

SETTLEMENT AGREEMENT

THIS SETTLEMENT AGREEMENT ("Agreement") is by and between The Town of Bel Air, Maryland ("Town") and the Harford County Board of Education ("BOE") (the parties hereto are sometimes collectively referred to as the "Parties").

EXPLANATORY STATEMENT

WHEREAS, the Town is a body corporate located in Harford County, Maryland with legal powers as authorized by its corporate charter.

WHEREAS, BOE is a body corporate and politic in the State of Maryland (the "State") that is authorized and established pursuant to Md. Educ. Art. § 3-103, *et seq.*

WHEREAS, the BOE is in the process of redeveloping Homestead-Wakefield Elementary School (the "Project") which is located within the Town.

WHEREAS, the BOE submitted its rebuilding plan for the Project for review by the Town's Planning Commission (the "Planning Commission").

WHEREAS, by letter dated April 8, 2022, the Planning Commission issued conditional approval of BOE's redevelopment plan for the Project reflecting its approval of the site plan, provided that the BOE conveyed to the Town a right-of-way for a public connector road through the school campus and perform other conditions which would support the public connector road.

WHEREAS, on June 7, 2022, the BOE filed a Complaint for Declaratory Judgment with the Circuit Court for Harford County (the "Circuit Court") in Case No. C-12-cv-22-000373.

WHEREAS, on July 14, 2022, the BOE submitted to the Planning Commission updated plans for the Project.

WHEREAS, by way of a letter dated September 2, 2022 to the BOE, the Planning Commission issued an amended site plan approval, again conditionally approving the BOE's site plan and requiring BOE to reserve to the Town a right-of-way for the connector road through the campus and other conditions which would support the connector road.

WHEREAS, on September 27, 2022, the BOE filed a Petition for Judicial Review with the Circuit Court in Case No. C-12-CV-22-000659.

WHEREAS, the Town is contesting the two lawsuits pending in the Circuit Court: (1) Case No. C-12-cv-22-000373 (Declaratory Judgment action), and (2) Case No. C-12-CV-22-000659 (Judicial Review action) (collectively, the "Pending Litigation").

WHEREAS, the Parties entered into Consent Orders dated December 2, 2022 in the Pending Litigation to further commemorate agreements between the Parties relating to the Project;

WHEREAS, the Parties have engaged in settlement discussions, desire to settle their disputes amicably in the Pending Litigation without resort to further litigation, and hereby enter into this Agreement.

NOW, THEREFORE, intending this Agreement to be legally binding, and the mutual agreements, representations, and promises contained in this Agreement, the receipt, sufficiency, and adequacy of which are hereby acknowledged, the undersigned Parties hereby agree to the following terms and conditions:

1. The Parties agree to the terms of the Planning Commission's letter dated September 2, 2022 to the BOE conditionally approving the Project as hereby amended, which amended letter is attached hereto and incorporated herein as Exhibit 1.

2. The Parties agree to the depiction of the Project in the Final Site Plan (the "Final Site Plan") and Final Landscape Plan which are collectively attached hereto and incorporated herein as Exhibit 2. The Town hereby agrees to immediately issue the BOE's building permit upon execution of this agreement, and to timely issue any additional permits required for the Project upon receipt of required submittals from the BOE. The BOE hereby agrees to undertake, pay for, and assume full responsibility for the design, engineering, and construction of the emergency access road as depicted in the Final Site Plan (which currently connects to the parking lot of the McFaul Activity Center owned by Harford County and located at 525 W. MacPhail Road, in Bel Air, but which connection may be relocated at West MacPhail Road in the vicinity of and through the property of Wakefield Manor Apartments and Harford County as provided for in paragraph 4 below) including the installation of emergency access gates using an opening/closing system that ensures appropriate access by vehicles of first responder agencies. The Town will coordinate with the BOE with respect to the installation of said emergency access gates and the BOE will coordinate with the Town and appropriate emergency operations entity(ies) to ensure a remote activation system to operate same. The BOE will maintain and plow the emergency access road on its property and that of Harford County (with approval from Harford County) in accord with Harford County Public School needs. The Town may also coordinate at the Town's own cost with the BOE and Harford County to repair and plow the emergency access road as it deems necessary.

3. The BOE will grant the Town agencies responding to the Town's emergency calls an easement and right of way, to be memorialized by separate agreement, to traverse the emergency access road during emergencies to vehicles of said first responder agencies, including but not limited to police, fire, rescue, and emergency medical services ("EMS"). The BOE will grant the State and County first responders a license to traverse the emergency access road during emergencies. An emergency is construed to mean any life-threatening situation requiring use of emergency vehicles employing lights, sirens, or other emergency alerts, and where a shortened route of travel would: (A) reduce or eliminate risk of life or death to an individual(s); (B) expedite life-saving actions that would reduce or eliminate significant injury or loss of life to an individual(s); and/or (C) where an expedited response would reduce the event of significant property damage or loss as a result of a fire or catastrophic event (i.e.; flooding). An emergency

requiring the use of the emergency road would be necessitated: (a) to respond to and mitigate a fire, EMS, rescue, or police emergency; (b) when time is of the essence in mitigating that emergency and the access road provides the shortest response time/access to the emergency; and/or (c) in the case of EMS, when medical protocols dictate an urgent transport of a seriously ill or injured patient using the shortest route of travel to a hospital care facility. The Town understands and agrees that interpretation of the seriousness of the emergency is of paramount importance, particularly between the hours of 6:00 am and 5:00 pm Monday through Friday when the school community is present (specifically including when school is open for instruction and during after school activities). The Parties acknowledge that use of the emergency access road is not a substitute for use of existing roadways. The decision to access the emergency access road will be at the sole and absolute discretion of first responders handling the call for service to which they are responding. The Town will investigate and mitigate any reports of abuse of the emergency access road and negotiate with the BOE if the BOE has determined a need to reconfigure the use of its property. The parties agree and affirm that the emergency access easement does not grant a right of way for public use and is solely an easement for emergency use as defined herein.

4. As referenced previously herein and as currently depicted in the attached Final Site Plan, the point of ingress and egress for the western terminus of the emergency access road is currently fixed at the parking lot of the McFaul Activity Center. The Parties acknowledge that the Town is pursuing negotiations with the owner of the nearby Wakefield Manor Apartments to acquire rights to relocate the point of ingress and egress for the western terminus of the emergency access road at West MacPhail Road in the vicinity of and through the property of Wakefield Manor Apartments which connection will also cross property owned by Harford County, also as depicted in the attached Final Site Plan. The acquisition of such rights from Wakefield Manor Apartments will be at the sole expense of the Town. In the event the Town successfully acquires such rights, however, the BOE hereby agrees to undertake, pay for, and assume full responsibility for the design, engineering, and construction of the portion of the relocated emergency access road connection as depicted in the Final Site Plan, including the installation of emergency access gates using an opening/closing system, and the Town agrees to grant the BOE an easement and right of way across its property for ingress/egress and for construction of the roadway. The BOE's agreement to undertake and pay for the relocated emergency access road described herein is subject to a BOE request of the local fiscal authorities to appropriate and, ultimately, fund the emergency access road as described above at the time of the Town's acquisition of the property. Alternatively, the Town may, at its own expense, proceed with completion of the relocated emergency access road. The BOE will maintain and plow the emergency access road on its property in accord with Harford County Public School needs. The Town may also repair and plow the emergency access road as it deems necessary but with advance permission from the BOE and other property owners. The BOE will grant the Town and first responder agencies the rights stated in paragraph 3, above. The portion of the emergency access road formerly tied to the McFaul Activity Center will then be converted by the BOE into a pedestrian path.

5. Consent Orders. Following the Parties' execution of this Agreement and acknowledgement that all legal claims and defenses raised in the Pending Litigation have been settled by the compromise reflected in the terms of this Agreement, the Parties will direct their attorneys to e-file a Consent Motion and proposed Final Order in the Petition for Judicial Review

matter, recorded by the Circuit Court as Case No. C-12-CV-22-000659, requesting the Circuit Court to adopt and incorporate this Agreement and order the Parties to comply with its terms. The Complaint for Declaratory Judgment, recorded by the Circuit Court as Case No. C-12-CV-22-000373, shall be dismissed without prejudice.

6. Mutual Release.

(a) Except for the promises and agreements made in this Agreement, the Town, for itself and its successors, assigns, legal representatives, agents, and attorneys, hereby releases and forever discharges the BOE and its predecessors, assigns, legal representatives, agents, and attorneys, from and against all actions, causes of action, claims, suits, debts, damages, judgments, liabilities, and demands arising out of or pertaining to the Pending Litigation, whether matured or unmatured, whether at law or in equity, and whether now known or unknown, liquidated or unliquidated, that the Town may now have, or may have had at any time, arising prior to the date of this Agreement.

(b) Except for the promises and agreements made in this Agreement, BOE hereby for itself and its successors, assigns, legal representatives, agents, and attorneys, hereby releases and forever discharges the Town, and its assigns, legal representatives, agents, and attorneys, from and against all actions, causes of action, claims, suits, debts, damages, judgments, liabilities, and demands arising out of or pertaining to the Pending Litigation, whether matured or unmatured, whether at law or in equity, and whether now known or unknown, liquidated or unliquidated, that the BOE may now have, or may have had at any time, arising prior to the date of this Agreement.

7. Litigation Costs. The Parties shall bear their respective attorneys' fees and other costs incurred in connection with the Lawsuit. In any proceeding to enforce the terms of this Agreement, however, the prevailing party(ies) shall be entitled to payment of its reasonable attorney's fees and costs.

8. Entire Agreement. This Agreement constitutes the entire agreement between the Parties and shall not be modified except by written agreement of the Parties. There are no promises, terms, conditions, or obligations other than those contained herein, and the Agreement shall supersede all previous communications, representations, or agreements, whether written or oral, between the Parties or their counsel on the subject hereof.

9. Use of the Agreement. This Agreement and the settlement of the Pending Litigation shall not be construed as an admission of liability by any Party nor as an admission by any Party with respect to any of the declaratory relief sought by either Party. This Agreement shall not be used in any proceeding except in a proceeding to enforce its terms.

10. Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument. Copies and facsimiles of the Agreement shall have the same force and effect as the originals.

11. Benefit. This Agreement shall be binding upon, and inure to the benefit of the respective successors, parents, subsidiaries, affiliates, agents, officers, directors, employees, partners, members, shareholders, heirs, assigns, executors, legal representatives, and attorneys of the Parties.

12. Understanding of the Agreement. The undersigned, by execution hereof, state that this Agreement has been read by them and by legal counsel and that the undersigned understand and fully agree to each, all, and every provision hereof, and they hereby acknowledge receipt of a copy hereof.

13. Effective Date. This Agreement shall take effect when it has been signed by all the Parties thereto.

14. Authorization. The undersigned represent and warrant that they are authorized to enter into this Agreement on behalf of the respective Parties hereto.

15. Severability. If any provision of this Agreement is or becomes invalid, illegal, or unenforceable, the remaining provisions shall remain in full force and effect, and for the invalid, illegal, or unenforceable provision shall be substituted a valid, legal, and enforceable provision which shall be as similar as possible in economic and business objectives as intended by the Parties.

16. Governing Law. This Agreement shall in all respects be interpreted, enforced, and governed under the laws of the State of Maryland, irrespective of its choice of law rules. The language of all parts of this Agreement shall in all cases be construed as a whole, according to its fair meaning, and not strictly for or against any of the Parties.

ATTEST:

Turi Schmid

TOWN OF BEL AIR, MARYLAND

By: Edward Hopkins
Edward Hopkins, Town Administrator

Date: July 24, 2023

ATTEST:

Turi Schmid

HARFORD COUNTY BOARD OF EDUCATION

By: Aaron Poynton
Name: Dr. Aaron Poynton
Title: Board President

Date: July 24, 2023

HARFORD COUNTY BOARD OF EDUCATION

ATTEST:

Turi Schmid

By: Dr. Sean Bulson
Name: Dr. Sean Bulson

Title: Harford County Public Schools Superintendent

Date: July 24, 2023