

**BALTIMORE COUNTY PUBLIC SCHOOLS**

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**DATE:** November 4, 2002  
**TO:** **BOARD OF EDUCATION**  
**FROM:** Dr. J. Hairston, Superintendent  
**SUBJECT:** **Request for Approval – Memorandum of Understanding at Hereford High School**

**ORIGINATOR:** J. Robert Haines, Deputy Superintendent of Business Services

**RESOURCE**

**PERSON(S):** Donald F. Krempel, Ph.D., Executive Director, Department of Physical Facilities  
J. Kurt Buckler, Head of Engineering, Office of Engineering and Construction

**RECOMMENDATION**

That the Board of Education approves a Memorandum of Understanding.

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Approval of Memorandum of Understanding at Hereford High School.

Appendix I Request for Approval  
Appendix II Draft Memorandum of Understanding

**Request for Approval -  
Memorandum of Understanding at Hereford High School  
November 4, 2002**

The State Highway Administration and the Department of Physical Facilities have agreed to jointly address safety concerns with the traffic along York Road in the vicinity of Hereford High School as well as the existing entrance to our school's property. The improvements to York Road and the enhancements to Hereford High School include construction of a new entrance at the southern end of the school property, constructing a southbound channelized acceleration lane to southbound York Road, construction of an additional parking lot, and resurfacing and restriping of the existing parking lot. This work will be addressed as one project with the State Highway Administration providing oversight for the design and construction. In order to formalize this collaboration, a Memorandum of Understanding has been drafted that defines the roles and responsibilities for Baltimore County Public Schools and the State Highway Administration under the proposed project.

At this time, the Department of Physical Facilities request the Board's approval to enter into this Memorandum of Understanding. All subsequent contracts and expense associates with this project will be brought to the attention of the Board of Education for their review and approval.

APPROVED:



Donald F. Krempe, Ph.D.  
Executive Director

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MEMORANDUM OF UNDERSTANDING  
MD 45 @ Hereford High School  
Entrance Improvements

by and between  
Board of Education of Baltimore County  
and  
Maryland State Highway Administration

**THIS MEMORANDUM OF UNDERSTANDING ("MOU")**, executed in duplicate, made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2002, by and between the State Highway Administration of the Maryland Department of Transportation, acting for and on behalf of the State of Maryland, hereinafter called "**SHA**", and the Board of Education of Baltimore County, Maryland hereinafter called the "**BOARD**".

**WHEREAS**, the BOARD is operating an educational facility serving northern Baltimore County known as Hereford High School, hereinafter called the "**SCHOOL**"; and

**WHEREAS**, the campus area for the SCHOOL is located adjacent to MD 45, a two lane undivided rural minor arterial State roadway with a posted speed limit of forty miles per hour (40 mph); and

**WHEREAS**, SHA and the BOARD recognize and agree that the course of normal activities at the SCHOOL generates a certain volume of passenger car, bus and delivery traffic into and out of the SCHOOL's entrance; and

**WHEREAS**, SHA and the BOARD desire to improve traffic safety along MD 45 in the vicinity of the SCHOOL; and

**WHEREAS**, SHA is designing improvements along MD 45 by providing channelization and signalization, hereinafter called "**IMPROVEMENTS**"; and

**WHEREAS**, in order to enhance traffic flow and eliminate potential safety problems, the BOARD has requested improvements to the SCHOOL's parking lot and existing entrances, hereinafter called the "**ENHANCEMENTS**"; and

**WHEREAS**, the BOARD has requested SHA to design the ENHANCEMENTS on behalf of the BOARD at the BOARD's sole expense; and

**WHEREAS**, SHA has agreed to design the ENHANCEMENTS on behalf of the BOARD at the BOARD's sole cost; and

**WHEREAS**, the BOARD has appropriated funding under BOARD Project No. \_\_\_\_\_ from which the BOARD will reimburse SHA for; i) the design and construction of the ENHANCEMENTS, and ii) SHA's direct salaries, payroll burden and overhead for construction engineering services (i.e., construction inspection and material testing/certification) ("**Construction Engineering Services**") performed during construction of the ENHANCEMENTS, and

**WHEREAS**, the ENHANCEMENTS and the IMPROVEMENTS are hereinafter collectively called the "**PROJECT**", and

**WHEREAS**, SHA and the BOARD recognize that construction of the PROJECT will promote the health, safety, and general welfare of the SCHOOL students, faculty and the citizens of Baltimore County and the State of Maryland.

**NOW, THEREFORE THIS MOU WITNESSETH:** that for and in consideration of the mutual promises between the parties hereto and in further consideration of the sum of One Dollar (\$1.00) paid to each party by the other, the adequacy and receipt of which is hereby acknowledged, the parties hereto agree as follows:

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## I. DESCRIPTION

The PROJECT shall generally consist of the IMPROVEMENTS and the ENHANCEMENTS.

### A. The IMPROVEMENTS

1. The IMPROVEMENTS shall consist of the construction of safety and geometric improvements to MD 45 and the entrance to the SCHOOL; to include, but not be limited to, constructing a new entrance at the southern end of the school property, relocating the existing Red-Flag to the northern most school entrance, relocating the southbound MD 45 advance warning beacons, constructing sidewalk from Bunker Hill Road to the northern school entrance, providing additional lighting at the MD 45 / Bunker Hill Road intersection and constructing a southbound channelized acceleration lane to southbound MD 45.

### B. The ENHANCEMENTS

1. The ENHANCEMENTS shall include: i) the construction of an additional parking lot in the southwest corner of the school property ("**NEW PARKING**"), ii) resurfacing and restriping the existing lot ("**RESURFACING**"), iii) construction of two (2) Storm Water Management Ponds ("**SWM PONDS**"), and, iv) removal and replacement of the existing illuminated school sign and the construction of a masonry school sign holder and the provision and installation of a replacement illuminated school sign ("**SCHOOL SIGN**").
  - a. The SWM PONDS are being constructed for the sole benefit of the SCHOOL. One SWM POND ("**SWM POND #1**") will be constructed on SCHOOL property; and, the second SWM POND ("**SWM POND #2**") will be constructed on property owned by SHA.
  - b. The SCHOOL SIGN shall consist of the demolition and disposal of the existing illuminated school sign and the construction of a masonry school sign holder and the provision and installation of a replacement illuminated school sign. The SCHOOL SIGN shall be constructed or provided in compliance with Baltimore County Public School specifications, guidelines and plans as attached to the Contract Documents and incorporated herein by reference.

## II. DESIGN PHASE

### A. SHA Responsibilities

1. SHA shall accomplish all tasks necessary to design the IMPROVEMENTS and the ENHANCEMENTS.
2. SHA shall provide the BOARD with four (4) sets of proposed final PROJECT plans and estimates for review and comment, but SHA shall have final authority.
3. In the event SHA desires to revise the PROJECT plans subsequent to final plan approval, but prior to initiation of construction activities and said revisions will affect the ENHANCEMENTS, SHA shall provide the BOARD with written notification of said revisions including estimated costs.

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## B. BOARD Responsibilities

1. The BOARD shall provide to SHA written review comments on any plans or design related material for the PROJECT which have been provided to the BOARD for that purpose within ten (10) work days following receipt of the plans or design related material from SHA, provided however, SHA shall have final authority as to the plans and design of the PROJECT.
2. In the event the BOARD desires to revise the plans for the ENHANCEMENTS subsequent to final plan approval, but prior to initiation of construction activities, the BOARD shall provide SHA with written notification of the proposed revision including estimated costs, subject to SHA approval within ten (10) working days of SHA's receipt thereof; however, SHA's decision shall be final.
3. The BOARD shall provide SHA with all requested information and data that the BOARD has concerning the SCHOOL in an effort to assist SHA in the design of the ENHANCEMENTS.

## III. RIGHT-OF-WAY PHASE

### A. SHA Responsibilities

Prior to the opening of PROJECT bid proposals, SHA will accomplish all activities necessary to obtain such rights-of-entry as are required to design and construct the IMPROVEMENTS, excluding a right-of-entry for the SCHOOL from the BOARD.

### B. BOARD Responsibilities

By execution of this MOU, the BOARD grants SHA a right-of-entry to SCHOOL property for the sole purpose of constructing the PROJECT.

## IV. CONSTRUCTION PHASE

### A. SHA Responsibilities

1. SHA shall (i) advertise the PROJECT, including the ENHANCEMENTS for construction bids, (ii) award and administer the construction contract, (iii) construct the PROJECT as shown on the final PROJECT plans, and (iv) provide Construction Engineering Services for the PROJECT.
2. In the event that revisions to the PROJECT are required in SHA's sole judgement due to conditions encountered during construction, said revisions shall be promptly made by SHA without prior concurrence by the BOARD in order to minimize or eliminate possible delay claims by SHA's construction contractor. In the event the revisions affect the ENHANCEMENTS, SHA shall advise the BOARD within ten (10) days of the required revision.
3. SHA shall provide the BOARD with a copy of the apparent low bid, including bid tabulation for the PROJECT, which shall identify items associated with construction of the ENHANCEMENTS and their respective costs.
4. SHA shall obtain all permits necessary to construct the PROJECT.
5. SHA shall coordinate all utility relocations for the construction of the PROJECT in accordance with its Standard Utility Policy and prior rights.

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6. SHA will provide the BOARD and the SCHOOL with written notification two (2) full business days prior to initiation of construction activities to ensure that the NEW PARKING and the RESURFACING are available for construction.
7. Following completion of the PROJECT, SHA will provide the BOARD with one complete set of PROJECT as-built construction plans.

### **B. BOARD Responsibilities**

1. In the event the BOARD desires to make revisions to the ENHANCEMENTS subsequent to final PROJECT plan approval and/or during construction, it shall promptly submit a request in writing to SHA, including the requested revisions and their estimated costs, for SHA concurrence. However, SHA shall have the final decision concerning all safety and public welfare issues. The BOARD agrees that any additional costs incurred by SHA to implement the revisions shall be the sole responsibility of the BOARD.
2. The BOARD may, at its discretion and expense, provide an inspector during the construction of the PROJECT; however, SHA's PROJECT inspector shall have final authority during PROJECT construction.
3. The BOARD shall be available to SHA within twenty-four (24) hours of verbal notice from SHA to resolve conflicts and issues that arise in the construction of the ENHANCEMENTS. In the event the BOARD is not available, or in the event of any emergency situation, SHA shall make its best determination to resolve such conflict or issue but shall not be held responsible for any costs which may arise on the ENHANCEMENTS. The BOARD agrees that it shall be solely responsible for any such costs.
4. The BOARD and the SCHOOL shall ensure that the NEW PARKING and the RESURFACING are available for construction to commence within forty-eight (48) hours notice pursuant to notification by SHA as provided for herein.

## **V. DESIGN PHASE FUNDING**

### **A. SHA Responsibilities**

1. SHA shall fund all costs associated with the design of the IMPROVEMENTS.
2. Thirty (30) days prior to issuance of the Notice to Proceed, SHA shall provide an invoice to the BOARD in the amount of \$20,662, said amount being the estimated cost to design the ENHANCEMENTS which estimate includes SHA's direct salaries and overhead.
3. Upon completion of PROJECT design, SHA shall perform a final reconciliation of all ENHANCEMENT design costs and shall either (i) provide a final invoice to the BOARD for all remaining costs attributed to the BOARD, or (ii) rebate any excess funds to the BOARD.

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## B. BOARD Responsibilities

1. The BOARD shall provide to SHA a check in the amount of \$20,662 within thirty (30) days of receipt of invoice from SHA for the BOARD's estimated share of the estimated costs to design the ENHANCEMENTS. Failure of timely payment by the BOARD could result in a delaying of the Notice to Proceed being issued by SHA. The Board's actual reimbursement to SHA shall be subject to SHA's reconciliation of costs upon completion of PROJECT design as provided for elsewhere herein.

## VI. RIGHT-OF-WAY PHASE FUNDING

### A. SHA Responsibilities

1. In the event additional right-of-way is needed for the IMPROVEMENTS, excluding right-of-way or property required from the SCHOOL, SHA shall be responsible for all costs and expenses to acquire such additional right-of-way

### B. BOARD Responsibilities

1. The BOARD shall grant to SHA at no cost or expense to SHA, the right-of-entry as previously described herein.
2. The BOARD shall be responsible for all costs incurred by the BOARD in granting the right-of entry.

## VII. CONSTRUCTION PHASE FUNDING

### A. SHA Responsibilities

1. SHA shall be responsible for all costs to advertise, award and administer the PROJECT for construction.
2. SHA shall be responsible for all costs associated with the construction of the IMPROVEMENTS.
3. Sixty (60) days prior to issuance of the Notice to Proceed, SHA shall provide an invoice to the BOARD in the amount of \$243,134, said amount being the estimated cost to construct the ENHANCEMENTS, which estimate includes SHA's direct salaries and overhead.
4. Upon PROJECT completion, SHA shall perform a final reconciliation of all ENHANCEMENT costs and shall either (i) provide a final invoice to the BOARD for all remaining costs attributed to the BOARD, or (ii) rebate any excess funds to the BOARD.
5. In the event the NEW PARKING and the RESURFACING are not available to SHA's construction contractor within the time specified herein, SHA shall invoice the BOARD for all costs incurred by SHA as a result of such unavailability, including, but not limited to, SHA's administrative costs (i.e., to include, but not be limited to, reasonable attorney's fees, salaries, payroll burden) contractor claims, contract time extensions, premium pricing, etc.

### B. BOARD Responsibilities

1. The cost to construct the ENHANCEMENTS is estimated to be \$193,914. SHA's direct salaries, payroll burden and overhead for the ENHANCEMENTS are estimated to be an additional \$49,220, for which the BOARD is responsible. The

BOARD shall provide to SHA a check in the amount of \$243,134 within thirty (30) days of receipt of invoice from SHA for the BOARD's estimated share of the total of the estimated construction costs and SHA's direct salaries, payroll burden and overhead for the ENHANCEMENTS. Failure of the BOARD to pay in a timely manner could delay issue of the Notice to Proceed by SHA. If the BOARD's failure to pay in a timely manner results in a delay of the Notice to Proceed, the BOARD shall bear all costs and expenses that result from such delay.

- a. The BOARD recognizes that the amount of \$243,134 is an estimate only and the Board's actual reimbursement to SHA shall be subject to SHA's reconciliation of costs upon completion of PROJECT design as provided for elsewhere herein. The actual costs of the ENHANCEMENTS may include, but not be limited to, change orders and overruns, all additional costs which result from unanticipated conditions encountered on-site related to the during construction of the BOARD's ENHANCEMENTS, utility relocations required for the ENHANCEMENTS, all costs incurred by SHA in contractor's claims as a result of the unavailability of the NEW PARKING or the RESURFACING as specified herein, and contractor's claims filed as a result of the ENHANCEMENTS.
  - b. Upon completion the ENHANCEMENTS, SHA shall perform a final reconciliation of all costs for construction of the ENHANCEMENTS and shall either (i) provide a final invoice to the BOARD for all remaining costs attributed to the BOARD, or (ii) rebate any excess funds to the BOARD. In the event there are costs remaining for which the BOARD is invoiced, the BOARD shall pay the invoice within thirty (30) days of receipt of invoice from SHA
2. In the event the actual costs of the BOARD's ENHANCEMENTS construction exceed \$243,134, the BOARD shall reimburse SHA within thirty (30) days of receipt of invoice for the BOARD's share of all additional costs subject to the terms and conditions of this MOU. Once the BOARD's expenditures for construction and SHA's construction engineering cost reach ninety percent (90%) or \$218,821 of the BOARD's appropriation of \$243,134, the BOARD shall seek to obtain additional appropriated funds or reduce the scope of work in order to not exceed the BOARD's secured appropriation of \$243,134. This cost is an estimate only and does not include unanticipated costs which may be encountered during construction of the BOARD's ENHANCEMENTS and that shall be the sole responsibility of the BOARD subject to the terms of this MOU.
  3. In the event the BOARD deletes and/or reduces quantities to maintain its present budget constraints, and such deletion and/or reduction causes a premium price and/or a re-negotiated price, the BOARD shall be solely responsible for any resulting increased construction cost that SHA's Chief Engineer for Operations determines is caused by the BOARD's actions under this Paragraph.

## **VIII. MAINTENANCE**

### **A. SHA Responsibility**

1. SHA shall provide the BOARD with a set of as-built construction plans that will detail the SWM POND #2
2. SHA shall provide the BOARD with a complete set of maintenance standards and specifications and a schedule of periodic maintenance activities necessary to maintain SWM POND #2 in compliance with SHA standards and specifications.



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3. Prior to final acceptance of SWM POND #2, SHA will meet with the BOARD to review SWM POND #2 compliance to the plans and specifications, at which time a punch list will be compiled. Once the SWM POND #2 punch list has been completed, the BOARD shall accept maintenance responsibilities for the SWM POND #2.
4. SHA shall provide the BOARD with a district permit (“PERMIT”), to be renewed annually, and the PERMIT shall grant a right-of-entry to BOARD personnel for the sole purpose of providing the necessary maintenance for the SWM POND #2.
5. In the event corrective action is needed to the SWM POND #2, in SHA’s sole opinion, SHA shall notify the BOARD as to the maintenance required. The BOARD shall commence the corrective action within thirty (30) days of notification from SHA. If the BOARD does not commence corrective action within thirty (30) days or sooner, as may be directed by SHA, depending on the circumstances, SHA reserves the right to perform such corrective action as may be needed at the sole cost and expense of the BOARD.
  - i. If SHA performs corrective action as described in this MOU, SHA will issue to the BOARD an invoice for all costs incurred by SHA for such corrective action and the BOARD shall remit to SHA funds equal to the amount of the invoice upon receipt of the invoice.
6. SHA shall review and approve in writing, all Traffic Control Plans and subsequent revisions necessary for the BOARD’s maintenance of SWM POND #2 and shall issue a Lane Closure permits to the BOARD as needed.
7. Maintenance of traffic and public safety will be a critical aspect of the BOARD’s maintenance activities for SWM POND #2. Lane closures, working hours, etc., will be rigidly controlled by SHA’s Assistant District Engineer (Traffic) or his designated representative. Should situations arise within SHA Right-of-Way during the maintenance of SWM POND #2 that create a safety hazard to the public, SHA’s Assistant District Engineer (Traffic) shall have sole authority to direct that corrective action be undertaken. Depending on the severity of the hazard, this may include a temporary shutdown of the BOARD’s maintenance activities until the hazardous situation is corrected.

### B. BOARD Responsibility

1. The BOARD shall apply for and obtain the PERMIT from SHA’s District Office for the sole purpose of obtaining a right-of-entry onto SHA property in order to provide the necessary maintenance for SWM POND #2.
2. Prior to entering upon SHA right-of-way pursuant to the PERMIT, the BOARD shall apply for and obtain from SHA’s District 4 Office, a lane closure permit, for the purpose of accomplishing maintenance work on SWM POND #2 pursuant to this MOU, and shall adhere to all terms and conditions therein.
3. The BOARD agrees that it will provide all maintenance of SWM POND #2 using the BOARD’s forces or other personnel under contract to the BOARD.
4. The BOARD agrees that it will perform any and all corrective actions necessary for SWM POND #2 as required by this MOU.
5. The BOARD shall be responsible for all costs and expenses necessary to maintain SWM POND #2;

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6. The BOARD shall be solely responsible for any and all damage to personal and/or public property caused by its maintenance activities for SWM POND #2.
7. The BOARD agrees that the maintenance activities for SWM POND #2 will have no adverse affect on vehicular or pedestrian traffic without the use of properly approved traffic control measures.

### IX. GENERAL

- A. The amount to be reimbursed to SHA by the BOARD (including SHA's direct salaries, payroll burden and overhead) for the design of the ENHANCEMENTS is estimated to be \$20,662. The amount to be reimbursed to SHA by the BOARD for the construction of the ENHANCEMENTS (including SHA's direct salaries, payroll burden and overhead) is estimated to be \$243,134. These are estimates only and all actual costs for the design and construction of the ENHANCEMENTS shall be the sole responsibility of the BOARD.
- B. This MOU and the rights and liabilities of the parties hereto shall be determined in accordance with Maryland law and in Maryland courts.
- C. The recitals (WHEREAS clauses) at the beginning of this MOU are incorporated herein as substantive provisions of this MOU.
- D. This MOU shall inure to and be binding upon the parties hereto, their agents, successors and assigns.
- E. Following completion of construction of the PROJECT, SHA shall own all rights-of-way and maintain the IMPROVEMENTS.
- F. Following completion of construction of the PROJECT, the BOARD shall own the ENHANCEMENTS with the exception of SWM POND # 2.
- G. Following completion of construction of the PROJECT, the BOARD shall maintain the ENHANCEMENTS.
- H. Notices and communications that are required under the terms of this MOU or that may be necessary between the parties shall be made or sent to the following:

If to SHA:

Maryland State Highway Administration  
District 4 Office  
2323 W. Joppa Rd.  
Brooklandville MD 21022

with copy to:

Agreements Coordinator  
Regional and Intermodal Planning Division  
Maryland State Highway Administration  
Mailstop C-502  
707 N. Calvert Street  
Baltimore MD 21202

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If to the BOARD:

Executive Director  
Department of Physical Facilities  
Baltimore County Board of Education  
9610 Pulaski Park Drive  
Baltimore, MD 21222

VIII. ANNOUNCEMENTS

Next Board Meeting    Monday, November 18, 2002  
7:30 P.M.    Greenwood