

Board Action Summary

An Outline of the Chief Executive Officer's Recommendation to the Board of Education

New Program: Yes No

Modified Program: Yes No

Subject: Resolution of General Terms for Alternative Construction Financing Package 1 under a Public-Private Partnership Model

Background:

Section 126 of Division II, Title 4, Subtitle 1 of the Education Article of the Annotated Code of Maryland permits county boards of education, with the approval of the county governing body, to utilize certain "alternative financing methods" in order to "finance or to speed delivery of, transfer risks of, or otherwise enhance the delivery of public school construction." Under subsection (a)(2)(iii) of Section 126 of Division II, Title 4, Subtitle 1 of the Education Article of the Annotated Code of Maryland, one such "alternative financing method" is "public-private partnership agreements, in which a county board contracts with a county revenue authority or a private entity for the acquisition, design, construction, improvement, renovation, expansion, equipping, or financing of a public school, and may include provisions for cooperative use of the school or an adjacent property and generation of revenue to offset the cost of construction or use of the school."

The approved 20-year *Educational Facilities Master Plan ("EFMP") (as amended in FY 2019)* establishes the Blueprint for PGCPSS to ensure adequate educational facilities are provided to meet the needs of Prince George's County Public Schools' 134,000 students and nearly 22,000 full- and part-time employees, adopting the use of Alternative Construction Financing (ACF) to deliver school facilities in the timeliest and most cost-effective manner possible, while guaranteeing life-cycle asset performance.

To advance consideration of alternative construction financing options, in May 2018, the County Council of Prince George's County, Maryland (County Council), approved Resolution No. CR 33-2018, establishing a P3 Alternative Financing School Infrastructure Work Group (Work Group) for the purpose of supporting, encouraging and establishing a work group to explore a Public-Private Partnership Alternative Financing School Infrastructure Program for public school construction and replacement projects in Prince George's County. The Work Group is comprised of representatives from the Office of the County Executive, the County Council and PGCPSS.

The Working Group engaged external advisors and independent experts to undertake due diligence and evaluate a wide spectrum of potential finance and delivery options, concluding that the delivery of a bundle of five to seven schools under a design-build-finance-maintain or design-build-finance-operate-maintain structure could potentially accelerate the delivery of critical new infrastructure from 17 years to 3 years, while likewise reducing costs and guaranteeing that the schools would meet prescribed performance standards over a designated term.

On May 30, 2019, PGCPSS, in cooperation with the Work Group, issued Request for Qualifications No. DC19-24, Public-Private Partnership for the Design, Construction, Financing and Maintenance of Prince George's County Public Schools Alternative Construction Financing Package 1. Interested bidders submitted their Statement of Qualifications on or before July 10, 2019. Upon selection of the top three or four bidders, an RFP will be issued to select the bidders. A preferred partner will be selected through the RFP process. This Board Action Summary outlines the general commitment that PGCPSS intends to make in support of the Alternative Construction Financing Package 1.

Abstract and Highlights:

1. Project Scope:

The Board of Education accepts the recommendation of the Chief Executive Officer to include as part of the Alternative Construction Financing Package 1 five to eight middle or K-8 schools (ACF Package 1 Schools).

Subject: Resolution of General Terms for Alternative Construction Financing Package 1 under a Public-Private Partnership Model

2. Transaction Structure:

The anticipated terms of the contract are summarized as follows:

- a) **Contracting Authority:** PGCPS (with financial support from the County, as detailed in a Memorandum of Understanding).
- b) **Contract Structure:** Design-Build-Finance-Maintain (DBFM) for ACF Schools Package 1.
- c) **Scope of Services:**
 - (i) **Schools, Sites and Standards:** Schools, sites and construction standards will be prescribed in the RFP.
 - (ii) **Design-Build:** The design and construction scope will include all activities related to the permitting, design, construction and commissioning of specified schools. Requirements will be made for public outreach during the design phase to ensure community input into design elements.
 - (iii) **Financing:** The private partner will be required to provide full financing for the project, whether in the form of debt or equity. All financing will be private and without recourse to PGCPs and the County.
 - (iv) **Life-cycle Maintenance:** The private partner will be responsible for hard maintenance at service levels prescribed in the RFP and Agreement, thereby ensuring that the facilities are maintained at prescribed standards over the life of the contract.
 - (v) **Hand back Requirements:** The private partner shall be required to transfer the facilities back to PGCPs at the end of the term at prescribed standards, ensuring that the buildings are in good condition at the expiration of the Agreement.
- d) **Key Excluded Services:**
 - (i) It is envisioned that custodial and daily facilities management shall be retained by PGCPs.
 - (ii) PGCPs shall provide swing space and occupancy planning.

e) Compensation:

Although some level of milestones or progress payments may be offered upon completion and occupancy of a certain number of schools, primary compensation will begin upon completion and occupancy of the entire ACF Package and be in the form of quarterly **availability payment**, which shall be subject to deductions for performance shortfalls. The maximum availability payment will be comprised of a capital charge, a maintenance and repair charge, and any extraordinary items, and shall be determined on the basis of the private partner's price proposal. Funding for the Availability payments will be provided on a cost-share basis between PGCPs and the County, with the option to include State funding in the future, should it become available.

f) Anticipated Term

The term of the agreement is 33 years, including a maximum three-year design and construction period, followed by a 30-year maintenance term.

Subject: Resolution of General Terms for Alternative Construction Financing Package 1 under a Public-Private Partnership Model

g) Asset Ownership

PGCPS will own and hold title to the schools, with the private partner having no leasehold rights over the property other than those indicated in the Agreement.

h) MBE/Local Business Requirements

Consistent with existing PGCPS policies and requirements, the minimum MBE and CBB requirement is 30%. The 30% will be applied to each element of the design, build and maintain portion of the agreement.

i) Community Investment Agreement

Company provides written agreement on ways to they will support the goals of PGPCPS and the broader community through investments such as apprenticeships, scholarship endowments and minority business capacity building.

3. Implementation Timeline:

Although the complexity of the transaction requires PGCPS to advance the project carefully and deliberately, as currently anticipated, the Agreement will be awarded in Q1 or Q2 of 2020, with the expectation that all schools will be commissioned and occupied for the 2023-2024 school year.

4. Governance Framework:

a) General:

The Board of Education plans to enter into one or more Memorandums of Understanding (MOUs) with the County, identifying the governance structure and funding obligations of the parties with respect to this project. It is anticipated that the County Council will pass a resolution evidencing its support of terms as well.

b) Funding:

It is also expected that an MOU will identify the cost-share responsibilities of PGCPS and the County with respect to this Project. As currently envisioned, each shall contribute 50% of the maximum "availability payment." The terms associated with the payments, including the provision of any additional payments (such as milestone payments upon construction completion or early termination payments), which will be further explored by the County and PGCPS, and memorialized in the MOU.

The MOU will further provide that the Board of Education and the County will enter into an Escrow Agreement with a third-party qualified bank that will receive funds from the County and PGCPS on a semi-annual basis and disburse the funds to the developer at the direction of PGCPS on a quarterly basis. This funding MOU will serve as a key credit document of the transaction.

c) Steering Committee:

Given the funding arrangements associated with this Agreement, a steering committee comprised of representatives of the County Executive, County Council and the Board shall be created to make high-level decisions relating to this Agreement, such as contract modifications, major change orders, etc.

The above Alternate Construction Finance Plan is expected to achieve the following for Prince George's County Public Schools:

- Adds up to 5,545 seats of new school capacity;

Subject: Resolution of General Terms for Alternative Construction Financing Package 1 under a Public-Private Partnership Model

- Improves six to eight (6 to 8) PGCPs-owned properties;
- Utilizes land currently owned by PGCPs for the replacement schools;
- Improves the instructional environment for 10,400 students;
- Constructs schools in a cost-effective manner;
- Accelerates delivery of infrastructure versus traditional delivery, thereby expediting public benefits and reducing delivery costs;
- Defers payments until after completion (aligning cash flows with public benefits);
- Life-cycle budget predictability for the selected schools;
- Enforces performance standards (availability payments are subject to deductions in the case that performance standards are not met);
- Provides greater security around cost and schedule risk as a result of the at-risk private finance;
- Life-cycle asset management (better stewardship of public assets) for the selected schools; and
- Design and construction integration with lifecycle maintenance for selected schools.

Explanation:

As noted in the Board approved Amended FY17 Educational Facilities Master Plan (EFMP), identified the use of a public-private partnerships as delivery method for a number of Cycle 1 Schools. The plan calls for the construction of six schools simultaneously over a three-year period using the public-private partnership method. To maximize the effectiveness required, the following criteria were utilized:

- Reduce the number of Schools in Cycle 1 (per the EFMP);
- Prevent the bundle from exceeding budget capacity for the Availability Payment (minimum 5 schools);
- Create maximum additional Seats (reducing overcrowding);
- Create cost savings through economies of scale and bundling;
- Increase the constructability and limited individual project risks;
- Include the available space and/or swing plan;
- Include facilities conditions which are not ideal for staged renovations; and
- Have a bundle that will have as broad as possible geographic impact.

Based on these criteria above, the six schools that will be included in the request for proposal are new Adelphi Area Middle School, Drew-Freeman Middle School, Hyattsville Middle School, Southern Area Middle School, Kenmoor Middle School and Walker Mill Middle School.

Changes to state law do not require that a feasibility study be conducted in order to construct a school utilizing the public-private partnership methodology.

Budget Implications: None at present; possible implications for future Capital Improvement Plan.

Staffing Implications: None

School(s) Affected: Adelphi Area Middle School, Drew-Freeman Middle School, Hyattsville Middle School, Southern Area Middle School, Kenmoor Middle School and Walker Mill Middle School.

Preparation Date: September 11, 2019

Endorsed: _____
Associate Superintendent of Supporting Services

Person Preparing: Shawn Matlock

Endorsed: _____
Chief Operating Officer

Board Agenda Introduction Date (Budget Consent): September 19, 2019

Endorsed: _____
Chief Financial Officer

Board Action Date (Budget Consent): September 19, 2019

Approved: _____
Chief Executive Officer

PRINCE GEORGE'S COUNTY PUBLIC SCHOOLS
Upper Marlboro, Maryland 20772

RESOLUTION

WHEREAS, the Board of Education approved FY17 Educational Facilities Master Plan (EFMP) cited the need for these six to eight (6 to 8) new or replacement schools utilizing alternative construction financing; and

WHEREAS, the selected schools meet the criteria for construction under a public-private placement partnership agreement; and

WHEREAS, the Prince George's County Government and Prince George's County Public Schools are working in collaboration for the delivery of six to eight middle and/or K-8 Schools under the Alternative Construction Financing Package 1; and

WHEREAS, a feasibility study is not required for schools constructed under a Public-Private Partnership Agreement; and

WHEREAS, the Chief Executive Officer and staff recommend the entry into a MOU and Public-Private Partnership Agreement under the general terms outlined above in this Board Action Summary;

THEREFORE, BE IT RESOLVED, that the Board of Education of Prince George's County accepts the Chief Executive Officer's recommendation to procure six to eight middle and/or K-8 schools as Alternative Construction Finance Package 1, under the general terms outline above.

Submitted by:	Mr. Shawn Matlock
Agenda Date:	September 19, 2019
Discussion:	
First Reader:	
Budget Consent:	September 19, 2019
Emergency:	
Amended:	
Deferred:	
Tabled:	
Approved by the Board:	