

COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND
Legislative Session 2016, Legislative Day No. 12

Resolution No. 78-16

Mrs. Vicki Almond, Chairwoman
By Request of County Executive

By the County Council, July 5, 2016

A RESOLUTION adopted pursuant to the Maryland Economic Development Revenue Bond Act to provide for the issuance and sale by Baltimore County, Maryland as its limited obligations and not upon its faith and credit or pledge of its taxing power, of one or more series of its bonds in an aggregate principal amount not to exceed \$10,000,000, for the purpose of refunding certain bonds previously issued by the County, refinancing the costs of the acquisition and improvement by Maryvale Preparatory School, Incorporated of certain facilities located at 11300 Falls Road in Baltimore County and used by Maryvale Preparatory School, Incorporated in its business of ownership and operation of an independent school and financing the costs of issuing the bonds; providing for the issuance and sale of notes in anticipation of the issuance and sale of such bonds; 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; providing that neither the bonds nor any interest or premium thereon shall ever constitute an indebtedness or a charge against the general credit or taxing powers of Baltimore County, Maryland within

the meaning of any constitutional or charter provision or statutory limitation and that neither the bonds nor any interest thereon shall ever constitute or give rise to any pecuniary liability of Baltimore County, Maryland; and generally specifying and describing various matters in connection therewith, as required or permitted by such Act.

RECITALS

The Maryland Economic Development Revenue Bond Act, being Maryland Code Annotated, Economic Development Article, Sections 12-101 *et seq.*, as amended (the “Act”), authorizes the counties and municipalities of the State of Maryland (the “State”) to issue and sell revenue bonds or revenue refunding bonds as limited obligations and not upon their faith and credit or pledge of their taxing power, at any time and from time to time, for the purposes of financing or refinancing the costs of the acquisition or improvement (as defined in the Act) of a facility for a facility user or of refunding outstanding bonds, paying the costs of preparing, printing, selling, and issuing those bonds, funding reserves, and paying interest on such bonds in the amount and for the period the public body considers reasonable.

The General Assembly of the State of Maryland, in the Act, declares the legislative purposes of the Act to be the relief of conditions of unemployment in the State, the encouragement of an increase of industry and commerce and a balanced economy in the State, assistance in the retention of existing industry and commerce in, and the attraction of new industry and commerce to the State through, among other things, the development of ports, and the control or abatement of environmental pollution and the use and disposal of waste, the promotion of economic development, the

protection of natural resources and encouragement of resource recovery, and the promotion of the health, welfare, and safety of the residents of the State.

The Act provides that a public body may acquire or improve a facility with bond proceeds: (1) by leasing the facility to a facility user, (2) by selling the facility to a facility user under an installment sale agreement, (3) by lending bond proceeds to a facility user to be used to finance or refinance a facility, or (4) in any other manner that the public body considers appropriate to accomplish the legislative purposes of the Act.

Pursuant to the Act, the County Council of Baltimore County, Maryland may implement the authority conferred upon it by the Act to issue bonds by adopting a resolution that (1) specifies and describes the facility, (2) generally describes the public purpose to be served and the financing or refinancing transaction to be accomplished under the Act, (3) specifies the maximum principal amount of the bonds that may be issued, and (4) imposes such terms or conditions on the issuance and sale of the bonds as the County Council of Baltimore County, Maryland considers appropriate.

Under the Act, the County Council of Baltimore County, Maryland may by resolution specify, determine, prescribe, and approve matters, documents, and procedures as the County Council deems appropriate that relate to the authorization, sale, security, issuance, delivery and payment of or for the bonds, including, without limitation, creation of security for the bonds and provision for the administration of bond issues through trust or other agreements with a bank or trust company that covers countersignature on a bond, delivery of a bond or security for a bond, and may take other action it considers appropriate concerning the bonds. In the alternative, the County Council may authorize either the County Executive, who shall act by executive order or otherwise, or any other

appropriate administrative officer, who shall act by order or otherwise with the approval of the County Executive, to exercise the powers described above.

Baltimore County, Maryland, a body politic and corporate and a political subdivision of the State and a public body (the “County”) has received a letter of intent (the “Letter of Intent”) and a Revenue Bond Application dated May 17, 2016 from Maryvale Preparatory School, Incorporated, a Maryland non-profit corporation (the “Applicant”), pursuant to which the Applicant has requested the County to participate in (1) the refunding of certain bonds previously issued by the County, consisting of the County’s Variable Rate Demand Revenue Bonds (Maryvale Preparatory School Facility), Series 2005 A, the County’s Variable Rate Demand Revenue Bonds (Maryvale Preparatory School Facility), Series 2006 and the County’s Economic Development Revenue Bonds (Maryvale Preparatory School Facility), Series 2010 B (the “Refunded Bonds”) and (2) the financing and refinancing of the costs of issuance and other costs related to the transaction, by the issuance and sale by the County of its economic development revenue bonds in an aggregate principal amount not to exceed \$10,000,000 pursuant to and in accordance with the Act (the “Bonds”).

The Project financed with the Refunded Bonds, which is being refinanced with the Bonds (the “Facility”), consisted of and included (a) the renovation of the Applicant’s Castle building, including replacement of and upgrades to the building’s electrical system, plumbing, HVAC and other building subsystems, (b) the acquisition of the Applicant’s campus, including (i) approximately 103 acres of land, (ii) the Castle Building, which houses meeting facilities and educational facilities, (iii) the Maria Luisa Rodriguez Center, which houses computer labs, a cafeteria and other educational

facilities, (iv) the Middle School building, (v) the Learning Center and (vi) the Carriage House, together with other educational facilities and supporting infrastructure, (c) the construction, equipping and placing into service of an approximately 30,000 square foot building which houses an auditorium, a lobby and gallery space, a music classroom and practice space, a technology resource center, additional classrooms and other space to be used in the operation of the Applicant's school, (d) enhancements and upgrades to the Applicant's athletic fields, (e) re-orienting and re-constructing the Applicant's entrance driveway and interior driveways and related improvements, (f) constructing and installing a storm water management facility, (g) other improvements to the Applicant's facilities relating to the foregoing, (h) the acquisition of equipment and furnishings in connection with various buildings located on the Applicant's campus, (i) the funding of certain working capital needs of the Applicant, (j) the funding of a debt service reserve fund, (k) the funding of costs of issuance of the Refunded Bonds and (l) the acquisition of any other interest in land as may have been necessary in connection with the foregoing. The Letter of Intent states that the Applicant uses and will continue to use the Facility in its business of operating an independent school.

The Letter of Intent further expresses the Applicant's intention that the interest payable on the Bonds shall be excludible from the gross income of the owners of the Bonds for purposes of federal income taxation pursuant to Section 103 of the Internal Revenue Code of 1986, as amended (the "Code"), but the Applicant recognizes that the County can give no assurance and makes no representation that the interest on the Bonds, if issued, will be tax-exempt.

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 refunding of the Refunded Bonds, the refinancing of the Facility and the financing of costs of issuing the Bonds, by the issuance, sale and delivery, at any time, and from time to time, in one or more series, of the Bonds in an aggregate principal amount not to exceed \$10,000,000.

NOW THEREFORE, IN ACCORDANCE WITH THE ACT:

SECTION 1. BE IT RESOLVED BY THE COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND, That words and terms used in this Resolution (including the Recitals) that are defined in the Act shall have the meanings indicated in the Act unless the context clearly requires a contrary meaning.

SECTION 2. 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 County is a “public body” within the meaning of the Act.
- (2) The Applicant is a “facility applicant” and a “facility user” within the meaning of the Act.
- (3) The Facility is a “facility” within the meaning of the Act.
- (4) The Letter of Intent is a “letter of intent” with the meaning of the Act.
- (5) The County Executive is the “chief executive officer” within the meaning of the Act.
- (6) The refunding of the Refunded Bonds and the refinancing of the Facility as provided in this Resolution will promote the declared legislative purposes of the Act by

(a) sustaining jobs and employment thus relieving conditions of unemployment in the State and in the County; (b) encouraging the increase of industry and commerce and a balanced economy in the State and in the County; (c) assisting in the retention of existing industry and commerce in, and the attraction of new industry and commerce to, the State and the County; (d) promoting economic development; and (e) promoting the health, welfare and safety of the residents of the State and the County. Specifically, it is anticipated that the refunding of the Refunded Bonds and the refinancing of the Facility by the Applicant will (x) enhance the educational opportunities provided by the Applicant, (y) strengthen the ability of the Applicant as an educational institution to attract and educate students, and (z) improve the Applicant's long term viability in the operation of its independent school.

(7) The Act provides that the Bonds and the interest on them shall be limited obligations of the County the principal of, premium, if any, and interest on which shall be payable solely from money from the financing or refinancing of the Facility and other money made available to the County for such purpose. The Act provides that neither the Bonds of any series 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.

(8) Neither the proceeds of the Bonds of any series nor the payments of the principal of and premium, if any, and interest on the Bonds of any series 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 as are deemed

necessary or desirable by the County to insure that the proceeds of the Bonds of any series are used to accomplish the public purposes of the Act and this Resolution. The transactions authorized in this Resolution 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 public purposes expressed in the Act are to be achieved by refunding the Refunded Bonds and refinancing the Facility.

SECTION 3. 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 authorized, empowered, and directed to accept the Letter of Intent on behalf of the County in order to further evidence the present intent of the County to issue and sell the Bonds in accordance with the terms and provisions of this Resolution.

SECTION 4. AND BE IT FURTHER RESOLVED BY THE COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND, That the County issue, sell, and deliver the Bonds as limited obligations of the County, at any time or from time to time and in one or more series, in an aggregate principal amount not to exceed \$10,000,000 subject to the provisions of this Resolution.

The County will lend the proceeds of the Bonds of any series to the Applicant (the “Loan”) pursuant to the terms and provisions of a loan agreement (the “Financing

Agreement”), to be used by the Applicant for the sole and exclusive purposes of (1) refunding the Refunded Bonds, (2) refinancing the costs (to the fullest extent permitted by the Act) of the acquisition and improvement of the Facility, and (3) financing the costs of issuance of the Bonds, and other costs related to the transaction and permitted by the Act.

The Financing Agreement entered into with respect to the Bonds of any series shall require that (1) the proceeds of the Bonds of such series be used solely to (a) refund the Refunded Bonds, (b) refinance the costs (to the fullest extent permitted by the Act) of the acquisition and improvement of the Facility and (c) finance the costs of issuance of the Bonds and other costs related to the transaction, and (2) the Applicant make payments which will be sufficient to enable the County to pay the principal of and interest and premium, if any, on the Bonds of such series when and as the same become due and payable.

Neither the Bonds of any series 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.

SECTION 5. AND BE IT FURTHER RESOLVED BY THE COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND, That, as permitted by the Act, the provisions set forth in this Resolution for the issuance and sale of the Bonds are intended and shall be deemed to include provisions for the issuance and sale of bond anticipation notes and/or refunding revenue bonds without the adoption of any further

resolution or other action by the legislative body of the County. Accordingly, the words “bonds” and “Bonds”, as used in this Resolution, shall include such bond anticipation notes and/or refunding revenue bonds, unless the context clearly requires a contrary meaning. At no time shall the aggregate principal amount of any bond anticipation notes or refunding revenue bonds exceed the amount set forth in Section 4 of this Resolution. It is intended that the aggregate principal amount of issued and outstanding bond anticipation notes, when added to the aggregate principal amount of issued and outstanding Bonds and refunding revenue bonds, shall not exceed the aggregate principal amount set forth in Section 4 of this Resolution at any time. 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 6. AND BE IT FURTHER RESOLVED BY THE COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND, That the County reserves the right, in its sole and absolute discretion, to take any actions deemed necessary by the County in order to insure that the County (a) complies with present federal and State laws and any pending or future federal or State legislation, whether proposed or enacted, which may affect or restrict the issuance of its bonds, and (b) issue its bonds within the limits imposed by such present laws or any such pending or future legislation or any future local laws, to finance those facilities which the County determines, in its sole and

absolute discretion, will provide the greatest benefit to the residents of the County and the State.

In particular, the County reserves the right to choose to issue its bonds (within the meaning of the Act and any present or future State or local laws) for facilities other than the Facility, and in such order of priority as it may determine in its sole and absolute discretion.

Pursuant to the provisions of this Section 6, the County reserves the right in its sole and absolute discretion, to, among other things, (1) never issue the Bonds, (2) issue only a portion of the aggregate principal amount of the Bonds required by the Applicant, (3) restrict the use of the proceeds of the Bonds, (4) delay indefinitely the issuance of the Bonds, or (5) take any other actions deemed necessary by the County, in its sole discretion, in order to ensure that the County achieves the goals set forth in the Act and in this Resolution.

SECTION 7. AND BE IT FURTHER RESOLVED BY THE COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND, That, the Bonds may be issued at any time or from time to time and in one or more series, and each series of the Bonds shall be identified by the year of issue or by some other or additional appropriate designation; provided, however, that the Bonds shall be issued and delivered within one year of the date of enactment of this Resolution, unless the Bonds are issued within any time period specified in any time extension for the issuance of the Bonds provided pursuant to a resolution of the County Council supplemental to this Resolution.

SECTION 8. 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 by his or her manual 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 of Baltimore County or the County Administrative Officer, by his or her manual or facsimile signature. The County Executive, the County Administrative Officer, the Director of Budget and Finance, 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 execute, acknowledge, seal and deliver such documents and certificates, including (without limitation) the Financing Agreement, as the County Executive or County Administrative Officer may determine to be necessary 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. If any officer whose signature or countersignature or a facsimile of whose signature or countersignature appears on the Bonds of any series or on any of the aforesaid documents ceases to be such officer before the delivery of the Bonds of such series or any of the other aforesaid documents, such signature or countersignature or such facsimile shall nevertheless be valid and sufficient for all purposes, the same as if such officer had remained in office until delivery.

SECTION 9. AND BE IT FURTHER RESOLVED BY THE COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND, That, as permitted by the Act, the Bonds of any series shall be sold at private (negotiated) sale at par, or at such other price as the County Executive or the County Administrative Officer, with the consent of

the Applicant, deems appropriate or may be sold at public (competitive bid) sale, at par or above or below par, in either or both of which events, the Bonds of such series shall be sold in such manner and upon such terms as the County Executive or the County Administrative Officer deems to be in the best interests of the County.

SECTION 10. AND BE IT FURTHER RESOLVED BY THE COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND, That prior to the issuance, sale and delivery of the Bonds of any series, the County Executive or the County Administrative Officer, by executive order or otherwise, may approve the issuance of the Bonds, and:

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

(2) shall prescribe the principal amount, rate or rates of interest, denomination or denominations, date, and maturity or maturities (within the limits prescribed by the Act and the Code);

(3) if necessary, may appoint a trustee, a bond registrar or a paying agent or agents for the Bonds of such series;

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

(5) may prepare and distribute, in conjunction with representatives of the Applicant and any prospective purchasers of or underwriters for the Bonds of such series,

both a preliminary official statement and a final official statement, offering memorandum, private placement memorandum or other similar document in connection with the sale of the Bonds of such series, if determined to be necessary or desirable in connection with the sale of the Bonds of such series, provided, however, that any such preliminary official statement, offering memorandum, private placement memorandum or other similar document shall be clearly marked to indicate that it is subject to completion and amendment;

(6) may execute and deliver a contract or contracts for the purchase and sale of the Bonds of such 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 of such series and prescribe any and all other details of the Bonds of such series;

(8) shall determine the method, and approve the terms, of the sale of the Bonds of such series, as provided in Section 9 of this Resolution;

(9) shall provide for the direct payment by the Applicant 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 of such series, 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 with the issuance of the Bonds;

(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 additional refunding bonds;

(11) may provide for the funding of reserves for the Bonds of such series and for the payment of interest on the Bonds of such series;

(12) may specify, prescribe, determine, provide for or approve such other matters, details, forms documents or procedures and do any and all things necessary, proper or expedient in connection with the authorization, security, issuance, sale, delivery or payment of or for the Bonds of such series 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 11. AND BE IT FURTHER RESOLVED BY THE COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND, That before or after the issuance, sale and delivery of the Bonds of any series, regardless of the date on which such Bonds are issued, the County Executive or the County Administrative Officer is hereby authorized and empowered, by executive order or otherwise, to supplement the executive order provided for by Section 10 of this Resolution and thereby approve on behalf of the County any amendments or supplements to or substitutes for the forms and provisions of the Bonds, the Financing Agreement, any trust agreement or similar agreement and all other documents executed and delivered on behalf of the County in connection with the issuance, sale and delivery of the Bonds pursuant to the provisions of such documents, provided that (1) each such supplemental executive order or orders and each amendment, supplement or substitute to such document shall be in accordance with the provisions of the Act, this Resolution, and

the documents executed and delivered in connection with the Bonds and then in effect and (2) all of the foregoing shall be subject to any approval by the County Council as may be required pursuant to federal tax law.

SECTION 12. AND BE IF FURTHER RESOLVED BY THE COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND, That, except as provided in this Section, 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 are inapplicable had been specifically exempted here from, except that neither the Bonds of any series 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 provisions or statutory limitation and neither shall ever constitute or give rise to any pecuniary liability of the County.

SECTION 13. AND BE IT FURTHER RESOLVED BY THE COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND, That the County hereby approves Timothy E. Dixon, Esquire and The Law Office of Timothy E. Dixon, PA as Bond Counsel

in connection with the issuance and sale of the Bonds and the other transactions contemplated by the Resolution.

SECTION 14. 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.

READ AND PASSED this ___ day of _____, 2016.

Thomas J. Peddicord, Jr.,
Secretary to the County Council

APPROVED THIS _____ day of _____, 2016.

Kevin Kamenetz,
County Executive of Baltimore County

ATTEST:

Executive Secretary to the County Executive
[SEAL]

TRUE COPY TEST:

Thomas J. Peddicord, Jr.,
Secretary to the County Council