

COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND
Legislative Session 2010, Legislative Day No. 12
Resolution No. 59-10

Mr. John Olszewski, Sr., Chairman
By Request of County Executive

By the County Council, July 6, 2010

A RESOLUTION adopted pursuant to the Maryland Economic Development Revenue Bond Act authorizing Baltimore County, Maryland, to issue and sell its bonds as its limited obligations and not upon its faith and credit or pledge of its taxing power, in one or more series, not to exceed the aggregate amount of \$16,000,000, at the request of Towson City Center, LLC, a Maryland limited liability company, for the purpose of (a) paying the costs of the acquisition and improvement by Towson City Center, LLC of a certain facility currently consisting of a 282,378 gross square foot, 13-story vacant office building (which has previously been known as the Investment Building) originally constructed in 1964 and situated on 1.45 acres of commercially zoned land located in the central business district of Towson, Maryland, which improvement will consist of renovations resulting in a Class A 12 story office building with 154,764 of rentable square feet, 3 stories of underground parking, a new façade, new and energy efficient mechanical systems, and modern common areas, (b) establishing any necessary reserves, (c) refinancing a construction loan made or to be made to Towson City Center, LLC by M&T Bank to be used exclusively for and in connection with the improvements described above, (d) funding capitalized interest, and (e) paying the expenses of issuance of such bonds; specifying and describing the facilities to be financed and the existing indebtedness to be refinanced; describing generally the public purposes to be served and the financing and refinancing transaction to be accomplished; specifying the maximum aggregate principal amount of bonds that may be issued; authorizing the County Executive or the County Administrative Officer, by executive order or otherwise, to specify, prescribe, determine, provide for or approve certain matters, details, forms, documents, or procedures appropriate to the authorization, sale, security, issuance, delivery or payment of or for such bonds; and specifying and describing various matters in connection therewith, as required or permitted by such Act.

RECITALS

The Maryland Economic Development Revenue Bond Act, as amended (the “Act”), provides that in order to accomplish the legislative policy of the Act, any public body (as defined in the Act) may issue and sell its bonds (as defined in the Act), as its limited obligations and not upon its faith and credit or pledge of its taxing power, at any time or from time to time, for the purposes of financing or refinancing any costs of the improvement (as defined in the Act) of one or more

facilities (as defined in the Act) for one or more facility users (as defined in the Act) or of refunding outstanding bonds, including the necessary expenses of preparing, printing, selling and issuing those bonds, the funding of reserves, and the payment of interest with respect to financing such improvement in such amounts, or for such period, as the public body deems reasonable.

Baltimore County, Maryland, a body corporate and politic, and a political subdivision of the State of Maryland (the “State”) and a public body (as defined in the Act) (the “County”), has received a letter of intent dated May 19, 2010 (the “Letter of Intent”), and a Revenue Bond Application dated May 18, 2010 from Towson City Center, LLC, a Maryland limited liability company (the “Borrower”), pursuant to which the Borrower has requested the County to participate in the (a) financing of the costs of the acquisition and improvement of a facility (the “Facility”), and (b) refinancing of certain indebtedness of the Borrower (the “Existing Indebtedness”) by repaying a construction loan in the amount of up to \$16,000,000 made or to be made to the Borrower by M&T Bank to be used exclusively for and in connection with the improvement of the Facility.

The Facility to be financed consists of and includes (without limitation) a 282,378 gross square foot, 13-story vacant office building (which has previously been known as the Investment Building) originally constructed in 1964 and situated on 1.45 acres of commercially zoned land located at One Investment Place in the central business district of Towson, Maryland 21204, which improvement will consist of renovations resulting in a Class A 12 story office building with 154,764 of rentable square feet, 3 stories of underground parking, a new façade, new and energy efficient mechanical systems, and modern common areas, and such other interests in land, improvements, furnishings and equipment as may be necessary or suitable for the foregoing.

Pursuant to Section 1400U-1 through 1400U-3 of the Internal Revenue Code of 1986, as amended (the “Code”), including the provisions of the American Recovery and Reinvestment Act of 2009 (“ARRA”), states and local governments, such as the County, are authorized to issue recovery zone facility bonds to finance certain “recovery zone property” for use within designated “recovery zones,” in amounts not in excess of certain volume caps allocated among states and counties and large municipalities within the states based on relative declines in employment in 2008. The County has received an allocation of authority under ARRA and the applicable regulations promulgated by the Department of Treasury to issue recovery zone facility bonds in the principal amount of \$48,861,000. The Facility to be financed with proceeds of the Bonds (as defined below) is located in the recovery zone established by the County.

The County, based upon the findings and determinations set forth below, has determined to participate in the financing of the costs (to the fullest extent permitted by the Act) of the acquisition and improvement of the Facility and the refinancing of the Existing Indebtedness by the issuance, sale and delivery, at any time or from time to time and in one or more series, of its bonds (the “Bonds”) in the maximum aggregate principal amount of \$16,000,000. The proceeds of the Bonds shall be applied in accordance with Section 12-110 of the Act and this Resolution. The word “bonds” shall have the meaning indicated in the Act and includes bond anticipation notes issued in anticipation of the issuance and sale of the bonds, and it is intended that the provisions of this Resolution applying to “bonds” and “Bonds” shall include such bond anticipation notes, and any refunding bonds issued to refund any bonds or bond anticipation notes issued pursuant to this Resolution and shall include separate series of bonds, whether issued at the same time or at different times, unless the context clearly requires a contrary meaning. Words and terms used in this Resolution (including these Recitals) that are defined in the Act shall have the meanings indicated in the Act, unless the context clearly requires a contrary meaning.

NOW, THEREFORE, IN ACCORDANCE WITH THE ACT:

SECTION 1. BE IT RESOLVED BY THE COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND, That acting pursuant to the Act, it is hereby found and determined as follows:

(1) The Borrower is a “facility applicant” and a “facility user” within the meaning of the Act; the Facility is a “facility” within the meaning of the Act; and the Letter of Intent is a “letter of intent” within the meaning of the Act.

(2) The issuance and sale of the Bonds by the County, pursuant to the provisions of the Act, in order to make the proceeds thereof available to the Borrower for the purpose of financing the acquisition and improvement of the Facility and refinancing the Existing Indebtedness, including the necessary expenses of preparing, printing, selling and issuing the Bonds, the funding of reserves and the payment of interest with respect to financing such improvement and refinancing, will facilitate and expedite the financing of the acquisition and improvement of the Facility.

(3) The financing of the acquisition and improvement of the Facility and the refinancing of the Existing Indebtedness as provided in this Resolution will promote the declared legislative purposes of the Act by (a) relieving conditions of unemployment in the State and the County by the

creation or retention of a significant number of jobs; (b) encouraging the increase of industry and commerce and a balanced economy in the State and in Baltimore County; (c) assisting in the retention of existing industry and commerce and in the attraction of new industry and commerce in the State and in Baltimore County; (d) promoting economic development; (e) protecting natural resources and encouraging resource recovery; and (f) generally promoting the health, welfare and safety of the residents of the State and of Baltimore County.

(4) The Bonds and the interest thereon will be limited obligations of the County, and the principal thereof, and premium, if any, and interest thereon, shall be payable solely from the revenues received in connection with the financing of the Facility or from any other moneys made available to the County for such purposes. Any bond anticipation notes also shall be payable from the proceeds of the bonds in anticipation of which such notes were issued. Neither the Bonds nor the interest thereon shall ever constitute an indebtedness or a charge against the general credit or taxing powers of the County within the meaning of any constitutional or charter provision or statutory limitation, and neither shall ever constitute or give rise to any pecuniary liability of the County.

(5) Neither the proceeds of the Bonds nor the payments of the principal of, and premium, if any, and interest on, the Bonds will be commingled with the County's funds or will be subject to the absolute control of the County, but will be subject only to such limited supervision and checks and the County shall retain only those rights as it deems necessary or desirable to insure that the proceeds of the Bonds are used to accomplish the public purposes of the Act and this Resolution. The transactions provided for hereby do not constitute any physical public betterment or improvement or the acquisition of property for public use or the purchase of equipment for public use. The Facility does not constitute a capital project of the County within the meaning of any statutory or charter provision. The acquisition and improvement of the Facility and the refinancing of the Existing Indebtedness will achieve the public purpose of the Act.

SECTION 2. AND BE IT FURTHER RESOLVED BY THE COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND, That this Resolution, among other things, evidences the present intent of the County to issue, sell and deliver the Bonds in accordance with the terms and provisions of this Resolution. Each of the County Executive and the County Administrative Officer is hereby severally authorized, empowered, and directed to accept the Letter of Intent on behalf of

the County in order to further evidence the intent of the County to issue and sell the Bonds in accordance with the terms and provisions of this Resolution. The County and the Borrower contemplate that, consistent with the Declaration of Official Intent for Reimbursement executed by the County Executive on _____, 2010, upon the sale and delivery of the Bonds, proceeds of the Bonds may be used to reimburse the Borrower for certain costs previously incurred by the Borrower in connection with the improvement of the Facility.

SECTION 3. AND BE IT FURTHER RESOLVED BY THE COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND, That the County issue, sell and deliver the Bonds, at any time or from time to time and in one or more series, not to exceed the aggregate principal amount of \$16,000,000, subject to the provisions of this Resolution, and that the Bonds may be designated as recovery zone facility bonds for purposes of the Code. For the purposes of applying the foregoing limitation in the event that any refunding bonds or bonds issued to repay bond anticipation notes are issued, the outstanding principal amount of any bonds or bond anticipation notes, respectively, provision for the payment of which has been made from the proceeds of such refunding bonds or such bonds, respectively, or from other sources, shall not be taken into account in determining the aggregate principal amount of bonds issued, sold and delivered pursuant to this Resolution.

SECTION 4. AND BE IT FURTHER RESOLVED BY THE COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND, That the Bonds shall mature not later than 30 years from their date of issuance.

SECTION 5. AND BE IT FURTHER RESOLVED BY THE COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND, That the County will lend the proceeds of the Bonds to the Borrower as may be determined by the County Executive or the County Administrative Officer pursuant to Section 8 of this Resolution, pursuant to the terms and provisions of a loan agreement (within the meaning of the Act) or a financing agreement (the "Loan Agreement"), to be used by the Borrower for the purpose of financing the costs (to the fullest extent permitted by the Act) of the acquisition and improvement of the Facility and the refinancing of the Existing Indebtedness, including the necessary expenses of preparing, printing, selling and issuing the Bonds and other costs permitted by the Act.

The Loan Agreement will require that (1) the proceeds of the Bonds be used to finance the costs (to the fullest extent permitted by the Act) of the acquisition and improvement of the Facility and the refinancing of the Existing Indebtedness, and (2) the Borrower make payments which will be sufficient to enable the County to pay the principal of and premium, if any, and interest on the Bonds when and as the same become due and payable.

SECTION 6. AND BE IT FURTHER RESOLVED BY THE COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND. That the Bonds shall be executed in the name of the County and on its behalf by the County Executive or the County Administrative Officer, by his or her manual or facsimile signature, and by the Director of Budget and Finance of the County, by his or her manual or facsimile signature, and the corporate seal of the County or a facsimile thereof shall be impressed or otherwise reproduced thereon and attested by the Secretary to the County Executive or the County Administrative Officer, by his or her manual or facsimile signature. The County Executive of the County, the County Administrative Officer, the Director of Budget and Finance of the County, the Secretary to the County Executive and other officials of the County are hereby authorized and empowered to do all such acts and things and to execute, acknowledge, seal and deliver on behalf of the County such documents and certificates, including (without limitation) the Loan Agreement, as the County Executive or the County Administrative Officer may determine to be necessary or desirable to carry out and comply with the provisions of this Resolution, subject to the limitations set forth in the Act and any limitations set forth in this Resolution.

SECTION 7. AND BE IT FURTHER RESOLVED BY THE COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND, That, as permitted by the Act, the Bonds either may be sold at a private (negotiated) sale, at par or at such other price as the County Executive or the County Administrative Officer, with the consent of the Borrower, deems appropriate, or may be sold at a public sale, at par, above par or below par, with the consent of the Borrower, in either or both of which events, the Bonds shall be sold in such manner, at such times, and upon such terms and conditions as the County Executive or the County Administrative Officer deems to be in the best interests of the County.

SECTION 8. AND BE IT FURTHER RESOLVED BY THE COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND, That prior to the issuance, sale and delivery of the Bonds or any series thereof, the County Executive or the County Administrative Officer, by executive order or as otherwise permitted by the Act:

(1) shall prescribe the form, tenor, terms and conditions of and security for the Bonds;

(2) shall prescribe the principal amount, rate or rates of interest, denomination or denominations, date, maturity or maturities for the Bonds;

(3) may appoint a trustee or trustees, a bond registrar and a paying agent or agents for the Bonds;

(4) shall approve the form and contents of, and execute and deliver (where applicable), the Loan Agreement, and such other documents, including (without limitation) trust agreements, assignments, mortgages, deeds of trust, guaranties and security instruments to which the County is a party and which may be necessary or desirable to effectuate the issuance, sale and delivery of the Bonds;

(5) may prepare and distribute, in conjunction with representatives of the Borrower and the prospective purchasers of or underwriters or placement agents for the Bonds of any series, both a preliminary and a final official statement, offering memorandum or other similar document in connection with the sale of the Bonds of any series, if determined to be necessary or desirable in connection with the sale of the Bonds;

(6) may execute and deliver a contract or contracts for the purchase and sale of the Bonds of any series (or any portion thereof) in form and content satisfactory to the County Executive or the County Administrative Officer;

(7) shall determine the time of execution, issuance, sale and delivery of the Bonds and prescribe any and all other details of the Bonds;

(8) may determine the method, and shall approve the terms, of the sale of the Bonds, as provided in Section 7 of this Resolution and the use of the proceeds as provided in Section 5 of this Resolution;

(9) shall provide for the direct payment by the Borrower of all costs, fees and expenses incurred by or on behalf of the County in connection with the issuance, sale and delivery of the Bonds, including (without limitation) costs of printing (if any) and issuing the Bonds of such series,

legal expenses (including the fees of bond counsel and issuer's counsel) and compensation to any person (other than full-time employees of the County) performing services by or on behalf of the County in connection therewith;

(10) may provide for the issuance and sale (subject to the passage at the time of any appropriate resolution authorizing the same) of one or more series of additional bonds and one or more series of refunding bonds;

(11) may provide for the funding of reserves for the Bonds, and for the payment of interest on the Bonds during the period of renovation of the Facility and during such limited period thereafter; and

(12) may specify, prescribe, determine, provide for or approve such other matters, details, forms, documents or procedures and the County Executive or the County Administrative Officer may do any and all things appropriate for the authorization, sale, security, issuance, delivery or payment of or for the Bonds and in order to accomplish the legislative policy of the Act and the public purposes of this Resolution, subject to the limitations set forth in the Act and any limitations prescribed by this Resolution.

SECTION 9. AND BE IT FURTHER RESOLVED BY THE COUNTY COUNCIL OF BALTIMORE COUNTY, That after the issuance, sale and delivery of the Bonds, or any series thereof, the County Executive or the County Administrative Officer, by executive order or as otherwise permitted by the Act, at any time or from time to time, may amend, modify, supplement, restate, or otherwise change any matter which is subject to Section 8 of this Resolution, provided that any and all consents and approvals, if required, of the Borrower, the holders of the Bonds and any other person are obtained.

SECTION 10. AND BE IT FURTHER RESOLVED BY THE COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND, That Ballard Spahr LLP, is hereby approved and designated to act as bond counsel, and McGuireWoods LLP, is hereby approved and designated as issuer's counsel, with respect to the issuance, sale and delivery of the Bonds.

SECTION 11. AND BE IT FURTHER RESOLVED BY THE COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND, That the provisions of this Resolution are severable, and if any provision, sentence, clause, section or part hereof is held to be illegal, invalid or unconstitutional or inapplicable to any person or circumstances, such illegality, invalidity or unconstitutionality or inapplicability shall not affect or impair any of the remaining provisions, sentences, clauses, sections, or parts of this Resolution or their application to other persons or circumstances. It is hereby declared to be the legislative intent that this Resolution would have been passed if such illegal, invalid or unconstitutional provision, sentence, clause, section or part had not been included herein, and if the person or circumstances to which this Resolution or any part hereof is inapplicable had been specifically exempted from this Resolution.

SECTION 12. AND BE IT FURTHER RESOLVED BY THE COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND, That either the Bonds or any bond anticipation notes must be issued and sold within twelve months from the date on which this Resolution is approved by the County Executive. In the event that none of the Bonds or bond anticipation notes are issued and sold within twelve months from the date on which this Resolution is approved by the County Executive, the authority provided in this Resolution for the County to issue and sell the Bonds and any bond anticipation notes shall expire. Notwithstanding the foregoing, the County recognizes that so long as the Bonds are designated as recovery zone facility bonds, such Bonds must be issued and sold by December 31, 2010, absent any legislative action by the United States Congress extending such December 31, 2010 deadline.

SECTION 13. AND BE IT FURTHER RESOLVED BY THE COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND, That this Resolution shall take effect on the date of its adoption by the County Council and approval by the County Executive of the County.