful Proposer approve of the Execution Draft of the Agreement or this MOU is terminated in accordance with Section 1.2, Section 3.6.5, Section 3.6.7, or Section 7.3; provided, however, that for subsequent Execution Drafts of the Agreement, the IAC shall respond with its approval or specific reasons for disapproval within five (5) Business Days of receipt. The IAC’s approval of the Execution Draft of the Agreement, as well as the IAC’s approval of PGCPs’ entry into Amendment No. 1, shall be documented in publicly available minutes of the IAC meeting, which such minutes shall be published within three (3) Business Days of the IAC meeting, and PGCPs shall be considered fully authorized by the IAC to execute the Execution Draft of the Agreement and, when PGCPs deems it appropriate to do so, Amendment No. 1, following the publishing of such meeting minutes. PGCPs shall provide the County any revisions to the Execution Draft of the Agreement in redlined format resulting from the processes set forth in this Section 3.6.4.

3.6.5 If PGCPs and the Successful Proposer execute a Phase 2 Project Agreement that the IAC has not approved, the IAC may terminate this MOU by providing all other Parties written notice of termination at least ten (10) days prior to such termination becoming effective.

3.6.6 If, following execution of the Phase 2 Project Agreement, with the exception of Amendment No. 1, the template of which will be approved by the IAC as part of its approval of the Execution Draft of the Agreement, PGCPs and the Phase 2 Developer agree upon a proposed amendment to the Phase 2 Project Agreement, PGCPs shall submit the proposed amendment for review to the IAC and the MSA. Within thirty (30) days of receipt, the IAC agrees to either approve (such approval not to be unreasonably withheld or delayed) the proposed amendment to the Phase 2 Project Agreement or provide specific reasons for the IAC’s disapproval of the proposed amendment to the Phase 2 Project Agreement. The IAC and PGCPs shall meet within three (3) Business Days of the IAC providing a disapproval notice. Following such meeting, PGCPs, together with the Phase 2 Developer, shall consider any changes to the proposed amendment and, to the extent an amendment is still desired by PGCPs and the Phase 2 Developer, submit an updated proposed amendment to the IAC for approval and the MSA for review. The procedures described in this Section 3.6.6 shall repeat until such time as the IAC, PGCPs, and the Phase 2 Developer approve of the amendment, or PGCPs and the Phase 2 Developer withdraw the requested amendment; provided, however, that for subsequent drafts of the amendment, the IAC shall respond with its approval or specific reasons for disapproval within five (5) Business Days

of receipt. The IAC shall evidence its approval of any amendment by written notice to PGCPS, with a copy to the MSA and the County.

3.6.7 If PGCPS and the Phase 2 Developer execute an amendment to the Phase 2 Project Agreement that the IAC has not approved or deemed approved with respect to Amendment No. 1, the IAC may terminate this MOU by providing all other Parties written notice of termination at least ten (10) days prior to such termination becoming effective.

3.6.8 Following execution of the Phase 2 Project Agreement and any future amendments thereto, PGCPS shall provide copies of such documents to the County, the IAC, and the MSA.

3.7 Independent Engineer Reports. PGCPS shall cause the Independent Engineer (except when acting in its capacity as the Disputes Manager as such term is defined in the Independent Engineer Agreement) to simultaneously provide copies to the IAC of all reports and certificates that the Independent Engineer provides to either PGCPS or the Phase 2 Developer in accordance with the Phase 2 Project Agreement.

ARTICLE 4 DEPOSITS AND EXPENDITURES FROM THE FUND

4.1 Fund. As described in Md. Code Ann., Educ. § 4-126.2, the Fund has been established to hold those funds contributed pursuant to this MOU for funding for County projects utilizing the Alternative Financing Authorities. The Fund will consist of monies deposited as part of the County Deposit, the MSA Deposit, any additional funds deposited by the State, any investment earnings of the Fund, and any other money from any other source accepted for the benefit of the Fund.

4.2 Purpose of Deposits to the Fund. The monies in the Fund may be utilized to provide funding to PGCPS to make payments to the Phase 2 Developer pursuant to the Phase 2 Project Agreement.

4.3 Administration of the Fund. The IAC shall be responsible for administering the Fund in accordance with the terms of the Alternative Financing Authorities and this MOU.

4.4 Deposits to the Fund.

4.4.1 The County agrees, annually, to deposit into the Fund (each, a “**County Deposit**”) the greater of (a) Forty-Two Million Dollars (\$42,000,000), or (b) such amount needed to equate to the upcoming year’s Availability Payment less Twenty-Seven Million Dollars (\$27,000,000), on or before October 1 in each year for purposes of the Phase 2 Project pursuant to this MOU. The County Deposit shall commence on October 1, 2024 and continue on or before each October 1 of each year through fiscal year 2055, unless this MOU is terminated early in accordance with Section 1.2, Section 3.6.5, Section 3.6.7, or Section 7.3. The County’s source of funding for the County Deposit is, subject to applicable law, funds appropriated from the County’s

operating budget for the purposes set forth in this MOU or any other source of funding the County deems acceptable to meet its funding obligations under this MOU.

4.4.2 The MSA agrees to deposit into the Fund (each, an “**MSA Deposit**”) for purposes of the Phase 2 Project pursuant to this MOU (a) at least Twenty-Five Million Dollars (\$25,000,000) on or before June 30, 2024, and (b) annually, at least Twenty-Seven Million Dollars (\$27,000,000) per year, payable in two equal payments on or before December 1 and June 1, commencing on or before December 1, 2024 and continuing on or before each December 1 and June 1 of each year through fiscal year 2055, unless this MOU is terminated early in accordance with Section 1.2, Section 3.6.5, Section 3.6.7, or Section 7.3. Unless and until another source of funding is identified by law, (a) the MSA’s sole source of funding for the MSA Deposit is the Supplemental Public School Construction Financing Fund, and (b) the sole source of funding for the Supplemental Public School Constructing Financing Fund consists of the deposits to be made biannually by the Comptroller from the Education Trust Fund in accordance with Md. Code Ann. Econ. Dev. § 10-649(g) and St. Gov. § 9-1A-30.

4.4.3 The IAC shall confirm the State has deposited into the Fund for purposes of the Phase 2 Project at least Two Million Dollars (\$2,000,000) on or before June 30, 2025 in accordance with 2024 Senate Bill 360.

4.5 Distributions from the Fund.

4.5.1 Commencing on December 15, 2024, and continuing on or before June 15 and again on or before December 15 of each year thereafter through fiscal year 2055, as provided in Md. Ann. Code, Ed. § 4-126.1(e), the IAC will, after verifying all required deposits have been made into the Fund and upon receiving written confirmation from PGCPs that the Phase 2 Project Agreement is still in effect, make a Required Fund Transfer to a segregated account designated by PGCPs.

4.5.2 On or before September 15th in each year, PGCPs shall provide to the IAC a detailed accounting of all expenditures and encumbrances made against the Required Fund Transfer for the immediately preceding fiscal year. This accounting shall be certified by the Chief Financial Officer for PGCPs and detail all payments, including the amount, type, and justification for each payment, made to the Phase 2 Developer or any other entity and any other encumbrances and expenditures made against the Required Fund Transfer. The accounting shall include all interest that accrues in the PGCPs segregated account described in Section 4.5.3 of this MOU. The accounting shall also include the balance of any unencumbered amount of the Required Fund Transfer that was made in the immediately preceding fiscal year. Together with the accounting, PGCPs shall submit copies of all Monthly Billing Statements and Quarterly Net Adjustments Reports to the IAC for the time period set forth in such accounting.

4.5.3 PGCPs shall keep all funds transferred from the Fund to PGCPs in a segregated account, separate and apart from other PGCPs funds, and shall use such funds solely for the purpose of paying PGCPs’ obligations to the Phase 2 Developer under the Phase 2 Project Agreement in accordance with the terms of this MOU and the Phase 2 Project Agreement. PGCPs may not commingle any other funds in this segregated account.

4.5.4 In accordance with the Alternative Financing Authorities and this MOU, the monies in the Fund may be utilized by PGCPs only to make payments to the Phase 2 Developer pursuant to the Phase 2 Project Agreement approved by the IAC.

4.6 Refunds After Termination of the MOU.

4.6.1 Within sixty (60) days of the termination of this MOU, the IAC shall prepare an accounting of the Fund and refund to each Party that Party's proportional share of any funds remaining in the Fund. The Parties' proportional shares shall be based on each Party's deposits into the Fund during the term of the MOU. The IAC shall also provide a copy of its accounting to each Party to the MOU.

4.6.2 Within sixty (60) days of the termination of this MOU, PGCPs shall prepare an accounting of any amount remaining in the PGCPs segregated account containing funds from the Fund and refund to each Party that Party's proportional share of any funds remaining in such PGCPs segregated account. The Parties' proportional shares shall be the same as those calculated under Section 4.6.1 of this MOU. PGCPs shall also provide a copy of its accounting to each Party to the MOU.

4.7 Termination Payments. For clarity, notwithstanding an Operational Termination of the Phase 2 Project Agreement, the County and the MSA shall continue to make the contributions to the Fund in accordance with Section 4.4 for use by PGCPs for payment of any Termination Compensation due to the Phase 2 Developer pursuant to the Phase 2 Project Agreement; provided, however, that to the extent PGCPs recommends, and the Parties agree, the County and the MSA may contribute additional funds into the Fund to enable PGCPs to make a lump sum payment of the Termination Compensation in accordance with the terms and conditions of the Phase 2 Project Agreement. The IAC will continue to make the Required Fund Transfer so long as all Parties fully comply with this Article 4 of the MOU.

4.8 State Contributions. The Parties acknowledge and agree that the State's planned investment of Eight Hundred and Sixty-Four Million Dollars (\$864,000,000) from fiscal year 2024 through fiscal year 2055, plus any interest realized by PGCPs on those funds, represents the maximum State contribution for the Phase 2 Schools during the Term. Any costs associated with additions or modifications to the Phase 2 Schools during the Term will solely be the responsibility of the County.

ARTICLE 5
STEERING COMMITTEE; REPORTING

5.1 Steering Committee.

5.1.1 Steering Committee. The Parties hereby establish a steering committee comprised of the County Executive or designee, the Chair of the County Council or designee, and PGCPs' Superintendent or designee (the "**Steering Committee**").

5.1.2 Steering Committee Approval Required. The review and approval of the Steering Committee is required prior to any of the following: (a) appointing the person responsible for overseeing the Phase 2 Project Management Unit on behalf of PGCPs; (b) executing any amendment to the Phase 2 Project Agreement other than Amendment No. 1; (c) executing any Change Orders; or (d) PGCPs' electing to exercise a termination right under the Phase 2 Project Agreement (each, an "**Approval Event**"). Following the approval of the Steering Committee of any Approval Event, to the fullest extent of the law, PGCPs' Superintendent or the Superintendent's designee is conferred with the authority to execute on behalf of the Steering Committee any documentation necessary to implement an approved Approval Event.

5.1.3 Steering Committee Meetings. The Steering Committee shall meet at a minimum quarterly (or as frequently as otherwise agreed by the Steering Committee) to discuss the Phase 2 Project and approve or reject any pending Approval Events. The Steering Committee meetings shall take place in the County.

5.2 Open Meetings Act. In furtherance of the goals of transparency and accountability, the meetings of the Phase 2 Task Force and the Steering Committee will be conducted in compliance with the terms and provisions of the Open Meetings Act, codified as Title 3, Subtitle 3 of the General Provisions Article of the Maryland Annotated Code. The members of the Phase 2 Task Force and the Steering Committee, respectively, will monitor their group's compliance with this section.

5.3 PGCPs Reporting. On or before October 1 of each year, PGCPs shall submit to the County, the MSA, and the IAC during the term of the Phase 2 Project Agreement, an annual report that meets content requirements mutually agreed upon by the IAC and PGCPs.

5.4 Joint Reporting. On January 15, 2025, and each January 15 thereafter, PGCPs, the County, the MSA, and the IAC jointly shall report to the Governor and the fiscal committees of the General Assembly on the progress of the construction and renovation of public schools under the Phase 2 Project Agreement, including actions taken during the previous fiscal year and planned for the current fiscal year.

5.5 IAC Assessment. On or before July 1, 2029, the IAC shall complete a five year evaluation of the effectiveness of the Phase 2 Project Agreement. On or before December 31, 2029, the IAC shall submit a report on the five year evaluation to the Governor and the fiscal committees of the General Assembly, and the IAC shall simultaneously submit a copy of the report to PGCPs and the County.

ARTICLE 6 ADDITIONAL PHASE 2 PROJECT REQUIREMENTS

6.1 Smart Growth Requirements. New school sites and sites for replacement schools must have an increased capacity or an expanded core area located in a Priority Funding Area as described in Md. Code Ann., State Fin. and Proc., Title 5, Subtitle 7b, unless a waiver is requested by PGCPs and granted by the IAC in accordance with COMAR 14.39.02.30. "Expanded core area" means core areas of the school – including but not limited to the cafeteria, gymnasium, health

suite, library, etc. – that exceed the space required for the current or projected student enrollment but which may serve an increased occupancy at a later date. For the construction of a new school or the renovation of or an addition to an existing school that would increase the capacity of the school by more than 100 students, PGCPs shall submit, or shall require the Phase 2 Developer to submit, a pedestrian safety plan to the IAC in accordance with Md. Code Ann., Educ. § 5-329.

6.2 Priority Subcontracting Requirements. The Phase 2 Project Agreement shall require that the Phase 2 Developer comply with PGCPs’ MBE program authorized in Md. Code Ann., Educ. § 4-125. Additionally, as agreed solely between PGCPs and the County, and in satisfaction of the County requirements in Section 10-335 of the Prince George’s County Code, the Phase 2 Project Agreement shall require the Phase 2 Developer to use a Good Faith Effort to cause at least twenty percent (20%) of the Total Contract Value expected for MBE contracts under the Phase 2 Project Agreement to be incurred pursuant to contracts with County-Based Minority Business Enterprises.

6.3 Prevailing Wage Requirements. The Phase 2 Project Agreement shall require that wages paid on the Phase 2 Project will be subject to the prevailing wage rates issued by the State of Maryland, Department of Labor, Licensing and Regulation pursuant to the authority of the Commissioner of Labor and Industry given under State Finance and Procurement Article, Section 17-209, Annotated Code of Maryland. Such prevailing wage rates will be attached as an exhibit to the Phase 2 Project Agreement. State Finance and Procurement Article, Section 17-201 through 17-226 inclusive shall apply.

6.4 Environmental Requirements. The Phase 2 Project Agreement shall require the Phase 2 Developer to comply with all provisions of environmental law applicable to the Phase 2 Project. Except as may otherwise be set forth in the Phase 2 Project Agreement, it is the expectation of the Parties that the Phase 2 Developer will be responsible for performing all investigations, removal, disposal, remedial actions, cleanup and abatement, corrective action, or other remediation that may be or is required pursuant to any applicable environmental law in connection with the Phase 2 Project.

ARTICLE 7 MISCELLANEOUS

7.1 Dispute Resolution. In the event of a dispute among the Parties, the disputing member(s) shall make good faith efforts to resolve the dispute informally.

7.2 All Parties Obligations are Subject to Appropriation. All terms and conditions of this MOU are subject to the availability of funding by State or County appropriation, as applicable. Nothing herein shall be construed to require any Party to obligate or expend funds for the performance of any work pursuant to this MOU or the Phase 2 Project Agreement in violation of County, federal, or State anti-deficiency laws, or shall give rise to a claim for compensation by or against any Party for services performed to further the provisions of this MOU or the Phase 2 Project, except as provided herein.

7.3 Breach. If a Party does not fulfill a material obligation under this MOU or materially violates any provision of this MOU, any other Party may terminate this MOU by giving

all other Parties written notice of termination at least ninety (90) days prior to such termination becoming effective; provided, however, if such breach is cured within such ninety (90) day period, the notice of termination shall be deemed null and void. Termination under this paragraph does not relieve any Party from liability for any damages caused to another Party. Upon termination, the provisions of Section 4.6 of this MOU shall apply.

7.4 Assignability. This MOU shall inure to and be binding upon the Parties hereto, their respective agents, successors, and assigns; however, no Party to this MOU may assign its interests in the MOU without the prior written consent of the other Parties, which consent shall not be unreasonably withheld.

7.5 Changes in Law. This MOU is subject to such modifications as may be required by changes in State or federal law or their implementing regulations.

7.6 Amendments. No covenant, agreement, term, or condition set forth in this MOU shall be changed, modified, altered, waived, or terminated except by a written instrument of change, modification, waiver, or termination executed by the Parties hereto.

7.7 Governing Law, Conflicts of Laws, and Venue. This MOU and the rights and liabilities of the Parties hereto shall be governed in accordance with the laws of the State, without regard to conflict of law principles, and, subject to the dispute resolution provision herein, any permitted action or proceeding arising hereunder shall be brought in a Maryland court of competent jurisdiction located in Prince George's County.

7.8 Headings. The headings to the articles, sections, and exhibits (if any) of this MOU are for ease of reference only and shall not in any way affect its construction or interpretation.

7.9 Notices. Any and all notices, demands, consents, requests, and responses thereto permitted or required to be given under this MOU shall be in writing, signed by or on behalf of the Party giving the same, and shall be deemed to have been properly given or served and shall be effective upon being personally delivered or by electronic communication (including email (and PDF or similar documentary attachment) and Internet or intranet websites) pursuant to procedures approved in writing by the Parties from time to time, or within three (3) Business Days upon being deposited in the United States Mail, postage prepaid, certified mail, return receipt requested, to the recipient at the address of such recipient set forth below or at such other address as such recipient may designate by written notice specifically designated as a notice of a change of address and given in accordance herewith; provided, however, that notice of change of address shall not be effective until the date of receipt hereof. Rejection or other refusal to accept or inability to deliver because of changed address of which no notice has been received shall also constitute receipt. Any such notice, demand, or request shall be addressed as follows:

PGCPS: Superintendent
Prince George's County Public Schools
14201 School Lane
Upper Marlboro, MD 20772
Email: superintendent@pgcps.org

With a copy to: Office of Alternative Infrastructure Planning and
Development
Prince George's County Public Schools
Louis Wilson Sr. Facilities Administration Building
13300 Old Marlboro Pike
Upper Marlboro, MD 20772
Email: shawn.matlock@pgcps.org

With a copy to: Office of General Counsel
Prince George's County Public Schools
14201 School Lane
Upper Marlboro, MD 20772
Email: darnell.henderson@pgcps.org

County: Prince George's County, Maryland
Office of the County Executive
1301 McCormick Drive, Suite 4000
Largo, MD 20774
Email: cexecutive@co.pg.md.us
Email: jarussell@co.pg.md.us

With a copy to: Prince George's County, Maryland
Office of Management and Budget
Attn: Director
1301 McCormick Drive, Suite 4200
Largo, MD 20774
Email: saearley@co.pg.md.us

With a copy to: Prince George's County, Maryland
Office of Law
Attn: County Attorney
1301 McCormick Drive, Suite 4100
Largo, MD 20774
Email: sgdixon@co.pg.md.us

IAC: Executive Director
Interagency Commission on School Construction
351 W. Camden Street, Suite 701
Baltimore, Maryland 21201
Email: iac.pscp@maryland.gov

With a copy to: Office of the Attorney General
Attn: Heidi Dudderar, Counsel
351 W. Camden Street, Suite 701
Baltimore, Maryland 21201

Email: hdudder@oag.state.md.us

MSA: Chief Financial Officer
Maryland Stadium Authority
333 W. Camden Street, Suite 500
Baltimore, Maryland 21201

With a copy to: Senior Vice President
Maryland Stadium Authority
Capital Projects Development Group
351 West Camden Street, Suite 300
Baltimore, Maryland 21201
Email: ejohnson@mdstad.com

With a copy to: Office of the Attorney General
Attn: Cynthia Hahn, Counsel
200 St. Paul Place, 20th Floor
Baltimore, Maryland 21202

7.10 Counterparts and Delivery by Electronic Mail. This MOU may be executed in counterparts, each of which shall be deemed to be an original, and such counterparts shall constitute one and the same instrument. Execution and delivery of this MOU by facsimile or e-mail .pdf shall be sufficient for all purposes and shall be binding on any Person who so executes.

7.11 Calculation of Time. For purposes of this MOU, a period of days shall be deemed to begin on the first day after the event that began the period and to end at 5:00 p.m., which time shall be determined by the time in the state of Maryland, on the last day of the period. If, however, the last day of the period does not fall on a Business Day, the period shall be deemed to end at 5:00 p.m., which time shall be determined by the time in the state of Maryland, on the next Business Day. For purposes of calculation of days, calendar days shall apply except to the extent Business Days are specifically identified.

[Signatures on the Following Page]

IN WITNESS THEREOF, the Parties hereto have caused this MOU to be executed as of the Effective Date.

PRINCE GEORGE’S COUNTY, MARYLAND

By: Angela Alsobrooks
Angela D. Alsobrooks
County Executive

By: Jolene Ivey
Jolene Ivey
Council Chair

PRINCE GEORGE’S COUNTY BOARD OF EDUCATION

By: _____
Judy Mickens-Murray
Chair

INTERAGENCY COMMISSION ON SCHOOL CONSTRUCTION

By: _____
Edward J. Kasemeyer
Chair

MARYLAND STADIUM AUTHORITY

By: _____
Michael J. Frenz
Executive Director

Approved as to form and legal sufficiency

By: _____
Assistant Attorney General for the Interagency Commission on School Construction

Approved as to form and legal sufficiency

By: _____
Assistant Attorney General for the Maryland Stadium Authority


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PRINCE GEORGE'S COUNTY, MARYLAND

By: _____
Angela D. Alsobrooks
County Executive

By: _____
Jolene Ivey
Council Chair

PRINCE GEORGE'S COUNTY BOARD OF EDUCATION

By:  _____
Judy Mickens-Murray
Chair

INTERAGENCY COMMISSION ON SCHOOL CONSTRUCTION

By: _____
Edward J. Kasemeyer
Chair

MARYLAND STADIUM AUTHORITY

By: _____
Michael J. Frenz
Executive Director

Approved as to form and legal sufficiency

By: _____
Assistant Attorney General for the Interagency Commission on School Construction

Approved as to form and legal sufficiency

By: _____
Assistant Attorney General for the Maryland Stadium Authority

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PRINCE GEORGE'S COUNTY, MARYLAND

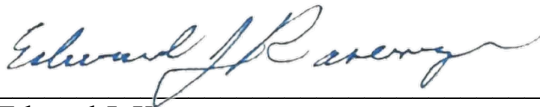
By: _____
Angela D. Alsobrooks
County Executive

By: _____
Jolene Ivey
Council Chair

PRINCE GEORGE'S COUNTY BOARD OF EDUCATION

By: _____
Judy Mickens-Murray
Chair

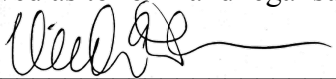
INTERAGENCY COMMISSION ON SCHOOL CONSTRUCTION

By:  _____
Edward J. Kasemeyer
Chair

MARYLAND STADIUM AUTHORITY

By: _____
Michael J. Frenz
Executive Director

Approved as to form and legal sufficiency

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Assistant Attorney General for the Interagency Commission on School Construction

Approved as to form and legal sufficiency

By: _____
Assistant Attorney General for the Maryland Stadium Authority

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PRINCE GEORGE’S COUNTY, MARYLAND

By: _____
Angela D. Alsobrooks
County Executive

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Jolene Ivey
Council Chair

PRINCE GEORGE’S COUNTY BOARD OF EDUCATION

By: _____
Judy Mickens-Murray
Chair

INTERAGENCY COMMISSION ON SCHOOL CONSTRUCTION

By: _____
Edward J. Kasemeyer
Chair

MARYLAND STADIUM AUTHORITY

By: Michael J. Frenz
Michael J. Frenz
Executive Director

Approved as to form and legal sufficiency

By: _____
Assistant Attorney General for the Interagency Commission on School Construction

Approved as to form and legal sufficiency

By: Bruce Benshoof
Assistant Attorney General for the Maryland Stadium Authority

EXHIBIT A

Phase 2 Schools

	School	School Address(es)	Tax Map Number	Parcel Number(s)	SDAT Tax Id. Number(s)
1.	Brandywine K-8	8000 Dyson Road, Brandywine, MD 20613	145	157	11-1136035
2.	Fairwood Elementary	13250 Fairwood Parkway, Bowie, MD 20720	46	0	07-3507142
3.	Hyattsville Elementary	5311 43 rd Avenue, Hyattsville, MD 20781	42	0	16-1791797
4.	James E. Duckworth Elementary	11201 Evans Trail, Beltsville, MD 20705	12	150	01-0005009
5.	Margaret Brent Elementary	5816 Lamont Terrace, Hyattsville, MD 20784	43	97	20-2176832
		Riverdale Road, Hyattsville, MD 20784		19	20-2182509
				7	20-2263523
6.	Robert Frost K-8	6419 85 th Avenue, Hyattsville, MD 20784	34	9	20-2176766
		Good Luck Road, Lanham, MD 20706		3	20-2182483
				60	20-2182475
7.	Springhill Lake Elementary	6060 Springhill Road, Greenbelt, MD 20770	26	0	21-2292712
8.	Templeton Elementary	6001 Carters Lane, Bladensburg, MD 20710	51	0	02-0092114