

INTRODUCED May 7, 2012
PUBLIC HEARING May 21, 2012
COUNCIL ACTION June 4, 2012
EXECUTIVE ACTION June 6, 2012
EFFECTIVE DATE June 6, 2012

**County Council of
Howard County, Maryland**

2012 Legislative Session

Legislative Day No. 5

Resolution No. 63-2012

Introduced by: The Chairperson at the request of the County Executive

A RESOLUTION adopted pursuant to the Maryland Economic Development Revenue Bond Act providing for the issuance by Howard County, Maryland, of up to \$6,000,000 of its limited obligation bonds and the loan of the proceeds thereof to Soccer Association of Columbia, Inc. to be used to (1) refund (a) the Howard County, Maryland Economic Development Revenue Bond (Soccer Association of Columbia Facility) 2008 Issue and (b) Howard County, Maryland Economic Development Revenue Bond (Soccer Association of Columbia Facility) 2003 Issue; and (2) finance the costs of constructing, equipping and improvement of a grass soccer field and additional parking at the existing soccer complex in Ellicott City in the County, costs of issuance and other related costs; reserving certain rights; providing for the issuance of bond anticipation notes for such purposes; authorizing the County Executive to specify, prescribe, determine, provide for or approve certain matters, details, documents or procedures; and specifying and describing various matters in connection therewith.

Introduced and read first time on May 7, 2012.

By order Stephen M LeGendre
Stephen LeGendre, Administrator to the County Council

Read for a second time and public hearing held on May 21, 2012

By order Stephen M LeGendre
Stephen LeGendre, Administrator to the County Council

This Resolution was read the third time and was Adopted , Adopted with amendments , Failed , Withdrawn by the County Council on June 4, 2012.

Certified by Stephen M LeGendre
Stephen LeGendre, Administrator to the County Council

APPROVED: June 6, 2012

Ken Ulman
Ken Ulman,
County Executive

NOTE: [[text in brackets]] indicates deletions from existing language; TEXT IN SMALL CAPITALS indicates additions to existing language. ~~Strike-out~~ indicates material deleted by amendment; Underlining indicates material added by amendment.

1 **Recitals**

2 The Maryland Economic Development Revenue Bond Act, Sections 12-101 to 12-
3 118, inclusive, of the Economic Development Article of the Annotated Code of Maryland
4 (the "Act"), provides that in order to accomplish the legislative policy of the Act, in addition
5 to whatever other powers it may have and notwithstanding any limitation of law, any public
6 body (as defined in the Act) may issue and sell its bonds (as defined in the Act), as its
7 limited obligations and not upon its faith and credit or pledge of its taxing power, at any
8 time and from time to time, for the purposes of financing or refinancing any costs of the
9 acquisition and/or improvement (as defined in the Act) of one or more facilities (as defined
10 in the Act) for one or more facility users (as defined in the Act) or of refunding outstanding
11 bonds, including the necessary expenses of preparing, printing, selling, and issuing those
12 bonds, the funding of reserves, and the payment of interest with respect to financing such
13 acquisition and/or improvement in such amounts, or for such period, as the public body
14 deems reasonable.

15 The General Assembly of the State of Maryland (the "State"), in the Act, declares its
16 legislative purpose to:

- 17 (1) relieve conditions of unemployment in the State;
- 18 (2) encourage the increase of industry and commerce and a balanced
19 economy in the State;
- 20 (3) assist in the retention of existing industry and commerce and in the
21 attraction of new industry and commerce in the State through, among other things, port
22 development and the control, reduction, or abatement of pollution of the environment and
23 the utilization and disposal of wastes;
- 24 (4) promote economic development;
- 25 (5) protect natural resources and encourage resource recovery; and
- 26 (6) generally promote the health, welfare, and safety of the residents of
27 the State.

1 The Act provides that a public body may accomplish the acquisition and
2 improvement of a facility from the proceeds of the sale of its bonds by one or more of the
3 following methods:

- 4 (1) by leasing the facility to a facility user;
- 5 (2) by selling the facility to a facility user under an installment sale
6 agreement;
- 7 (3) by lending bond proceeds to a facility user to be used to finance a
8 facility; or
- 9 (4) in such other manner as the County considers appropriate to
10 accomplish the purposes of the Act.

11 The Act provides that to implement the authority conferred upon it by the Act to
12 issue bonds, the legislative body of any county (as defined in the Act) or municipality (as
13 defined in the Act), or the board of directors of any authority (as defined in the Act), shall
14 adopt a resolution pursuant to which it shall:

- 15 (1) specify and describe the facility;
- 16 (2) generally describe the public purpose to be served and the financing
17 transaction;
- 18 (3) specify the maximum principal amount of the bonds that may be
19 issued; and
- 20 (4) impose any terms or conditions on the issuance and sale of the bonds
21 it deems appropriate.

22 The Act provides that the legislative body of any county or municipality, or the
23 board of directors of any authority, by resolution may itself specify and prescribe, or may
24 authorize (1) its finance board (as defined in the Act), by resolution, or (2) its chief
25 executive (as defined in the Act), by executive order or otherwise, or (3) any other
26 appropriate administrative officer, who shall act by order or otherwise with the approval of

1 its chief executive, to (a) specify, prescribe, determine, provide for or approve such matters,
2 documents, and procedures that relate to the authorization, sale, security, issuance, delivery
3 or payment of or for the bonds, (b) create security for the bonds, (c) provide for the
4 administration of bond issues such as trust or other agreements with banks or trust
5 companies that cover any countersignature on a bond, the delivery of a bond or the security
6 for a bond.

7 Howard County, Maryland, a body corporate and politic and a political subdivision
8 of the State of Maryland (the "County") received a letter of intent dated March 19, 2012 (the
9 "Letter of Intent"), from Soccer Association of Columbia, Inc., a Maryland non-stock
10 corporation (the "Facility Applicant"), pursuant to which the Facility Applicant requested
11 the County to issue and sell the County's bonds (as defined in the Act), as its limited
12 obligations and not upon its faith and credit or pledge of its taxing power, at any time or
13 from time to time and in one or more series, in an aggregate principal amount not to exceed
14 \$6,000,000, pursuant to and in accordance with the Act for the purpose of (1) refunding (a)
15 the Howard County, Maryland Economic Development Revenue Bond (Soccer
16 Association of Columbia Facility) 2008 Issue (the "2008 Bond") and (b) Howard County,
17 Maryland Economic Development Revenue Bond (Soccer Association of Columbia
18 Facility) 2003 Issue (the "2003 Bond" together with the 2008 Bond, the "Prior Bonds");
19 and (2) financing the costs of constructing and equipping a grass soccer field and
20 additional parking at the existing soccer complex in Ellicott City in the County (the
21 "2012 Facility"), issuance costs and other costs of the transaction. The proceeds of the
22 Prior Bonds were used to finance a portion of the cost of acquisition, construction and

1 equipping of a facility located within the geographical borders of the County, and funding
2 costs of issuance of the Prior Bonds and other costs related to those transactions.

3 The Letter of Intent indicates that the facility financed with the 2003 Bond (the "2003
4 Facility") includes:

5 (a) approximately 52.47 acres of land located on the west side of Centennial Lane
6 in Ellicott City, Howard County, Maryland (the "Land"), including any and all
7 improvements thereon and all roads and rights of access, utilities and other necessary site
8 preparation;

9 (b) 8 soccer fields and related amenities, including lighting and an administration
10 and concession building; and

11 (c) necessary and related facilities and equipment.

12 The Letter of Intent indicates that the facility financed with the 2008 Bond (the "2008
13 Facility") includes a synthetic turf field on the Land.

14 The 2012 Facility, the 2008 Facility and the 2003 Facility are collectively referred
15 to as the "Facility."

16 The Facility Applicant intends to use the Facility as part of a complex of high quality
17 soccer playing fields.

18 The Letter of Intent further expresses the Facility Applicant's intention that the
19 interest payable on such bonds will be excludible from the gross income of the owners
20 thereof for purposes of federal income taxation pursuant to Sections 103 and 145 of the
21 Internal Revenue Code of 1986, as amended (the "Code").

22 The County, based upon the findings and determinations and subject to the
23 reservation of certain rights, all as set forth below, has determined to issue, sell and deliver,

1 at any time or from time to time and in one or more series, its bonds (as defined in the Act)
2 in an aggregate principal amount not to exceed \$6,000,000 (the "Bonds"), and to lend the
3 proceeds of the Bonds of each series to the Facility Applicant upon the terms and conditions
4 of one or more loan agreements (each, a "Loan Agreement") to be entered into between the
5 County and the Facility Applicant, such proceeds to be used by the Facility Applicant for the
6 purposes of (1) refunding the Prior Bonds and (2) financing the costs of the 2012 Facility,
7 issuance costs and other costs of the transaction.

8 **Now, therefore, in accordance with the Act:**

9 **Section 1. Be it resolved by the County Council of Howard County, Maryland,**
10 That the words and terms used in this Resolution (including the Recitals set forth above) that
11 are defined in the Act shall have the meanings indicated in the Act, unless the context
12 clearly requires a contrary meaning.

13 **Section 2. And be it further resolved by the County Council of Howard**
14 **County, Maryland,** That acting pursuant to the Act, it is hereby found and determined as
15 follows:

- 16 (1) The County is a "public body" within the meaning of the Act.
- 17 (2) The Facility Applicant is a "facility applicant" and a "facility user"
18 within the meaning of the Act.
- 19 (3) The Facility is a "facility" within the meaning of the Act.
- 20 (4) The County Executive of the County (the "County Executive") is the
21 "chief executive" of the County within the meaning of the Act.
- 22 (5) The word "bond," as defined in the Act, includes a bond anticipation
23 note issued in anticipation of the issuance and sale of a bond.

1 (7) The issuance and sale of the Bonds by the County, pursuant to the
2 Act, for the sole and exclusive purpose of financing and refinancing the costs (to the fullest
3 extent permitted by the Act) of the Facility will facilitate and expedite the financing and
4 refinancing of the Facility.

5 (8) The financing and refinancing of the Facility as provided in this
6 Resolution will promote the declared legislative purposes of the Act by (a) sustaining jobs
7 and employment by the creation or retention of a significant number of jobs, thus relieving
8 conditions of unemployment in the State and in Howard County; (b) encouraging the
9 increase of industry and commerce and a balanced economy in the State and in Howard
10 County; (c) assisting in the retention of existing industry and commerce and in the attraction
11 of new industry and commerce in the State and in Howard County by, among other things,
12 the purchase of supplies and services from other businesses in Howard County; (d)
13 promoting economic development in the State and in Howard County by stimulating the
14 local economy; and (e) generally promoting the health, welfare and safety of the residents of
15 the State and Howard County.

16 (9) The Bonds of any series and the interest on them are limited obligations of
17 the County the principal of, premium, if any, and interest on which are payable solely
18 (except for bond anticipation notes) from revenues to be received in connection with the
19 financing and refinancing of the Facility or from any other moneys made available to the
20 County for such purpose. Neither the Bonds of any series nor the interest thereon shall ever
21 constitute a debt or a charge against the general credit or taxing powers of the County within
22 the meaning of any constitutional or charter provision or statutory limitation and neither
23 shall ever constitute or give rise to any pecuniary liability of the County.

1 (10) Neither the proceeds of the Bonds of any series nor the payments of the
2 principal of and premium, if any, and interest on the Bonds of any series will be
3 commingled with the County's funds or will be subject to the absolute control of the County,
4 but will be subject only to such limited supervision and checks as are deemed necessary or
5 desirable by the County to ensure that the proceeds of the Bonds of any series are used to
6 accomplish the public purposes of the Act and this Resolution. The transactions provided for
7 hereby do not constitute any physical public betterment or improvement or the acquisition of
8 property for public use or the purchase of equipment for public use. The public purposes
9 expressed in the Act are to be achieved by facilitating the financing and refinancing of the
10 Facility.

11 **Section 3. And be it further resolved by the County Council of Howard**
12 **County, Maryland,** that this Resolution, among other things, evidences the present intent of
13 the County to issue, sell and deliver the Bonds in accordance with the terms and provisions
14 of this Resolution. The County Executive of the County is hereby authorized, empowered,
15 and directed to accept the Letter of Intent on behalf of the County in order to further
16 evidence the intent of the County to issue and sell the Bonds in accordance with the terms
17 and provisions of this Resolution.

18 **Section 4. And be it further resolved by the County Council of Howard**
19 **County, Maryland,** That the County shall issue, sell and deliver the Bonds, at any time or
20 from time to time and in one or more series, in an aggregate principal amount not to exceed
21 \$6,000,000, subject to the provisions of this Resolution. The County will lend the proceeds
22 of the Bonds of any series to the Facility Applicant pursuant to the terms and provisions of a
23 Loan Agreement, to be used by the Facility Applicant for the purpose of refunding the Prior

1 Bonds, financing and refinancing the costs of the 2012 Facility and funding costs of
2 issuance of the Bonds, reserves and other costs related to the transaction.

3 Any Loan Agreement entered into with respect to the Bonds of any series will
4 require that (1) the proceeds of the Bonds be used solely to (a) refund the Prior Bonds and
5 (b) finance the costs of the 2012 Facility, costs of issuance of the Bonds and other related
6 costs of the transaction; and (2) the Facility Applicant make, or cause to be made, payments
7 which will be sufficient to enable the County to pay the principal of and interest and
8 premium, if any, on the Bonds when and as the same become due and payable.

9 The Facility is specified and described in the Recitals set forth above. The public
10 purpose to be served by the issuance and sale of the Bonds is described in Section 2 of this
11 Resolution, in this Section and in the Recitals set forth above. The maximum principal
12 amount of the Bonds that may be issued is \$6,000,000, provided that bond anticipation notes
13 may be issued and sold as provided in Section 6 of this Resolution.

14 **Section 5. And be it further resolved by the County Council of Howard**
15 **County, Maryland,** That the County reserves the right, in its sole and absolute discretion, to
16 take any actions deemed necessary by the County in order to ensure that the County (1)
17 complies with present federal and State laws and any pending or future federal or State
18 legislation, whether proposed or enacted, which may affect or restrict the issuance of the
19 Bonds, and (2) issues the Bonds, within the limits imposed by such present laws or any such
20 pending or future legislation or any future local laws, to finance those facilities which the
21 County determines, in its sole and absolute discretion, will provide the greatest benefit to the
22 residents of the County and the State.

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

8 **Section 6. And be it further resolved by the County Council of Howard**
9 **County, Maryland,** That, as permitted by the Act, the provisions set forth in this Resolution
10 for the issuance and sale of the Bonds are intended and shall be deemed to include
11 provisions for the issuance and sale of bond anticipation notes without the adoption of any
12 further resolution or other action by the legislative body of the County. Accordingly, the
13 words "bonds" and "Bonds," as used in this Resolution, shall include such bond anticipation
14 notes, unless the context clearly requires a contrary meaning. At no time shall the aggregate
15 principal amount of any bond anticipation notes exceed the amount set forth in Section 4 of
16 this Resolution. It is intended that the aggregate principal amount of issued and outstanding
17 bond anticipation notes when added to the aggregate principal amount of issued and
18 outstanding Bonds in anticipation of which such notes were issued, shall not exceed the
19 aggregate principal amount set forth in Section 4 of this Resolution at any time. The County
20 will agree to pay any bond anticipation notes issued pursuant to this Resolution and the
21 interest and premium, if any, thereon from the proceeds of the Bonds in anticipation of the
22 sale of which such notes are issued, and the County will agree to issue such Bonds when,
23 and as soon as, the reason for deferring the issuance of the Bonds no longer exists. The

1 timely issuance of such Bonds, however, is dependent upon matters not within the control of
2 the County, including (without limitation) the existence of a purchaser or purchasers for
3 such Bonds at the time the reason for deferring the issuance of the Bonds no longer exists
4 and the effectiveness of various actions taken by the Facility Applicant, their officers, agents
5 and employees.

6 **Section 7. And be it further resolved by the County Council of Howard**
7 **County, Maryland,** That the Bonds, or any bond anticipation notes authorized by this
8 Resolution, may be issued at any time or from time to time and in one or more series, and
9 each series of the Bonds shall be identified by the year of issue or by some other or
10 additional appropriate designation; provided, however, that the Bonds must be issued within
11 one year from the effective date of this Resolution as set forth in Section 13 hereof. The
12 provisions in this Resolution providing for the issuance of the Bonds shall expire with
13 respect to Bonds which have not been issued within such period, unless, either prior to or
14 after such provisions expire, the County Council of Howard County, Maryland adopts, and
15 the County Executive approves, a resolution supplemental hereto, which extends the period
16 of time during which the Bonds may be issued.

17 **Section 8. And be it further resolved by the County Council of Howard**
18 **County, Maryland,** That the Bonds shall be executed in the name of the County and on its
19 behalf by the County Executive, by his manual or facsimile signature, and by the Director of
20 Finance of the County, by his manual or facsimile signature, and the corporate seal of the
21 County or a facsimile thereof shall be impressed or otherwise reproduced thereon and
22 attested by the Chief Administrative Officer of the County, by his manual or facsimile
23 signature. At least one signature required or permitted to be placed on the Bonds must be

1 manually subscribed. If the Bonds are required to be manually signed by a trustee, issuing
2 agent, fiscal agent, registrar, or other agent or custodian, any other signature required or
3 permitted to be placed on the Bonds may be executed by facsimile. Any Loan Agreement
4 and, where applicable, all other documents as the County Executive deems necessary to
5 effectuate the issuance, sale and delivery of the Bonds of any series, shall be executed in the
6 name of the County and on its behalf by the County Executive by his manual signature, and
7 the corporate seal of the County or a facsimile thereof shall be impressed or otherwise
8 reproduced thereon and attested by the Chief Administrative Officer of the County by his
9 manual signature. If any officer whose signature or countersignature or a facsimile of
10 whose signature or countersignature appears on the Bonds of any series or any of the
11 aforesaid documents ceases to be such officer before the delivery of the Bonds of such series
12 or any of the other aforesaid documents, such signature or countersignature or such
13 facsimile shall nevertheless be valid and sufficient for all purposes, the same as if such
14 officer had remained in office until delivery. The County Executive, the Director of Finance
15 of the County, the Chief Administrative Officer of the County and other officials of the
16 County are hereby authorized and empowered to do all such acts and things and execute
17 such documents and certificates as the County Executive may determine to be necessary to
18 carry out and comply with the provisions of this Resolution, subject to the limitations set
19 forth in the Act and any limitations set forth in this Resolution.

20 **Section 9. And be it further resolved by the County Council of Howard**
21 **County, Maryland,** That, as permitted by the Act, the Bonds of any series shall be sold at
22 private (negotiated) sale and at par, unless the County Executive deems it to be in the best
23 interests of the County to sell the Bonds of any series at public sale or above or below par, in

1 either or both of which events, the Bonds of such series shall be sold in such manner and
2 upon such terms as the County Executive deems to be in the best interests of the County.

3 **Section 10. And be it further resolved by the County Council of Howard**
4 **County, Maryland,** That prior to the issuance, sale and delivery of the Bonds of any series,
5 regardless of the date on which such Bonds are issued, the County Executive, by executive
6 order or otherwise:

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

9 (2) shall prescribe the principal amounts, rate or rates of interest,
10 denominations, date, maturity or maturities (within the limits prescribed in the Act), and the
11 time and place or places of payment of the Bonds of such series, and the terms and
12 conditions and details under which the Bonds of such series may be called for redemption
13 prior to their stated maturities;

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

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

21 (5) may prepare and distribute, in conjunction with representatives of the
22 Facility Applicant and the prospective purchasers or underwriters for the Bonds of any
23 series, both a preliminary and a final official statement in connection with the sale of the

1 Bonds of any series, if such preliminary official statement and final official statement are
2 determined to be necessary or desirable for the sale of the Bonds of such series, provided,
3 however, that any such preliminary official statement shall be clearly marked to indicate that
4 it is subject to completion and amendment;

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

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

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

12 (9) shall provide that the Facility Applicant shall pay directly, or cause to
13 be paid, all costs, fees and expenses incurred by or on behalf of the County in connection
14 with the issuance, sale and delivery of the Bonds, including (without limitation) costs of
15 printing (if any) and issuing the Bonds, legal expenses (including the fees of bond counsel)
16 and compensation to any person (other than full-time employees of the County) performing
17 services by or on behalf of the County in connection therewith;

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

21 (11) may provide for the funding of reserves for the Bonds, for the
22 payment of working capital, and for the payment of interest on the Bonds in such amounts,
23 or for such period, as the County Executive deems reasonable; and

1 (12) may do any and all things necessary, proper or expedient in
2 connection with the issuance, sale and delivery of the Bonds of such series and in order to
3 accomplish the legislative policy of the Act and the public purposes of this Resolution,
4 subject to the limitations set forth in the Act and any limitations prescribed by this
5 Resolution.

6 **Section 11. And be it further resolved by the County Council of Howard**
7 **County, Maryland,** That subsequent to the issuance, sale and delivery of the Bonds of any
8 series, regardless of the date on which such Bonds are issued, the County Executive, by
9 executive order or otherwise, may execute and approve on behalf of the County any
10 amendments to the documents executed on behalf of the County in connection with the
11 issuance, sale and delivery of the Bonds pursuant to the provisions of such documents,
12 subject to any approval by the County Council as may be required pursuant to federal tax
13 law in order to preserve the tax-exempt status of any Bonds the interest on which is intended
14 to be excludible from gross income for purposes of federal income taxation.

15 **Section 12. And be it further resolved by the County Council of Howard**
16 **County, Maryland,** That the provisions of this Resolution are severable, and if any
17 provision, sentence, clause, section or part hereof is held to be illegal, invalid or
18 unconstitutional or inapplicable to any person or circumstances, such illegality, invalidity or
19 unconstitutionality, or inapplicability shall not affect or impair any of the remaining
20 provisions, sentences, clauses, sections, or parts of this Resolution or their application to
21 other persons or circumstances. It is hereby declared to be the legislative intent that this
22 Resolution would have been passed if such illegal, invalid or unconstitutional provision,
23 sentence, clause, section or part had not been included herein, and if the person or

1 circumstances to which this Resolution or any part hereof are inapplicable had been
2 specifically exempted therefrom.

3 **Section 13. And be it further resolved by the County Council of Howard**
4 **County, Maryland,** That this Resolution shall take effect on the date of its approval by the
5 County Executive.